

12 November 2012

Our ref: RFI 1728

Your ref: 10/2012

Mr Aidan Turner

request-133402-f4c1e52b@whatdotheyknow.com



Natural England
BM 6283
London
WC1N 3XX

Dear Mr Turner

Access to Information Request – Partial Release - RFI 1728

Thank you for your request for all documents relating to the procedures for and monitoring of the Badger Cull, together with all records pertaining to that monitoring which we received on 15 October 2012. Your request has been considered under the Environmental Information Regulations 2004.

Please find all information we hold in scope of your request in the attached zip file.

Names, contact details and other identifying details have been withheld under the exceptions in regulation 12(3) which relates to personal information and regulation 12(5)(a) of the Regulations which relates to information that if disclosed would adversely affect public safety.

Regulation 12(3) – Personal Information

The names and contact details of participants in the Bovine TB Control licensing and employees of Natural England are considered by Natural England, to be personal information as defined by the Data Protection Act 1998.

The First Data Protection Principle says that personal data 'shall be processed fairly and lawfully'. Guidance published by the Information Commissioner, 'Freedom of Information Act 2000, Awareness Guidance No 1', states that when considering fairness the following questions should be taken into account:

- Would the disclosure cause unnecessary or unjustified distress or damage to the person who the information is about?
- Would the third party expect that his or her information might be disclosed to others?
- Had the person been led to believe that his or her information would be kept secret?
- Has the third party expressly refused consent to disclosure of the information?

Under the Data Protection Act 1998, the presumption is in favour of protecting the privacy of the individual, and so the release of personal data will only be found to be fair if there is a genuine reason for disclosure. This involves a three-stage test:

- there is a legitimate interest in disclosure;
- the legitimate interest can only be met, or fully met, by the disclosure of information which identifies individuals (i.e. the disclosure is necessary to that purpose); and
- the disclosure would not involve unwarranted detriment to the individual's privacy or other rights and legitimate interests.

We believe that the participants have a reasonable expectation that their names and contact details should not be disclosed. This is particularly so given the sensitivity surrounding the Bovine TB Control licensing policy. In our opinion the release of this information would cause unnecessary and unjustified harm or distress to the person who the information is about, and

a risk to the individuals' personal safety.

As a public sector organisation, employees of Natural England have a reasonable expectation that their names and work contact details should be disclosed upon request, and there is a legitimate public interest in accountability however, the sensitivity surrounding the Bovine TB Control licensing policy means that Natural England believes disclosure of those names and work contact details of its staff working in the bTB Unit would cause unnecessary and unjustified harm or distress to the person who the information is about, and a risk to the individuals' personal safety. As a result, the bTB Team has collectively taken the decision to refuse consent to disclosure, and Natural England supports this position as it has a duty of care towards its staff and this position is consistent with that duty. The members of staff comprising the bTB Team that deal with customer enquiries are mostly junior staff within the organisation, and do not make decisions at a strategic level.

Considering all the factors above, Natural England does not believe that the release of names, contact details and work contact details is, in this case, necessary in order to satisfy the legitimate public interest in the accountability of public sector employees.

Regulation 12(5)(a) – Public Safety

Some of the information is being withheld under the exception in Regulation 12(5)(a) which states:

“...a public authority may refuse to disclose information to the extent that its disclosure would adversely affect–

(a) international relations, defence, national security or public safety;”

As the bTB policy is a sensitive issue, we believe that the release of the withheld information would impact adversely upon the protection of private property, public buildings and the health and safety of individuals and our staff. In view of this risk we have decided not to disclose the redacted information.

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. Whilst Natural England believes in openness and transparency, as a public body, Natural England also has a responsibility to protect the safety of individuals and their property. We are satisfied that the release of the details in the screening document would allow parties to determine the boundary of the licensed area.

We feel there is little additional public interest in our releasing these details other than to use that information to more easily target the operations for the purposes of objection. Animal rights activists have already publicly expressed their objections to this policy. Releasing this information may result in a higher risk of unwanted contact or interference from persons wishing to object to the project and harass/harm the individuals or sites involved. It is not in the public interest that individuals and their property are subjected to unnecessary harassment or put at risk. Whilst it is a public right to object, that right has to be balanced against issues of security and safety. We believe that these are legitimate concerns sufficient to allow Natural England to engage this exception and withhold the information.

In addition, any disclosure made under the Regulations is in effect a disclosure to the world at large, as any other applicant would be entitled to the same information on request. As such we take this into consideration when making any decisions as to whether it is in the public interest to disclose or withhold requested information.

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As you may be aware, under the legislation should you have any concerns with the service you have received in relation to your request and wish to make a complaint or request a review of our decision, please contact:

The bTB Team at Bovine TB Licensing Unit Natural England, BM 6283, London, WC1N 3XX
Email: btb@naturalengland.org.uk or foi@naturalengland.org.uk marked for the attention of the bTB team. Under Regulation 11(2) this needs to be done no later than 40 working days after the date of this letter.

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the Commissioner cannot make a decision unless you have exhausted the complaints procedure provided by Natural England. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF. Telephone: 01625 545 700, www.ico.gov.uk.

Yours sincerely

Bovine TB team
Natural England