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Our ref: RFI 9151  
25 October 2017

Dear

## **REQUEST FOR INFORMATION: INFORMATION ON TRAVELLING CIRCUSES**

We received your request on 30 June 2017 which asked:

“Please provide me with the following information under the Freedom of Information Act 2000.

1. Licence applications, inspection reports and other communications pertaining to Peter Jolly’s Circus for the period 1 April to 30 June 2017
2. Licence applications, inspection reports and other communications pertaining to Circus Mondao for the period 1 April to 30 June 2017
3. Licence applications, inspection reports and other communications pertaining to Thomas Chipperfield and An Evening With Lions And Tigers for the period 1 April to 30 June 2017
4. Licence applications, inspection reports and other communications pertaining to other travelling circuses with wild animals for the period 1 April to 30 June 2017”

We wrote to acknowledge your request on 5 July 2017 and as you know we have extended the deadline to give us more to consider further the qualified exemptions as set out section 27, which relates to international relations, section 31(1)(c), which relates to the administration of justice, and section 42, which relates to legal professional privilege. In considering your request we should also make clear that we have omitted information that falls within the scope of your request but would add nothing to your understanding of the matter, e.g. housekeeping emails and/or correspondence of an administrative matter.

In addition we have considered the exemption under section 31(1)(g) which relates to the exercise by any public authority of its functions for any of the purposes specified in subsection (2) specifically:

- the purpose of ascertaining whether any person has failed to comply with the law
- the purpose of ascertaining whether any person is responsible for any conduct which is improper, and
- the purpose of ascertaining a person’s fitness or competence in relation to the management of bodies corporate or in relation to any profession or other activity which he is, or seeks to become, authorised to carry on.



We enclose a copy of the following information held by this Department:

- An email of 27 May 2017 from Peter Jolly's Circus to Defra containing two quarterly veterinary inspection reports, a letter of 14 June 2017 from Defra to Peter Jolly's Circus (including an inspection report for a routine unannounced inspection on 24 May 2017)
- An exchange of emails between 18 May and 22 June 2017 between Peter Jolly and Defra's Protected and Invasive Non-Native Species Team regarding an application for a permit under Article 9 of the EU Invasive Alien Species Regulation (see *"RFI\_9151\_April\_to\_June\_paperwork\_redacted\_part\_I.pdf"*) A copy of Mr Jolly's licence application dated 8 February 2017
- An email exchange between Mr Jolly and the supplier of the two raccoons dated 19 May 2017. A copy of Jolly's Circus in house rules and principles regarding escape or accidents (as attached in Mr Jolly's email dated 23 May). (see *"RFI\_9151\_April\_to\_June\_paperwork\_redacted\_part\_II.pdf"*)
- Other email exchanges between Defra and APHA officials between 18 May and 16 June. (see *"RFI\_9151\_April\_to\_June\_paperwork\_redacted\_part\_III.pdf"*)
- A letter of 26 April 2017 from Defra to Circus Mondao (including an inspection report for a routine unannounced inspection on 14 April 2017), an email of 10 May 2017 from Circus Mondao regarding their reindeer with a reply from Defra of 15 May 2017, an email of 26 May 2017 from Circus Mondao about the acquisition of a new zebra with a reply from APHA of 22 June 2017; and an email of 16 June 2017 from Circus Mondao with an update about the camel 'Kachana', (see *"RFI\_9151\_April\_to\_June\_paperwork\_redacted\_part\_IV.pdf"*)

Certain information in the above documents has been withheld and/or redacted under section 38(1) (Health and safety) and section 40(2) (Personal information) of the FOIA.

Section 38(1) applies to information that if disclosed would or would be likely to endanger the physical or mental health, or the safety, of any individual. In applying this exemption 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 individuals involved in circuses and that some people may wish to see these documents in their entirety. On the other hand, there is a strong public interest in withholding the information because we have seen evidence that individuals associated with the circus licensing regime, or individuals in other areas involving wild animals in circuses, have previously been subject to threats, and the release of further identifying information could increase risk to those individuals. Therefore this information has been withheld and/or redacted.

The documents contain personal data, which we have concluded should be withheld under section 40(2) (personal data relating to persons other than the requester; i.e. third parties) and section 40(3)(a)(i) of the FOIA. Section 40(2) and section 40(3)(a)(i) of the FOIA provide that personal data relating to third parties is exempt information if its disclosure would breach any of the data protection principles in the Data Protection Act 1998 (DPA). We consider that disclosure of these personal data 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. Disclosure of this information would not constitute 'fair' processing of the personal data because the information relates to persons who are not in a public facing role and would not reasonably have expected their name to be made public. Therefore, we have concluded that this information is exempt from disclosure under section 40(2) of the FOIA.

The information which is exempt from disclosure includes:

- Names and contact details of circus representatives or associates other than the licence holder, including details of the circus' lead vets, where these details are not already publically known;

- Names of the circus inspectors; and
- Names and contact details of Defra or APHA officials below the level of the Senior Civil Service.

