



Department
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Food & Rural Affairs

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Mr Allan Richards

By email: request-456188-ec4cb4d6@whatdotheyknow.com

Our ref: RFI 9639
7 March 2018

Dear Mr Richards

REQUEST FOR INFORMATION: Canal & River Trust Proposal for Transfer of EA Navigations

Thank you for your request for information, which we received on 10 January 2018, requesting a copy of the Canal & River Trust's proposal of 17 October 2017 for the transfer of EA navigations and related correspondence. We have handled your request under the Freedom of Information Act 2000 (FOIA).

The information you requested is being withheld as it falls under the exemptions at section 35(1)(a), which relates to the formulation or development of Government policy; and section 41, which relates to information provided to Defra in confidence.

In applying these exemptions, 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 the possible transfer of EA navigations to the Canal & River Trust and any associated correspondence as it relates to the transference of waterways that are currently under public ownership to a charitable trust. We also recognise that release of the information would further public understanding of the issue and facilitate accountability and transparency in the spending of public money.

On the other hand, there is a strong public interest in withholding the information under section 35(1)(a) of the FOIA. The terms set out in the proposal from the Canal & River Trust are subject to ongoing negotiation and we consider that disclosure at this point in time of these terms and any related correspondence where the specifics of these terms are discussed could prejudice the policy outcomes and implementation of any transfer. Government also has a duty to ensure the best outcome for the public purse and for those who live and work on the waterways currently managed by the EA. To achieve such an outcome, careful negotiation will be needed with all parties involved. Preservation of a safe space free from external interference and distraction where internal discussions can freely take place is paramount to achieving a successful negotiation.

The exemption under section 41 of the FOIA applies to the information insofar as it was obtained from another person who attached explicit conditions of confidentiality, and because the information is not otherwise accessible. Under these circumstances, we consider that disclosure would constitute an actionable breach of confidence. There is a strong public interest in withholding the information as the organisations concerned, and other organisations in similar circumstances, may be discouraged from confiding in public authorities in future if they don't have a degree of certainty that this confidentiality will be respected. The result may be to diminish government's ability to achieve successful outcomes in this matter or in other similar matters in the future.

Therefore, we have concluded that in all the circumstances of the case, the information should be withheld.

We have also decided that some of the information should be withheld under sections 40(2) and 40(3)(a)(i) of the FOIA, as the information constitutes personal data relating to persons other than you. These regulations provide that personal data relating to other persons is exempt information if disclosure would breach any of the data protection principles in the Data Protection Act 1998 (DPA). We consider that disclosure of this information is likely to breach the first data protection principle in Schedule 1 to the DPA, which relates to the fair and lawful processing of personal data. Disclosure would not constitute 'fair' processing of the personal data because the information relates to junior members of staff who were not public facing officials and to members of stakeholder organisations who attended the meetings, who would not reasonably have expected to have their names made public.

We attach an annex giving contact details should you be unhappy with the service you have received.

If you have any queries about this letter please contact the address below.

Yours sincerely,

Mark Shotton
EIRs/FOI Case Officer
Information Rights Team
InformationRequests@defra.gsi.gov.uk

Annex

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