



Department
for Environment
Food & Rural Affairs

Nobel House
17 Smith Square
London SW 1P 3JR

T 08459 335577
helpline@defra.gsi.gov.
uk
www.defra.gov.uk

Our ref: RFI 6413
Date: 15 May 2014

Dear

**REQUEST FOR INFORMATION: DEFRA AND NORFOLK COUNTY COUNCIL
CORRESPONDENCE**

Thank you for your request for “copies of all letters and emails (including any attachments) between Defra and Norfolk County Council concerning the Norfolk Waste PFI, from January 1st to March 1st 2013.”

As you are aware, 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).

Please find attached to this letter the following documents:

- Correspondence 1 January to 1 March 2013.pdf
- 2013 0130 CM Training Agenda Norfolk v0_01.pdf
- 20130130 CM Training Planning Meeting Norfolk v0_01.pdf
- 20130211 Defra Letter of Support to NCC – Planning Inquiry.pdf
- Norfolk v1 20130221.pdf
- 20130131 - RPP Letter.pdf



In releasing these documents, we have applied the following exceptions as allowed by the EIRs:

Regulation 12(4)(a) – information not held

Document *Correspondence 1 January to 1 March 2013.pdf* refers to an attachment which we do not hold due to encryption issues. The information is therefore exempt under regulation 12(4)(a) of the EIRs, which relates to information which is not held at the time when an applicant's request is received. 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) – unfinished information/documents

Where shown in document *Correspondence 1 March to 31 May 2013.pdf*, we have withheld attachments which are in draft form as they are incomplete.

Regulations 12(3) and 13(1) – withholding personal data relating to third parties

This personal data is being withheld as the information falls under the exception in regulations 12(3) and 13(1) of the EIRs, which relate to personal data relating to third parties. Regulation 13(1) of the EIRs exempts from disclosure personal data relating to third parties where disclosure would breach the Data Protection Act 1998 (DPA). In this case, we believe that disclosure of the information would breach the first data protection principle in Schedule 1 of the DPA 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 of the DPA. In particular we do not consider that there is a legitimate interest in disclosure in this case. Release of names of junior officials would add nothing to the public's understanding of this matter, and although there is a legitimate interest in disclosure as it would serve to promote even greater transparency and accountability, this interest has been met through the disclosure of the process through which the report was produced, to inform the Secretary of State's decision. Consequently, we believe that regulations 12(3) and 13(1) of the EIRs exempt the information from disclosure and therefore we have concluded that, in all the circumstances stated above, the information should be withheld.

Public Interest Test

Regulation 12(4)(a) – information not held

There is a strong public interest in withholding the information because it is incomplete and not wholly accurate whilst being revised. A public authority needs a safe space to ensure that the information that it is preparing is up to date and accurate. Premature disclosure of incomplete (and sometimes incorrect) information has the ability to seriously mislead readers and is, therefore, not in the public interest.

In applying these exceptions we have had to balance the public interest in withholding the information against the public interest in disclosure. We recognise that there is a public interest in disclosure of information concerning WIDP and NCC in relation to the waste infrastructure project to ensure transparency in the dealings between Defra and the participants in this project in a fair and transparent process. However, we have concluded that, on balance, the information should be withheld.

In keeping with the spirit and effect of the FOIA or 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 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 the WIDP Programme Office.

Yours sincerely

WIDP Programme Office

widp.programmeoffice@defra.gsi.gov.uk

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 or logos) 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.

Most documents produced by Defra will be protected by Crown Copyright. Most Crown copyright information can be re-used under the [Open Government Licence](#). For information about the OGL and about re-using Crown Copyright information please see [The National Archives website](#).

Copyright in other documents may rest with a third party. For information about obtaining permission from a third party see the [Intellectual Property Office's website](#).

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