



Mr Jack Thurston (by email)
request-24163-9828fd06@whatdotheyknow.com

Our ref: MFA 75

Ergon House
Horseferry Road
London
SW1P 2AL

10 December 2009

Dear Mr Thurston

REQUEST FOR INFORMATION: PROSECUTION REPORTS

Thank you for your request for a copy of the prosecution reports that were on the Marine and Fisheries Agency (MFA) website, which we received on 2 December 2009. We have considered your request under the Freedom of Information Act 2000 (FOIA).

The reports on the MFA website gave details of prosecutions for fishery offences in 2009 and included the following information: names of vessels; vessel owners' and masters' names and other personal data; nationality of the registration of the vessel; details of the offences; the defendants' pleas; names of the courts where the cases were heard; the dates the cases were heard; details of the cases against the defendants; outcome of the cases. The reports of some cases did not include all of the above details. Please note that if you do require this anonymised information, we will handle your email as a new request under the FOIA.

We have carefully considered your request and have decided to withhold information that would enable individuals to be identified under the exemption at section 40(2) of the FOIA, which relates to personal data relating to third parties. The information that we are withholding under section 40(2) is personal data, as defined in section 1(1) of the Data Protection Act (DPA) and consists of the following: names of vessels; vessel owners' and masters' names and other personal data; and any other information that would enable individuals to be identified. This information is.

Section 40(2) of the FOIA exempts from disclosure personal data relating to third parties where disclosure would breach the Data Protection Act 1998 (DPA). In this case, we believe that disclosure of the personal data would breach the first data protection principle in Schedule 1 of the DPA in two ways. First, disclosure would not constitute 'fair' processing of the personal data and, second, disclosure would not satisfy any of the conditions for data processing set out in Schedule 2 of the



DPA. Consequently, we believe that section 40(2) of the FOIA exempts the information from disclosure.

Although, as you mention in your email, details of prosecutions in 2009 were available on the MFA website until recently, we have reviewed whether it is appropriate to retain these details on the website. As a result of this review, we have concluded that, whilst there is a legitimate interest in publishing details of prosecutions at the time of any court case or immediately thereafter – similar to media reports of cases - this legitimate interest diminishes significantly soon after the case has been heard in court and continued publication of personal data relating to the prosecutions would be unwarranted and unfair to individuals identified in the reports. Consequently, we believe that publication or disclosure to the public of full details of these past cases could breach the first data protection principle in Schedule 1 of the DPA for the reasons set out in the above paragraph, even though the details of the cases were once in the public domain.

We are able to disclose to you details relating to the prosecutions that consist of information that is not personal data; eg nationality of the registration of the vessel; details of the offences; the defendants' pleas; names of the courts where the cases were heard; the dates the cases were heard; details of the cases against the defendants (excluding information identifying individuals); outcome of the cases. Please let me know if you would like to receive these details.

If you have any queries about this letter, please contact me. I also attach an annex giving contact details should you be unhappy with the service you have received.

Yours sincerely

Jon Martin

Telephone 0207 270 8326
Fax 0207 082 8995
Email info@mfa.gsi.gov.uk

Annex A

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 within 40 working days of the date of this letter. Please write to Clive Porro, Head of Defra's Information Rights Team at, Area 1B, Ergon House, Horseferry Road, London, SW1P 2AL (email: informationrights@defra.gsi.gov.uk), who will arrange for an internal review of your case. Details of Defra's complaints procedure can be found at: www.defra.gov.uk/corporate/policy/opengov/complain/info.htm

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. Please note that generally the Information Commissioner cannot make a decision unless you have first exhausted Defra's own complaints procedure. The Information Commissioner can be contacted at:

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