



Department
for Environment
Food & Rural Affairs

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www.defra.gov.uk

[REDACTED]
[REDACTED]

Our ref: RFI 5930
Date: 14 November 2013

Dear [REDACTED],

REQUEST FOR INFORMATION: Examination of Badger Carcasses

Thank you for your request for information about examination of badger carcasses which we received on 18 October. We have handled your request under the Environmental Information Regulations 2004 (EIRs).

The EIRs apply to requests for environmental information, which is a broad category of information defined in regulation 2 of the EIRs. Public authorities are required to handle requests for environmental information under the EIRs. They give similar access rights to the Freedom of Information Act 2000 (FOIA).

Question 1: What clinical tests and examinations were made on the corpses of badgers culled in the 2013 culls in Somerset and Gloucestershire?

And

Question 2: What percentage of those animals culled was proven to have active TB

And

Question 3: What criteria were used to define active TB?

Prior to the beginning of the pilot culls, it was decided that a number of randomly selected badger carcasses would be subject to post-mortem examination including radiography. The accompanying document outlines the protocol for post mortems. Notes of badgers showing physical signs of TB such as lesions will be made.

It was planned that badger carcasses would not be tested for TB. The reasoning behind

this is that high levels of TB were confirmed in badgers in the regions in which the cull areas are located during the Randomised Badger Cull Trial (RBCT) and other research work carried out by independent scientists. A link to the report on the RBCT, which summarises the Trial's results and which contains an accompanying literature review, is below. Pages 72 to 77 will be of particular interest:

http://archive.defra.gov.uk/foodfarm/farmanimal/diseases/atoz/tb/isg/report/final_report.pdf

I have also attached a link to an annex which was published as part of the 2010 consultation 'Bovine tuberculosis: the Government's approach to tackling the disease and consultation on a badger control policy'. The annex contains more information on badgers and TB:

<http://webarchive.nationalarchives.gov.uk/20110203030352/http://www.defra.gov.uk/corporate/consult/tb-control-measures/100915-tb-control-measures-annexa.pdf>

A small number of badger carcasses were examined for evidence of TB on request of landowners / farmers, because it was noted that they appeared to be in poor condition. It should be noted that, as mentioned above, testing for TB is not being undertaken on a routine basis. As post-mortems and tests have not yet been completed the numbers of badgers found to be carrying TB is not known at present.

TB is confirmed in badgers by following the standard procedure of culturing (isolating and growing) the causal organism, *Mycobacterium Bovis*.

The information you requested is exempt under regulations 12(4)(a) of the EIRs, as being information which is not held at the time when an applicant's request is received and 12(4)(d) which relates to material which is still in the course of completion, unfinished documents or incomplete data.

Regulation 12(4)(a) is a qualified exception, which usually means that a public authority is required to conduct a public interest test to determine whether or not information should be disclosed or withheld. However, the Information Commissioner, who is the independent regulator for requests made under the EIRs, takes the view that a public interest test in cases where the information is not held would serve no useful purpose. Therefore, in line with the Information Commissioner's view, Defra has not conducted a public interest test in this case.

Regulation 12(4)(d) relates to material which is still in the course of completion or incomplete data, and applies to the data from the pilot culls and the extensions which are still in the course of completion. As a result the data are still being collected and collated. Disclosing the incomplete data would not meet the purpose of your request which is to ascertain the numbers of badgers which were found to be infected with TB.

The Public Interest Test

Regulation 12(4)(d) requires the public authority in question to carry out a public interest test. There is a great deal of interest and strength of feeling around the badger control policy which includes indentifying the numbers of badgers killed and their state of health. However, Defra has concluded that the public interest in withholding the information sought outweighs the public interest in its disclosure. Releasing information now before it has been finalised would only mislead and confuse the public. It is logical to wait and it is in the public interest to wait until all the information has been collected and summarised rather than release the information in a piecemeal fashion.

Defra has publicly committed¹ on numerous occasions to announcing that the report on the culls will be published by February 2014. This report will include data from the culls including post-mortem summaries. A report prepared by an independent expert panel reviewing the results from the cull will be published at the same time. This report will be submitted to Ministers to inform their decision on whether or not to roll-out culling across the country.

Defra recognises the strength of feeling around the badger control policy. However, in light of the argument above, Defra has concluded that, at this stage, when the information is still incomplete, the public interest in withholding the information sought outweighs the public interest in its disclosure. Therefore, we have concluded that in all the circumstances of the case, the information should be withheld.

I attach an annex giving contact details should you be unhappy with the service you have received.

If you have any queries about this letter, please contact me.

Yours sincerely,

Defra TB Programme

Email: ccu.correspondence@defra.gsi.gov.uk

¹ <http://transparency.number10.gov.uk/business-plan/10/35>

Annex

Complaints

If you are unhappy with the service you have received in relation to your request you may make a complaint or appeal against our decision under section 17(7) of the FOIA or under regulation 18 of the EIRs, as applicable, within 40 working days of the date of this letter. Please write to Mike Kaye, Head of Information Standards, Area 4D, Nobel House, 17 Smith Square, London, SW1P 3JR (email: requestforinfo@defra.gsi.gov.uk) and he will arrange for an internal review of your case. Details of Defra's complaints procedure are on our [website](#).

If you are not content with the outcome of the internal review, section 50 of the FOIA and regulation 18 of the EIRs gives you the right to apply directly to the Information Commissioner for a decision. Please note that generally the Information Commissioner cannot make a decision unless you have first exhausted Defra's own complaints procedure. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF