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Peter Silverman
By email: request-463151-0828e7fe@whatdotheyknow.com

Our ref: RFI 9831
10 April 2018

Dear Mr Silverman,

REQUEST FOR INFORMATION: Written fly-tipping briefings to Minister Coffey in the last six months

Thank you for your request for information, which we received on 5 March 2018 about briefings provided to Parliamentary Under Secretary of State at Defra, Minister Coffey, in the last six months. 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).

We enclose a copy of the information which can be disclosed:

- ***Fly-tipping Factsheet*** – fly-tipping factsheet sent to individual correspondents

Following careful consideration, we have decided not to disclose some of the information requested. The remainder of the information requested is being withheld as it falls under the exception in regulation 12(4)(e) of the EIRs, which relates to the disclosure of internal communications.

Regulation 12(4)(e)

The above exception applies to the information being withheld because the briefings on fly-tipping are direct communications from Defra policy officials to Minister Coffey. Other briefings on fly-tipping give advice on communications from Minister Coffey to Ministers of other government departments and the internal communications between departments remains ongoing.

Public interest test

In applying these exceptions 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 enhancing enforcement against fly-tipping.



It is in the public interest to disclose this information, especially given the rising number of incidents nationally of this anti-social, environmental crime.

On the other hand, there is a strong public interest in withholding the information because Ministers and government officials should have the necessary space to think in private to formulate policy. It is necessary for Defra to have the space to do this away from public scrutiny and the disclosure of certain briefings would harm that safe space. The material in the withheld information concerns developing policies to tackle fly-tipping and key decisions, on those policies remain to be made by both Defra and the departments involved. If this information was to be released it could be misleading to the general public and have a detrimental impact on this policy area and the government's position.

In the application of this exception, we have carefully taken into consideration the potential harmful effects on policy making that disclosure of the information may result in. If the information were to be made public this would be likely to reduce the candid nature and quality of advice in briefings from policy officials to Ministers. It is essential that such internal communication remains private, so that Ministers can continue to receive candid and robust advice from their officials. Going forward it is important that officials are able to continue to communicate internally.

Therefore, we have concluded that, in all the circumstances of the case, certain 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, 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 me.

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) 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