



Department
for Environment
Food & Rural Affairs

Seacole Building
2 Marsham Street
London
SW1P 4DF

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

Mr Richard Bales
request-505554-fc9377f5@whatdotheyknow.com

Our ref: FOI2018/18538
19 October 2018

Dear Mr Bales,

REQUEST FOR INFORMATION: Air Quality Expert Group report

Thank you for your request for information of 3rd September, which we received on 3 September, about the Air Quality Expert Group report on shale gas extraction. We have handled your request under the Environmental Information Regulations 2004 (EIRs).

We enclose a copy of the information you requested at Annex C and hereby provide answers to your specific questions:

1. What formal sign-off procedures were required to be completed before the AQEG report was approved for publication? Were those sign-off procedures documented before / at commencement of the AQEG's work?

The Air Quality Expert Group (AQEG) does not have a formal sign-off process. AQEG follows the Code of Practice for Scientific Advisory Committees (<https://www.gov.uk/government/publications/scientific-advisory-committees-code-of-practice>). Finalisation of a report is a matter for AQEG to decide, and the group will agree the final version either by email or in a meeting. AQEG prefers to adopt an inclusive process whereby the members are keen to receive views and comments on their draft reports from relevant experts and Government Departments, so that they are taking into account the most up to date evidence, and that they have understood the regulatory and policy context correctly. As experts can have different interpretations of evidence, and where there is uncertainty or lack of evidence, AQEG is keen to ensure that the science is presented as accurately as possible. They also consider carefully how their conclusions and recommendations are framed, which sometimes extends the time taken to agree the final draft of each report, particularly as they often have up to three reports in different stages of preparation at the same time. Once completed, the AQEG secretariat will seek to agree a publication date.

2. Which Government Departments, Agencies and Non-Departmental Public Bodies were required to formally sign-off before publication of the report? Please confirm the dates on which each of such sign-offs were received.

AQEG is responsible for finalising its own reports. AQEG's takes a collaborative approach in updating Minister's about their work, as the primary objective of its work is to inform the development of policy and to anticipate new air quality issues. Officials request Ministerial



agreement to publish reports on behalf of AQEG, although there is no formal requirement to do so. In achieving this agreement to publish, Ministers are advised whether views and comments of other relevant Departments and Agencies have been taken into account. In the case of the shale gas report, this included teams in Defra, BEIS, Environment Agency, and Public Health England.

3. Were any other third parties requested to approve the report before publication was authorised? If so, please identify with dates.

No approval of the report was sought from any other third party.

4. Who gave final authorisation for the report to be published and who determined the date on which it was to be made available for public access? Please confirm the dates on which such decisions were taken and communicated.

- Interim Parliamentary Under Secretary of State for the Environment David Rutley MP approved the report for publication on 31 May 2018.
- Parliamentary Under Secretary of State for the Environment Thérèse Coffey MP communicated approval of the date on which it was to be made available for public access (27th July 2018) on 26 July 2018.

5. Please provide copies of all correspondence between the AQEG and all other parties, relating to sign-off (or comment on) the report, during the nine months leading up to its eventual publication on 27th July, 2018.”

We confirm that Defra does hold the information that you have requested and have provided some of the information held at Annex C. Please note that we have 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. These regulations 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 General Data Protection Regulation.

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 who are not public facing officials and to third parties who would not reasonably have expected their names to be made public.

In addition, some information requested is being withheld as it falls under the exception in regulations 12(4)(e) of the EIRs, which relates to the disclosure of internal communications, as it concerns advice from the Chief Scientific Adviser as well as discussions between Defra officials. If policy officials knew or thought that once a decision was reached, their communications in arriving at that point were to be disclosed, they would be less candid in expressing their views at the time.

Public Interest Test

Regulation 12(4)(e) is subject to the public interest test. 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 information concerning shale gas extraction. On the other hand, there is a strong public interest in withholding the information because ministers and government officials and public authorities should have the necessary space to think in private to formulate their decision-making. Furthermore, the role of the Chief Scientific Adviser (CSA) includes providing advice and opinion to those within the policy development and delivery areas of the department which is frank and trusted. The CSA's correspondence with the Defra air quality team is internal communications, providing frank and robust discussion on a report prior to publication. Disclosure of this correspondence would impact on the candour of debate the CSA engages in and would therefore impact on the CSA's ability to fulfil their role effectively in providing trusted, frank and robust advice to ongoing and future areas of policy and evidence.

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

Information disclosed in response to this 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 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.

We attach Annex B, 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.

Yours sincerely

Guy Mawhinney
Information Rights Team
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 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 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 4A, Nobel House, 17 Smith Square, London, SW1P 3JR (email: 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'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 at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF