



Department
for Environment
Food & Rural Affairs

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www.gov.uk/defra

Our ref: RFI6560
Date: 20 June 2014

██████████
By e-mail

Dear ██████████

REQUEST FOR INFORMATION: INSPECTION REPORT OF VISIT BY THE EUROPEAN COMMISSION'S COMMUNITY INSPECTION COMMITTEE (CIC) ON BEEF AND SHEEP CARCASS CLASSIFICATION AND PRICE REPORTING

Thank you for your request, received on 28 April 2014, for a copy of the report (Report) of last year's visit to Great Britain by the CIC.

As you have been advised we are considering your request under the Freedom of Information Act 2000 (FOIA).

I can confirm that DEFRA does hold the CIC Report referred to in your request. Whilst we recognise that there is a general duty in the public interest to disclose such information, exemptions can apply where non-disclosure outweighs the public interest to disclose. In this instance, after careful consideration, we have concluded that there is justification in withholding some of the information in the Report under the following FOIA exemptions:

- *Section 40(2) – Personal information*
- *Section 41 – Information provided in confidence*
- *Section 43(2) – Commercial Interests*

Section 40(2)

Under Section 40(2), personal data of a third party, such as that contained in the Report, is exempt if its disclosure would contravene any of the 'data protection principles' under the Data Protection Act 1998 (DPA). The Report includes the personal data of the EU inspection team and other officials participating in the visit. They would have a reasonable expectation that Defra would not place in the public domain information that could allow them to be identified. In this case, disclosure would breach the fair processing principle of



the DPA as those individuals could legitimately expect that this information was solely for the use of those directly involved in the visit.

Section 40 is subject to the public interest test. Whilst there is a public interest in transparency, there is also a strong public interest in maintaining confidence with regard to the handling of individuals' personal data. There is no legitimate public interest in disclosing the personal details of the EU inspection team and other officials. To disclose this information would clearly breach the DPA and accordingly these details have been redacted.

Section 41

Section 41 states that information will be exempt from disclosure if it was obtained from another person or organisation and that its disclosure could result in a breach of confidence over which the aggrieved party would have the right to take legal action. A breach of confidence could become "actionable" where:

- the information has the necessary quality of confidence;
- the information was given in circumstances under an obligation of confidence; and
- there was an unauthorised use of the information to the detriment of the confider (the element of detriment is not always necessary).

Defra's understanding is that the circumstances surrounding the inspection visit were sufficient to give rise to a duty of confidentiality, given the nature of the information and the relationship between the parties. In providing information to the Commission, abattoirs could reasonably expect that the information would be kept confidential and not be put in the public domain. Defra has a duty to ensure that information provided to us in confidence via the Report is not disclosed as disclosure could be deemed to be an "actionable" breach of confidence.

As Section 41 is an absolute exemption, Defra is under no obligation to consider and apply a public interest test to ascertain whether withholding the information outweighs the public interest in its disclosure. The Report has therefore been redacted accordingly.

Section 43(2)

Under this exemption, Defra is not obliged to provide information where that disclosure "would, or would be likely to, prejudice the commercial interests of any person (or organisation)." Parts of the CIC Report deal with information of a commercially sensitive nature pertaining to the abattoirs inspected during the visit, which, if disclosed, would, or would be likely to, prejudice the commercial interests of those businesses. These abattoirs would have a reasonable expectation that Defra would not place information in the public domain which may allow individual abattoirs to be identified in such a way that their legitimate economic interests could be affected.

Section 43 is subject to the public interest test. Whilst there is a public interest in transparency, consideration has to be given to the need to ensure that the commercial interests of the abattoirs inspected by the Commission are not prejudiced or undermined by disclosure of information which is not common knowledge. The disclosure of commercially sensitive information could prejudice the legitimate economic interests of the abattoirs and other commercial organisations involved in the visit, and undermine their competitive advantage. The public interest in applying the exemption under 43(2) of the FOIA lies in protecting this commercially sensitive information. Disclosing this information may prejudice the commercial interests of the abattoirs inspected and could jeopardize any future dealings with these and other abattoirs, which runs counter to the public interest. The Report has therefore been redacted accordingly.

In keeping with the spirit and effect of the FOIA, 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 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 A, which explains the copyright that applies to the information being released to you.

I also attach Annex B 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

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Annex A

Copyright

The information supplied to you continues to be protected by copyright. You are free to use it for your own purposes, including for private study and non-commercial research, and for any other purpose authorised by an exception in current copyright law. Documents (except photographs) can be also used in the UK without requiring permission for the purposes of news reporting. Any other re-use, for example commercial publication, would require the permission of the copyright holder.

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Annex B

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