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[Redacted]

By email: [Redacted]

Our ref: EIR2022/24400  
20 December 2022

Dear [Redacted],

**REQUEST FOR INFORMATION: Analysis of the impact of badger culling on bovine tuberculosis in cattle- communications**

Thank you for your request for information of 22 November 2022 about Analysis of the impact of badger culling on bovine tuberculosis in cattle. 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).

Your information request and our response are set out below.

*Thank you, can you please send me the communications between these parties for April to June 2022.*

We enclose a copy (Annex C and D) of the only information held, which are copies of emails between Eleanor Brown and the Defra Press Office between April and June 2022 inclusive in relation to the publication of the paper entitled 'Analysis of the impact of badger culling on bovine tuberculosis in cattle in the high-risk area of England, 2009–2020'.

We have decided that some of the information in Annex C should be withheld under regulations 12(3) and 13(1) and (2A) of the EIRs as the information constitutes personal data relating to persons other than you, and once sentence withheld under regulation 12(5)(b) of the EIRs, which relates to the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature.

**Regulations 12(3) and 13(1) and (2A)**

These sections exempt personal information from disclosure if that information relates to someone other than the applicant, and if disclosure of that information would breach any of the data protection principles in Article 5(1) of the UK General Data Protection Regulation (GDPR).

We consider that disclosure of this information is likely to breach the first data protection



principle, which provides that personal data must be processed lawfully, fairly, and in a transparent manner. Disclosure would not constitute 'fair' processing of the personal data because the information relates to non-SCS members of staff and third parties who are not in public facing roles and would not reasonably have expected their names to be made public.

### **Regulation 12(5)(b)**

This exception applies because the information in question is legal advice and protected by legal professional privilege (LPP).

We recognise that there is a public interest in understanding what advice was received and considered by Defra staff regarding the matters discussed in the communications. Nonetheless, there is a stronger public interest in favour of withholding information that comprises legally privileged advice given to Defra. There is a need for legal advisors to be able to provide high quality comprehensive 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 that consider various options. Accordingly, such advice needs to be treated with the confidentiality required while the subject matter is still live. Without comprehensive legal advice the quality of the Defra's decision-making would be 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 disclosed in response to this EIRs request is releasable to the public. In keeping with the spirit and effect of the EIRs and the government's Transparency Agenda, this letter and the information disclosed to you may be placed on [GOV.UK](https://www.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, explaining the copyright that applies to the information being released to you, and 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

[Redacted]

**Information Rights Team**

[InformationRequests@defra.gov.uk](mailto:InformationRequests@defra.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.

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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 11 of the EIRs, as applicable, within 40 working days of the date of this letter. Please write to [Redacted], Head of Information Rights via email at [InformationRequests@defra.gov.uk](mailto:InformationRequests@defra.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's Office (ICO) for a decision. Please note that generally the ICO cannot make a decision unless you have first exhausted Defra's own complaints procedure.

The ICO can be contacted using the following link:

<https://ico.org.uk/make-a-complaint/official-information-concerns-report/official-information-concern/>