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Peter Silverman
By email: request-721048-1eb6349e@whatdotheyknow.com

Our ref: EIR2021/02205
19 February 2021

Dear Peter Silverman,

REQUEST FOR INFORMATION: Local Authority Feedback regarding Roadside Litter Survey

Thank you for your request for information of 23 January 2021 about Local Authority (LA) feedback regarding Roadside Litter Survey. 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.

With reference to your previous EIR request (Our ref: EIR2021/33870), our response of 22 January 2021, and in particular question 5 of the attached questionnaire *"Please describe your experience of co-ordinating works and access for litter-picking with Highways England. Are you aware of the Highways England Collaboration Pack? If so do you currently use the pack?"*; you have asked for:

- 1. copies of the complete response from each council to this question showing the name of the council and any references made to specific highways.*
- 2. The same information but anonymising it by excluding the names of the councils and any references made to specific highways.*
- 3. A copy of, or a link to, the Highways England Collaboration Pack.*

The information you requested in parts one and two is being withheld as it falls under the exception in regulation 12(5)(f) of the EIRs, which provides for the exception of information which, if disclosed, would adversely affect the interests of the person who provided that information and they were under no obligation to provide the information to a public authority, did not supply the information in circumstances such that Defra or any other public authority is entitled apart from the EIRs to disclose it, and have not consented to the disclosure of that information.

In applying this exception, we have had to balance the public interest in withholding the information against the public interest in disclosure, and in considering this exception we have applied a presumption in favour of disclosure, as required by the EIRs.

We recognise that there is a public interest in disclosure of information concerning how LA's co-ordinate works and access for litter-picking with Highways England (HE), particularly where that relationship may affect the cleanliness of highways.

However, on the other hand we feel there is a stronger public interest in withholding the information. Our questionnaire was designed to help us to understand better how a higher standard can be consistently obtained by all LA's. We therefore set out to explore examples of good practice, as well as to hear views on any particular issues and challenges that authorities were facing in achieving the required standard

Releasing the responses to just one question could mislead the public as it will not provide an accurate reflection of the overall level of coordination between local authorities and Highways England. There were several other opportunities within the questionnaire which local authorities used to provide further information about working with HE.

Even where the responses are anonymised, negative conclusions could be drawn from the responses to this question alone at the national level which could adversely affect the relationship between particular LA's, their citizens and HE without cause, leading to time wasted reassuring citizens about the strength of local practices.

Releasing data ahead of the final report could also negatively affect the willingness of LA's to work with us going forward. It is important that LA's feel confident providing frank information to Defra about roadside litter arrangements, without fear of compromising their working relationship with HE or reputation with their citizens.

Releasing the requested material would also distract the team from completing the planned roadside litter report which utilises this data, particularly as it would likely invite further questions or representations about the material that they would have to deal with. Moreover, our intention is to publish this report in the Spring and so there would not be any further public interest served by early disclosure of the information.

We consider that this would be sufficient harm to the public interest to outweigh the factors in favour of disclosure. Therefore, we have concluded that in this case, the public interest test is weighed in favour of the information being withheld under regulation 12(5)(f).

We enclose a copy of the latest version of the HE Collaboration Pack held by Defra.

Information disclosed in response to this EIR 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

Guy Mawhinney
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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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 Andrew Mobsby, 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>

Additionally if you wish to make a complaint to the ICO please use the following link:

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