



Department
for Environment
Food & Rural Affairs

T: 03459 33 55 77 or
08459 33 55 77
helpline@defra.gsi.gov.uk
www.gov.uk/defra

Your ref:
Our ref: RFI 6803
Date: 03 October 2014

Dear [REDACTED]

REQUEST FOR INFORMATION: Cage traps used in the Badger Culls

Thank you for your request for information about cage traps, which we received on 8 August. We have handled your request under the Environmental Information Regulations 2004 (EIRs). We would like to apologise for the delay in responding to you. We had to review records to check what information was and was not held.

As you are aware, 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 questions and the responses are below:

Please provide me with:

1 Dates that the cage traps were loaned to the NFU in the years 2012, 2013 and 2014.

Cages were loaned over the summer of 2013 and 2014 during preparations for the culls scheduled for those years. No cages were loaned in 2012.

2 The percentage of cage traps that were returned either inoperable or not returned by NFU to DEFRA in the years 2012, 2013 and 2014.

And

3 The number of cage traps that were returned either inoperable or not returned by NFU to DEFRA in the years 2012, 2013 and 2014.

No culling took place during 2012 and culling has just started in 2014, so the information is not held. Therefore EIR regulation 12(4)(a) (information not held at the time of the request) applies.



In 2013, culling did take place but the number of cages lost or damaged is being withheld under regulation 12(5)(a), public safety. Release of the numbers of cages lost, either low or high level, would provide an incentive to steal or damage cages by protestors. If levels were low, then protestors might conclude that their campaign was not working and increase attempts to find and damage cages. Conversely, if loss levels were high then protestors would feel encouraged to continue their efforts and destroy government property purchased at taxpayers' expense. Protestors have posted details of cages they have vandalised to social network sites. In order to carry out this activity, protestors move through the cull zones and therefore place themselves at risk of injury or accident.

4 Costs and time incurred by DEFRA for processing this loan of cage traps to NFU (not including the cost of purchase). Costs such as (but not limited to) transport, administration of loan, labelling of traps with 'NFU' tag.

This information is not held; therefore the exception in regulation 12(4)(a) EIR (information not held at the time of the request) applies. Costs are split between Defra and its agencies, the NFU and its contractors and as a result this information is not available. For the same reason, the time involved in managing the loan cannot be derived.

5 Details of the loan agreement such as who pays for disinfection and cleaning of cages and who pays for repairs/replacement of cage traps that were provided by DEFRA to NFU in working condition but returned in non-working condition or not returned.

Defra and its agencies are responsible for repairing, maintaining and disinfecting cages on site upon their return as they have the appropriate facilities to do so. You should note that cage traps are also used for other programmes such as badger vaccination which is why a stock of cages is held.

6 For those cage traps that were not returned please provide details of the investigation into why they were not returned.

Any reports of criminal behaviour such as theft or vandalism would be made by contractors or members of the public who are out in the cull zones to the Police and not Defra. As Defra did not carry out criminal investigations, this information is not held and the exception in regulation 12(4)(a), information not held, applies.

If you require information on any investigations please contact the Police.

7 How many cage traps were found to have been misappropriated by the NFU/their agents or sold on by landowners/NFU/badger cull contractors? What investigation was carried out into uncovering fraudulent use/sale of these government owned cage traps?

This information is not held; therefore the exception in regulation 12(4)(a) EIR (information not held at the time of the request) applies. NFU and their contractors are fully aware of the requirement to return cages to Defra and Defra entertains no suspicion that any have been misappropriated by the NFU, landowners, contractors, etc. as implied by the question.

8 Has the National Audit Office been informed of losses incurred due to the loan of Government owned cage traps to a private organisation?

The National Audit Office has not been informed of these losses as we are not required to inform that office. However, the details of the losses will be included within the Department's 'Losses Register' which will be available for NAO to review as part of their normal audit of the Department's Annual Report & Accounts.". For further information, please see the NAO website which can be found at: <http://www.nao.org.uk/about-us/> .)

The Regulations and the Public Interest Test

Regulation 12(4)(a): Information is not held when the applicant's request is received. Costs incurred and time taken to manage the loan of cage traps cannot be obtained.

Regulation 12(4)(a) is a qualified exception, which in relation to other qualified exceptions 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(5)(a), Public safety. During last year's pilot cull, anti-cull activists were present in the cull zones and were known to be involved in theft and vandalism of cage traps. As mentioned above, release of the low or high numbers of cages lost would result in concerted efforts to steal or damage cages by protestors which would mean their being present in cull zones and putting themselves at risk of injury or accident, for example through falls or accidentally wandering into the line of fire in an active cull area. It is never in the public interest to encourage individuals to place themselves at risk.

Defra is fully aware of the strength of feeling around the badger control policy and the strong arguments on both sides. There is also a public interest in transparency and accountability in controversial policy areas.

On the other hand, there is a strong public interest in withholding the information. The culling of badgers is a sensitive issue and we believe that placing details relating to cage traps in the public domain would be irresponsible. It is not justifiable to release information which would lead to people putting themselves at physical risk. Disclosure of this information would not be in the public interest, because it is not in the public interest to release information that could affect public spending or public safety. The release of the information you requested would have that effect.

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 the address below.

Yours sincerely

Defra FOIA and EIRs Team
informationrequests@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