



Department
for Environment
Food & Rural Affairs

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www.defra.gov.uk

Our ref: RFI 5970 & RFI
5971
Date: 21 November 2013

[REDACTED]

Dear [REDACTED]

REQUEST FOR INFORMATION: Correspondence between Defra and officials at Marine Scotland and other Fisheries Administrations on various issues surrounding the current Western Waters scallop management arrangements

Thank you for your request for information about scallop effort management under the Western Waters regime, which we received on 24 October 2013. As you know, we have handled your first 3 requests for information under the Freedom of Information Act 2000 (FOIA) and the final 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).

I enclose the information related to the 4 specific requests you have made at Annex A.

We have decided that the names of junior officials should be withheld under section 40(2) (third party personal data) of the FOIA, as the information constitutes personal data relating to third parties. Section 40(2) of the FOIA provides that personal data relating to third parties is exempt information if disclosure would breach the Data Protection Act 1998 (DPA). We consider that disclosure of this information is likely to breach the first data protection principle in Schedule 1 to the DPA, which relates to the fair and lawful processing of personal data, in two ways. First, disclosure would not constitute 'fair' processing of the personal data, and second, disclosure would not satisfy any of the conditions for data processing set out in Schedule 2 to the DPA. Therefore, we have concluded that this information is exempt from disclosure under section 40(2) of the FOIA.



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 attach Annex B, which explains the copyright that applies to the information being released to you.

I also attach Annex C 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

Juliette Hatchman

Annex A

REQUEST FOR INFORMATION: Correspondence between Defra and officials at Marine Scotland and other Fisheries Administrations on various issues surrounding the current Western Waters scallop management arrangements

Request 1: Correspondence between Defra and officials at Marine Scotland and other Fisheries Administrations on the subjects of devolution of Western Waters scallop effort

Item 1: Text included in e-mail of 28 August 2012 from Defra to other UK Fisheries Administrations:

“...it was my understanding (**[name of official removed]** pls chip in/correct me as required) was that it stated that WW effort regime would be managed at UK level and that a move away from this would require either a re-write of the concordat or at least agreement from all 4 DAs that this was how we wished to proceed. Secondly, any carving up of the effort pot would be far from straight forward and unlikely to be completed/agreed upon before the 2013 fishery is due to start. Those of you that attended the WW meeting in Newcastle last august will recall we discussed the possibility of carving up effort pot, amongst vessels as opposed to DAs, but it was agreed then that it would be very resource intensive and unlikely to be possible to complete in time for 1 Jan – I would assume a similar exercise would be required even if we were carving up between DAs.”

Item 2: Text included in e-mail of 29 August 2012 between 2 Defra officials copied to other UK Fisheries Administrations:

“The Concordat says:

- a. The current effort allocations for demersal species, scallops and crabs contained in EU Regulation 1415/2004 will continue to be monitored on a UK basis. Management of any revised effort allocations arising from review of this regime will be subject to agreement between Fisheries Administrations on a case by case basis.

So the presumption is that until the WW regime is reviewed at EU level, the status quo will remain.

Of course nothing is ever set in tablets of stone but even if we did want to go down this route I share your scepticism as to whether it would be possible to sort this out in time for 1 Jan 2013. I suspect that it would ne be as straightforward as might first appear, given the significant change in the make up of the fleet actively targeting Area VII scallops in the last two or three years.”

Item 3: Text included in e-mail of 22 September 2013 from Marine Scotland to Defra, copied to other UK Fisheries Administrations:

“...we in the SG were considering whether to propose devolved management of Scallop effort under the Western Waters regime. This is something that we had meant to consider properly in 2012, but never quite got around to. To avoid that happening again, **[name of official removed]** in my team has drafted the attached paper*, which discusses the option in a little detail.

It is our plan now to issue this paper to Scottish Scallop interests, and to ask for their views by the middle of next month. In our letter to them we will be clear that our expectation is that we will seek devolved management, in line with our general policy, but that we will still be keenly interested in their views about technical points. We'll then seek to confirm our Minister's view before the end of October, and thus give FAs a reasonable chunk of time to agree the arrangements necessary for devolution to progress. As we say in the paper, of course, this is not virgin territory: most of this ground has been covered before in relation to the cod plan, although the nomadic nature of the Scottish vessels involved is something of a different feature.

I am copying to other colleagues there too, because a change in the position here will require small changes to be made to the Concordat, ideally in advance of the next fishing year.”

*consultation paper now published

Request 2: Correspondence between Defra and officials at Marine Scotland and other Fisheries Administrations on options for changing the way that scalloping effort is presently managed

Item 1: Text included as agenda item for teleconference between Defra and the other UK Fisheries Administrations planned for 26 July 2012:

“New Regime: Main Focus of the Meeting

2013+ management regime – what have been the issues with the 2012 management regime? How can we improve on this? What are the other options that we could consider and issues associated with these?

Timings for discussing options for management of fishery 2013+ with industry – *preference would be to do independently of next quarterly review meeting*”

Item 2: Text included in e-mail of 17 October 2013 from Defra to other UK Fisheries Administrations:

“My plan of action is to:

1. Conduct a rapid review of current management arrangements for both fisheries, focus being on more formal UK management regime for scallops which has been in operation since 2012. Chair of SICG has been asked to consider highs/lows of

- current scallop management system with industry group at the same time. *Defra paper to be circulated shortly to MMO/UKFAs for comment*
2. Work up possible options to ensure compliance with EU regime for 2014 WW scallop and crab fisheries with colleagues in MMO/UKFAs and agree approaches – *by end of October/early November*
 3. Discuss possible options to ensure compliance with EU regime for 2014 WW scallop and crab fisheries with respective industries and MMO/UKFAs – *by mid November*
 4. Agree and publicise new management regimes to be in place at start of 2014 fisheries - *by 1/1/14*”

Request 3: Correspondence between Defra and officials at Marine Scotland and other Fisheries Administrations on longer-term EU-wide review of the Western Waters regime

We have not had any specific discussions with officials in the other UK Fisheries Administrations on the longer-term EU-wide review of the Western Waters regime. Despite early discussions with the Commission and the UKs proposal that a review of the Western Waters regime would best be undertaken in light of CFP reform when a wider range of up-to-date management tools should be available, they have yet to notify us of timescales regarding the review. Once we receive this information we will be in a better position to consider options for the review with officials in the other Fisheries Administrations and to consult with industry. A regionalised approach under CFP reform would clearly ensure the review is carried out with local involvement in how the regime should be developed.

Request 4: Correspondence between Defra and officials at Marine Scotland and other Fisheries Administrations on scallop fleet capacity vis a vis sustainability

We have not had any specific discussions with officials in the other UK Fisheries Administrations with regards to scallop fleet capacity in relation to sustainability – in the terms of the fleet or stocks. We have however, had initial discussions on the potential for scallop fleet capacity to affect our ability to manage the Western Waters fishery and therefore our ability to comply with the EU effort regime. We are seeking to improve our evidence on the sustainability of our scallop stocks. Although stock analysis is currently being conducted by Cefas, it will take some time before we know the level of activity the scallop fishery can handle. There is more work to be done to ascertain whether stocks are being fished currently at sustainable levels even without any increase in effort.

Annex B

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Annex C

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