



Department
for Environment
Food & Rural Affairs

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By email: [REDACTED]@clientearth.org

Our ref: FOI2021/08299
18 May 2021

Dear [REDACTED],

REQUEST FOR INFORMATION: Independent Review of Administrative Law (IRAL)

Thank you for your request for information of 23 March 2021 about the IRAL. We have handled your request under the Freedom of Information Act 2000 (FOIA).

Your information request and our response are set out below.

Pursuant to the Freedom of Information Act 2000 (“the Act”), I am writing to request a copy of the Department for Environment, Food and Rural Affairs’ submission to the IRAL’s Call for Evidence.

We can confirm that we hold the information you requested. However, it is being withheld as it falls under the exemption at section 36(2)(a)(i) of the FOIA which relates to prejudicing the conduct of public affairs. Section 36(2)(a)(i) concerns information where disclosure would, or would be likely to, prejudice the maintenance of the convention of the collective responsibility of Ministers of the Crown.

In applying this exemption, we have had to balance the public interest in withholding the information against the public interest in disclosure.

We recognise there is a general public interest in the views a Government Department may have in relation to such a call of evidence. While there is an argument that disclosure of Defra’s submission to the IRAL’s would aid the accountability and transparency of the Government’s decision-making process, there is also a stronger public interest in withholding the information for the reasons set out below.

Collective responsibility is a constitutionally important convention which underpins the system of Cabinet Government. The principle requires that Ministers should be able to express their views frankly in the expectation that they can argue freely in private while maintaining a united front when decisions have been reached. The collective responsibility exemption is accorded a particularly high level of importance by the Information Commissioner (ICO) given its constitutional nature. Further, the fact that a summary of the Departmental responses has been published addresses the need for transparency. These can be found here: <https://www.gov.uk/government/consultations/judicial-review-reform>

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

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

[REDACTED]
Information Rights Team
InformationRequests@defra.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 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/>