



University of East Anglia

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Mr. David Holland

8 March 2011

Dear Mr Holland

**ENVIRONMENTAL INFORMATION REGULATIONS 2004 – INFORMATION  
REQUEST (FOI\_10-112; EIR\_10-14)**

The appeal you have made regarding the handling of your original request of 22 October 2010 made under the Environmental Information Regulations (our reference EIR\_10-14) has been passed to me for review under the University's appeal process as described in our code of practice<sup>1</sup>.

As outlined in the letter from Mr. Palmer acknowledging your appeal we believe that a number of the points you raise in your appeal are requests for new information and as such these will be dealt with by Mr. Palmer as a new request, I will address your questions 6, 7, 8, 9, 10, 11 and 19 as part of the appeal.

*Appeal question 6 - Professor Briffa's Response to Professor Boulton*

*I am grateful to you for disclosing Professor Boulton's letter and Annex. In his letter Boulton suggested that a complete submission was attached when he wrote:*

*"A detailed account on which this allegation is based has been presented to us and is given in the annex to this letter."*

*I regret the need to be pedantic but, as this is possibly the most important document so far released, I would like to be absolutely sure that what you sent me is an identical copy of what Briffa actually received. What you released has a more recent pdf file creation date and has a heading added.*

*(6) Please supply me an exact copy of what was received by UEA?*

Mr. Palmer has confirmed that the pdf file that we provided is an exact copy of Professor Boulton's letter and Annex that was received by the University. The original document was received by the University as Microsoft Word document and was converted to a pdf file by Mr. Palmer in order to provide a copy to you. Mr.

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<sup>1</sup> [www.uea.ac.uk/is/strategies/infregs/FOIA+Code+of+Practice+for+Responding+to+Requests](http://www.uea.ac.uk/is/strategies/infregs/FOIA+Code+of+Practice+for+Responding+to+Requests)

Palmer also provided a revised file name for the document. No other changes were made to the document.

Appeal question 7 - Who had access to my Russell submission?

*I am grateful for your original and corrected reply to the question as to who had access to a copy of my Russell submission or Boulton's Annex. However, I ask that you carefully reconsider your response. As already mentioned Professor Acton told the Commons Select Committee "I want to know the full truth". FOI\_08-31 was referred to and I was mentioned by name in the Deputy Information Commissioner's press statement that was taken by UEA to be suggesting that there was prima facie evidence of an offence. Also in March last year before the Commons Select Committee, Professor Acton appeared to be fully briefed and directly interested in my information request stating:*

*"May I comment because I am rather puzzled about the statement from the ICO because, as I understand it, our principle is that it and without investigation suggests that there is a case to answer. To my mind there is prima facie evidence; why else did I set up the Muir Russell independent review?"*

*(7) Are you asking me to believe that Professor Acton did not ask to see what I had submitted despite all the publicity concerning my information request and Professor Jones' email seeking to delete it?*

**[Information excepted - Reg. 12(4)(a) Environmental Information Regulations]**

We have no record to indicate that Professor Acton asked to see your submission. However Professor Acton's personal assistant has confirmed that Professor Acton did not ask to see your submission.

Appeal question 8

*When asked about my submission, Sir Muir Russell told the Commons Select Committee:*

*"Yes, and you will see that Mr Holland's recent comments do acknowledge that in fact Briffa and colleagues saw his submission and commented on it."*

*Sir Muir is less than transparent. Using the plural "and colleagues", he implies a wider distribution than just Briffa, but he failed to tell the Committee that Briffa only commented on an incomplete, edited and rearranged fragment of my submission. Tim Osborn must have had access to something to jointly write the reply to Boulton.*

*(8) For avoidance of any doubt please confirm whether or not each of Professor Acton and those you listed as having access to Boulton's Annex also had access to the copy of my Russell submission that you say Briffa had obtained from someone that I had sent it to.*

**[Information excepted - Reg. 12(4)(a) Environmental Information Regulations]**

We have no record showing any circulation of your Russell submission.

Appeal question 9

*(9) Please examine the emails sent by Briffa, Osborn, Jones between March and May 2010 and anyone else that had access to my submission to*

*establish if it was forwarded to others at UEA or elsewhere and advise me of who.*

**[Information excepted - Reg. 12(4)(a) Environmental Information Regulations]**

Professor Briffa has informed me that your submission was provided to him on a data stick and was not circulated by email.

*Both Boulton's and Briffa's Annexes are only about one quarter of my actual Russell submission and have similar significant alterations in what is left. I wish to establish who did the editing and reformatting.*

Professor Briffa has provided the following explanation:

"Professor Boulton's letter with its accompanying Annex was forwarded to me from Lisa Williams.

As part of the Review the response provided to Professor Boulton dealt specifically with the points he raised in his letter. As context for his specific questions Professor Boulton provided an accompanying Annex to his letter, stating "A detailed account on which this allegation is based has been presented to us and is given in the annex to this letter."