Following further consideration we are no longer relying on section 27, which relates to international relations, as the public interest test comes down in favour of disclosing the information on the basis that European Commission is content for the information they provided to be disclosed.

We have concluded that section 31(1)(g) is also engaged with regard to the information held on Peter Jolly's circus. This is because it has been ascertained that Peter Jolly's Circus isn't 'competent' to be authorised to carry on the activity of having the wild raccoons in their travelling circus. This is because:

- the licence application was prospective, which would mean that the information wouldn't tend to show they had failed to comply with any laws;
- it wasn't improper just to own raccoons (subject to other legislation) but it would have been improper if they had gone on to use them as a circus attraction without a licence or without adhering to licence conditions; and
- they were seeking to become authorised to carry out an activity, and in the event they were not.

However, we have considered the public interest test and concluded that it falls in favour of disclosure. This is because the outcome of the licence application has been determined and it would not prejudice anyone's interests to release the information.

### **Information withheld**

We can confirm that an application from Thomas Chipperfield for a licence under the Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012 was received by Defra on 27 April 2017. We can also confirm that the Department also holds an inspection report for a pre-licensing inspection of Mr Chipperfield's Circus undertaken on 6 June 2017 and exchanges of correspondence with Mr Chipperfield regarding his application and Defra's decision to refuse the application. This information is currently being withheld as it falls under the exemption in section 31(1)(c) of the FOIA which relate(s) to the administration of justice. Section 31(1)(c) concerns information where disclosure would undermine court proceedings, such as an appeal.

In applying this exemption 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 the applications received and the inspections reports of travelling circuses which use wild animals. We also recognise the extra public interest in this case, as it involves the potential use in a travelling circus of three big cats. Further, where an application's or inspection report's use in deciding the status of a licence has been concluded then our policy is to usually release that information.

On the other hand, there is a strong public interest in withholding the information because placing the information in the public domain could interfere with a court's ability to conduct appeal proceedings fairly. There is a public interest in ensuring that the ability of a court to give judgment in a case is not undermined or otherwise adversely affected by the premature disclosure of information.

Therefore, we have concluded that, in all the circumstances of the case, the information should be withheld under Section 31(1)(c) of the Act at this time.

We have also concluded that section 31(1)(g) is also engaged with regard to the information held in relation to Mr Chipperfield's Circus because it concerns whether or not Mr Chipperfield's Circus is 'competent' to be authorised to use three big cats in a travelling circus. We have considered the

public interest test and concluded that it falls in favour of withholding the information at this moment in time. This is because the outcome of the licence application has not yet been determined and it would prejudice the outcome of the application to release the information at this time.

Some of the information that falls within scope of the request (namely additional information with regard to Mr Jolly's application to keep two raccoons and documents referred to by Mr Jolly in his email of 23 May) have already been published and can be accessed at via the links below. Section 21 of the FOIA exempts Defra from providing a copy of the information with this response to your request.

[https://www.whatdotheyknow.com/request/i\\_would\\_like\\_to\\_make\\_an\\_foi\\_requ#incoming-922689](https://www.whatdotheyknow.com/request/i_would_like_to_make_an_foi_requ#incoming-922689)  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/526172/RFI8186 - Jollys Correspondence 2 .pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/526172/RFI8186_-_Jollys_Correspondence_2_.pdf)

We can confirm that internal Defra legal advice relating to Mr Jolly's application is being withheld under the exemption at Section 42(1) of the FOIA, which relates to information that is subject to legal profession privilege. We recognise that the release of this information would help further public debate and increase accountability and transparency. However, there is also a need for legal advisors to be able to present government departments with high quality comprehensive legal advice for the effective conduct of their business. This advice needs to be given with a full appreciation of the facts and can include arguments which consider various options. Without comprehensive advice the quality of the government's decision making would be much reduced because it would not be fully informed and this would be contrary to the public interest. Therefore, we have concluded that, in all the circumstances of the case, the information should be withheld.

#### **Information not held**

We can confirm that we do not hold any applications for a licence under the Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012, or any associated inspection reports or paperwork for any other travelling circus with wild animals for the period 1 April 2017 to 30 June 2017.

Information disclosed in response to this FOI request is releasable to the public. In keeping with the spirit and effect of the FOIA and the government's Transparency Agenda, this letter and the information disclosed to you may be placed on [GOV.UK](http://GOV.UK), together with any related information that will provide a key to its wider context. No information identifying you will be placed on the GOV.UK website.

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

We 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 address below.

Yours sincerely,

**EIRs/FOI Case Officer**  
**Information Rights Team**  
[InformationRequests@defra.gsi.gov.uk](mailto:InformationRequests@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) 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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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](#).

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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 Nick Teall, Head of Information Rights, Area 4C, Nobel House, 17 Smith Square, London, SW1P 3JR (email: [InformationRequests@defra.gsi.gov.uk](mailto:InformationRequests@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

