



Department
for Environment
Food & Rural Affairs

helpline@defra.gsi.gov.uk
www.defra.gov.uk

[REDACTED]
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Our ref: RFI 6100
Date: 06 January 2013

Dear [REDACTED],

REQUEST FOR INFORMATION: TB in Badgers

Thank you for your request for information about the incidence in culled badgers, which we received on 12 December. 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).

Your question and the response are below:

How many of the recently culled badgers were infected with *Mycobacterium bovis*?

A sample of culled badgers was subjected to post mortem examination and any signs of illness or poor condition were noted as part of the procedure. You should note that testing badger carcasses for TB was not undertaken on a routine basis during the pilot cull.

However a very small number of carcasses were tested on occasion at the specific request of landowners when they were concerned if a culled badger appeared to be in a poor state of health. The figures are being withheld at present under regulation 12(5)(c), intellectual property.

TB testing in culled badgers was not undertaken as a routine procedure as 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). This has been confirmed by 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>

The Regulation

Regulation 12(5)(c) relates to an adverse effect upon intellectual property rights. Data accumulated by Defra and its agencies is protected under the Copyright and Rights in Databases Regulations 1997 (S.I. 1997/3032). A database is defined as being a collection of independent works, data or other materials which are arranged in a systematic or methodical way, and are individually accessible by electronic or other means. A property right exists where there has been a 'substantial investment in obtaining, verifying or presenting the costs of the database'. In this instance the data held by Defra and its agencies comprises a database and therefore they hold the property rights to this material. These rights will be adversely affected were this information to be disclosed.

The Public Interest Test

Regulation 12(5)(c): Defra and its agencies holds the property rights to the wide range of data collected during the pilots as a substantial investment in time, effort and cost has been incurred in gathering information. This has included the services of external auditors to ensure data quality and rigour in its collection and analysis. A partial release of data collected during and following the cull as it stands at the time of writing could lead to inaccurate conclusions being reached which in turn could mislead anyone who views them. Data should be released in context rather than in isolation. Release of the data could also lead to potential exploitation of the protected material and any infringements could go undetected or may not be preventable. Again this would lead to confusion which is counter to the principles of freedom of information.

Defra has publicly and repeatedly committed¹ on numerous occasions to announcing that the report on the culls will be published by February 2014. This report will include the suite of data from the culls. The report prepared by the Independent Expert Panel reviewing the

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

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.

As mentioned above, Defra recognises the very strong feelings and views around the badger control policy - both for and against. However, in light of the arguments 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.

In keeping with the spirit and effect of the EIRs, and in keeping with the government's Transparency Agenda, all information is assumed to be releasable to the public unless exempt. Therefore, the information released to you will now be published on www.gov.uk together with any related information that will provide a key to its wider context. Please note that this will not include your personal data.

I have attached 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

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