Our response to Professor Boulton (dated 19<sup>th</sup> May 2010) contained a detailed rebuttal of the specific allegation(s) he raised in his letter, but was also accompanied by an Annex in which we provided specific responses to the points contained in Professor Boulton's annex about which we stated in our response "Our detailed responses are provided in the form of annotations, added where appropriate, in the accompanying version of the Annex".

Our annotated Annex contains our responses only to those statements contained in Professor Boulton's Annex. Neither I nor anyone else in CRU had anything to do with the selection of content in Professor Boulton's Annex. At the time we prepared this response I was aware that Professor Boulton's Annex comprised text originally written by Mr Holland and submitted by him to the Muir-Russell Review. It was not the whole of Mr. Holland's submission but sections extracted from it. I had seen a copy of Mr Holland's submission that was provided to me by a colleague.

In our response to Professor Boulton's questions I chose to use a "version" of Professor Boulton's Annex that followed the formatting used in Mr Holland's submission because I was anxious to make it more explicit that our annotations were in response to what were in fact specific allegations that could be traced back to Mr Holland.

The wording of the version we used as a basis for our annotations contains precisely the wording in Professor Boulton's annex. The only differences were the formatting and that we retained the section numbering and relevant footnotes as used in Mr Holland's submission to the review. On an early draft of our response I believe that we may have even explicitly stated that this was the case but I note that for whatever reason this attribution was not included in the eventual submission to the review team."

Appeal question 10

(10) *Given the lack of any provenance for what Briffa received as being my actual and complete Russell submission, please can you send me an exact copy of the document that Briffa received.*

**[Information excepted - Reg. 12(4)(a) Environmental Information Regulations]**

The requested information is not held by the University. Your submission was held by the University for a period of time but was deleted once the response by Professor Briffa and Dr Osborn to Professor Boulton was completed.

Appeal question 11

(11) *Please let me know if Briffa received my submission by email or other means?*

Professor Briffa has informed me that your submission was provided on a data stick.

Appeal question 19 - Information that meets the terms of FOI 08-23 or -31

(19) *As stated at the outset I do not accept your exceptions and ask that you reconsider your decision. However in the interest of resolving this issue I will restrict my request to the period 1 December 2005 to 1 September 2006.*

Both FOI\_08-23 and FOI\_08-31 have exhausted our internal processes and you have had responses from us on each of them. Additionally our handling of FOI\_08-23 has been considered by the Information Commissioner and was the subject of a decision notice issued to UEA. In his decision notice the Information Commissioner did not make any comment on our use of exceptions, nor did the Information Commissioner instruct us to release any of the withheld information and we therefore maintain our position in respect of both requests.

Having addressed the specific points you have raised in your appeal I will move on to consider the handling of the original request. Your request for information of 22 October 2010 (EIR\_10-14) included a number of questions. For the purposes of the review I will ignore those questions where we have provided an answer as these do not appear to be in dispute. There are a number of questions where we cited regulation 12(4)(a), Information not held. I have reviewed the file and I believe that the appropriate processes were followed by Mr. Palmer in seeking the information you requested and therefore uphold the use of this exception.

Having already addressed the request for information that meets the terms of FOI\_08-23 or -31 there remains one question where we refused to release information, namely:

*Please may I see all UEA email correspondence concerning FOI\_08-31 or its subject matter that was not addressed or copied to me, from 20 November 2009 to today.*

In this instance we cited regulation 12(4)(e), internal communications and regulation 12(5)(b), solicitor-client privilege. Having reviewed a sample of the correspondence I agree that the use of both of these exceptions is valid and uphold this decision.

I have reviewed Mr. Palmer's application of the public interest test and I do not believe that our position has changed in this respect and uphold Mr. Palmer's original decision.

We would now consider this to be our final position on the internal review of this matter, and would advise that if you are dissatisfied with this response, you should now exercise your right of appeal to the Information Commissioner at:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

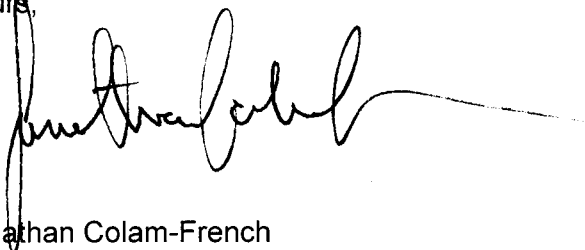
Cheshire SK9 5AF

Telephone: 0303 123 1113

Website: [www.ico.gov.uk](http://www.ico.gov.uk)

Please quote our reference given at the head of this letter in all correspondence

Yours,

A handwritten signature in black ink, appearing to read 'Jonathan Colam-French', with a long horizontal flourish extending to the right.

Jonathan Colam-French  
Director of Information Services