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[Redacted]

Our ref: EIR2020/22796
1 October 2020

Dear [Redacted]

REQUEST FOR INFORMATION: High Court Ruling on Badger Cull - CVO Advice

Thank you for your request for information of 3 September 2020 about advice provided by the Chief Veterinary Officer (CVO) cited in a High Court judgement regarding a decision on licensed badger control. 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 request was as follows:

Please can you supply a copy of the advice given on what seems to be three occasions including that contributed to by the CVO as per the 13th May High Court ruling by THE HONOURABLE MRS JUSTICE ANDREWS DBE

Between:

THE QUEEN (on the application of

(1) THE NATIONAL FARMERS UNION

(2) T&G STONE LIMITED

Claimants

- and -

SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS

Defendant

-and-

NATURAL ENGLAND

We enclose copies of the information you requested:

- PDF 1 of 4 – Email from CVO 21 August 2019
- PDF 2 of 4 – Email from CVO 30 August 2019
- PDF 3 of 4 – Policy options of managing badger control in Derbyshire
- PDF 4 of 4 – Annex A, CVO Advice.

Please note that some information has been redacted and withheld under regulation 12(5)(a) which relates to international relations, defence, national security or public safety.

We have also decided that some of the information 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 regulation 12(5)(a) which relates to information where disclosure would adversely affect public safety, see below for further details.

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

These regulations exempt personal information from disclosure if that information relates to someone other than the applicant, if other individuals who would, or would likely, be identified or identifiable from the release of such information, and if disclosure of that information would breach any of the data protection principles in Article 5(1) of the 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 data subjects would not reasonably have expected their names to be made public.

Regulation 12(5)(a)

In applying this exception, 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 this specific information in order to increase transparency and aid well-informed debates concerning the government's badger control policy. Regulation 12(2) of the EIRs also states that public authorities should apply a presumption in favour of disclosure.

However, we feel that there is a stronger public interest in withholding the information as it identifies operational details in relation to licensed badger control and the disclosure of such details would endanger and adversely affect public safety. Release of this information poses a substantial risk to the safety of any individuals associated with licensed badger control operations that would likely to be of significant severity and is likely to occur in some cases due to the controversial nature of these actions.

We consider this to be a significant factor in favour of maintaining the exception with regards to the redacted information.

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 me.

Yours sincerely

[Redacted]

Information Rights Team

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](#).

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 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's offices are currently closed so please visit their website on how to contact them during this period, here:

<https://ico.org.uk>