



Department
for Environment
Food & Rural Affairs

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██████████
████████████████████

Your ref:
Our ref: RFI 6874
Date: 10th October 2014

Dear ██████████

REQUEST FOR INFORMATION: Badger Cull Best Practice Guidance and Training

Thank you for your request for information about the badger cull Best Practice Guidance (BPG) and Training which we received on 8 September. 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).

We acknowledge that we missed the relevant deadline for response to your request, for which I apologise. It is not our usual practice to take longer than the time allowed for response in the relevant legislation and I am sorry that on this occasion we have not been able to meet our usual standards. We are currently experiencing a high number of EIRs/FOIA requests making it difficult to respond within the deadlines. The department is taking action to address this issue. It has taken some time to gather the relevant information together and ensure you have an accurate response to your request.

Your questions and the responses are below. Following careful consideration, we have decided not to disclose some of this information.

- 1. Which organisations were consulted when revising the Defra Best Practice Guidance, 'Controlled shooting of badgers in the field under licence to prevent the spread of bovine TB in cattle', published on 26 August this year? Were any individuals, not associated with particular organisations, also consulted? If so, please state how many, their names and expertise in shooting wildlife.**



The Best Practice Guidance for Controlled Shooting was part of the Government's public consultation on Guidance to Natural England in 2011. The revisions made in 2014 were not subject to a formal consultation. Instead, they were agreed between Defra and Natural England based upon the recommendations of the Independent Expert Panel. The Home Office, the Police and AHVLA were also consulted during the development of the new BPG.

2. **The revised BPG differ from the original (May 2013) BPG in several ways which may compromise safety, including the following. The May 2013 BPG, para 29, states: "Night Vision must be used from a fixed, preferably elevated, shooting position." This safety requirement has been omitted from the revised BPG. Please explain why this was no longer considered necessary, and what alternative requirement has been added to the revised BPG to compensate?**

In their report (para 6.2.2), the IEP was clear that it saw no reason why shooting away from bait points should not be allowed as long as measures were taken to ensure safety was not compromised. Since the IEP had no safety concerns last year in relation to the use of night vision, shooting with night vision has been allowed away from bait points this year.

Contractors will still need to follow all other safety requirements and considerations set out in the Best Practice Guidance. The guidance makes clear that Contractors must maintain high safety standards, in particular:

- Compliant night vision riflescopes must be used;
- Contractors must have a very good knowledge of the ground over which they are shooting to guarantee the safety of shots at all times and to ensure that shots are taken within the required range;
- Contractors must use a Buddy with a spotting device.

3. **Details of the training received by 'additional authorised persons' this year, including:**

- a. **Duration and total hours, And**
- b. **Number of trainees, And**
- c. **Whether there was one single training and trainee group, and if not how many, And**
- d. **How much training was desk-based and how much field-based? And**
- e. **Where and when the training took place, And**

f. How much training was for cage-trapping/killing & how much for 'controlled' shooting? And

g. Whether all trainees received training for both culling methods (and details if not)? And

h. How trainees were tested & number or proportion requiring further training?

Defra is not responsible for training delivery and therefore does not hold information on training sessions, such as the number of courses delivered, their frequency, duration, the numbers of people trained, or the proportion requiring further training. Therefore regulation 12(4)(a), information not held, applies.

Defra is aware that several types of training course were provided. They were; a refresher course for all returning contractors; a course for all new cage trapping contractors, and another course for all new controlled shooting contractors. Not all contractors received training for both culling methods because some only planned to use one of the methods. All contractors had to pass a written assessment and all new contractors and a proportion of existing contractors also underwent a field-based assessment prior to the start of this year's culls.

i. Experience and organisational affiliations of trainers.

Companies were invited to apply to provide training for cull contractors last year and a company was selected to carry out training. The company had to meet the criteria set out by Defra which included trainers being appropriately qualified to train marksmen. Details of the requirements for marksman training providers can be found at the link below.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69585/pb13714-badger-culling-training.pdf

j. A copy of the training syllabus or curriculum, and final assessment of the training.

Defra only holds draft versions of the training and assessment materials, including the training syllabus which was prepared by the training provider. These are being withheld under regulation 12(4)(d), incomplete materials, regulation 12(5)(e), confidentiality of commercial or industrial information and regulation 12(5)(f), the interests of the person who provided the information where that person: (i) was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority, (ii) did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it, and (iii) has not consented to its disclosure.

The Regulations and the Public Interest Test

Regulation 12(4)(a), information not held at the time of the request. Some of the information that you have requested is not held by Defra. 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), Incomplete material. Draft documentation has been provided to Defra and Natural England as part of the development process of training courses and assessments. The material provided is draft and unrepresentative of the final training package which has been reviewed and approved by Defra and Natural England.

Regulation 12(5)(e): Confidentiality of commercial or industrial information. Any training documents, including the syllabus and assessment documents, have commercial value as they include elements of the structure and content of the commercially developed contractor training course. Disclosure of the documents would permit others to duplicate the training course being in a position to know what was included in the course and how much time would be given to each element, damaging the third party's commercial interests. Bearing in mind the nature of this information, the commercial value of it to the third party, or a competitor, is clear.

Regulation 12(5)(f): The interests of the person who provided the information. The training provider has provided the details of training courses to Defra as required. However this information is the property of the training provider and they have refused their consent for the detailed numbers of courses given, numbers of contractors who attended and documents used to be released. Therefore Defra is obliged to withhold the information under regulation 12(5)(f).

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 regarding training courses for marksmen as there is 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 release of the draft materials would not meet the purpose of establishing the content of the training courses. The training materials were not produced by Defra and it is not within

Defra's remit to check through the documents and clarify where text was subsequently amended. We also have to take into account the commercial sensitivities surrounding the release of the training materials. The material was forwarded to Defra in confidence and disclosure would affect this confidentiality. The training provider has a legitimate economic interest in the material as they may wish to use the materials elsewhere and it is not for Government to undermine the commercial viability of a third party.

We have concluded that, in all the circumstances of the case, the information should be withheld.

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,

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Defra FOIA and EIRs Team

Email: 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