

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 29 November 2022

**Public Authority:** Department of Agriculture, Environment and Rural Affairs

**Address:** Ballykelly House  
Ballykelly  
Derry / Londonderry  
BT49 9HP

### **Decision (including any steps ordered)**

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1. The complainant requested from Department of Agriculture, Environment and Rural Affairs (DAERA) information relating to the commercial shipment of dogs and puppies from Northern Ireland. DAERA provided some information within scope of the request but redacted some details and applied section 43(2) (commercial interests) and section 40(2) (personal information) of FOIA to the withheld information.
2. The Commissioner's decision is that DAERA was entitled to withhold some of the information requested under section 43(2) of FOIA and the public interest favours maintaining the exemption. Therefore, the Commissioner does not require DAERA to take any steps as a result of this decision.

### **Request and response**

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3. On 14 February 2022 the complainant wrote to DAERA and requested information in the following terms:

"A copy of the Export Health Certificate and relevant APHA form for all commercial dog or puppy shipments from Northern Ireland for the period 1 January 2020 to 31 December 2021. For the avoidance of doubt I will require this information for all shipments regardless of whether the shipment was to another part of the U.K. , the EU or any other part of the world. If it easier for DAERA to extract the same information that is recorded on the certificates and forms from the database, and provided it in a table format, then I am happy to receive it in that format, so long as the format is both easily accessible (Word or Excel for example - not requiring specialist software) and legible.

I consider that it would be appropriate to redact the information provided to remove personal information relating to DAERA staff/port staff dealing with the paperwork and the shipments generally. I do not consider it appropriate to redact the name of the dog breeding licence holder, the address of the dog breeding establishment, the name of the purchaser/ recipient of the shipment, the address the dogs were shipped to or the name of the company transporting the shipment. I do require all of this information for each shipment. If the transport company is not named on the certificates or forms please confirm which transport company dealt with each shipment.

I would also like to identify the number of breeding dogs transported from Northern Ireland for rehoming. In the event that the shipment of dogs for rehoming is not included in the above process (and therefore is included in this request), please confirm what process does apply to the shipment of dogs for rehoming so that I can give consideration to making a further request."

4. On 11 March 2022 DAERA responded and confirmed that it holds some of the information requested. DAERA withheld some of the information under section 43(2) (commercial interests) and section 40(2) (personal information) of FOIA.
5. On 13 March 2022 the complainant asked DAERA for an internal review.
6. On 13 June 2022 DAERA provided its internal review response and maintained its original position. However, DAERA said it would later supply the complainant with information relating to the request but with some redactions. The information (with redactions) was provided to the complainant on 17 June 2022.
7. DAERA confirmed to the Commissioner that at the time of the complainant's initial request, "the information was not held as it was not required by, or does not require, export documentation does in fact not exist." Therefore, DAERA said, its internal review centred on the information it held but not provided to the complainant.

8. The following analysis focuses on whether DAERA was entitled to withhold some information under sections 43(2) and 40(2) of FOIA.

## **Reasons for decision**

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### **Section 43 – commercial interests**

9. Section 43(2) of FOIA states that information is exempt if its disclosure would, or would be likely to, prejudice the commercial interests of any person, including the public authority holding it.
10. DAERA provided the complainant with information relating to details of all exports of dogs and puppies from Northern Ireland during 2020 and 2021 but with some redactions. This included the name and town/city of the consignor, the name of the consignee and the identity of the transporter (except where the latter is a large corporation where the transport of pets is not integral to their business activities) in accordance with section 40(2) and 43(2) of FOIA.
11. DAERA stated to the complainant that disclosure of the information requested would be likely to prejudice the commercial interest of any legal person (an individual, a company or any other legal entity).
12. DAERA explained the information requested included details of the selling of businesses, the quantities of dogs involved in transactions, the details of the countries of export and the specific details of buyers and the names of the transport companies involved in transporting the dogs.
13. DAERA said access to these commercial details would likely give competitors an unfair advantage, and access to what has potentially been trading alliances and contracts that have been developed over a significant period of time and effort by the parties involved, and where the details of such arrangements could be considered an unfair advantage to competitors. The risk, DAERA said, is in making this information available to the world at large, which would result in opportunities for current competitors or potential competitors to use the details to enhance their own business to the financial detriment of the businesses currently involved. The publishing of such details could impact in this way on the current businesses involved, even in a relatively small business area in Northern Ireland. DAERA clarified that most businesses involved in acting as couriers/transporters for companion animals, are very small and owner-operated.

## **Public interest test**

14. Section 43(2) of FOIA is a qualified exemption and is subject to the public interest test set out in section 2(2)(b) of FOIA. The Commissioner has considered whether, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosure.
15. DAERA recognises there is a public interest in transparency in this issue, and that there is a need for the public to be better informed. DAERA said the subject of dog breeding and the export of dogs from Northern Ireland is very topical and has attracted significant media and animal rights based interest in the illegal and unscrupulous elements that exist in the industry. DAERA accepts that the information it holds could provide insight into the scale of dog exports, the businesses involved and the customer base for these exports.
16. However, DAERA argued reasons why the public interest would favour withholding the information. It explained that there is a risk of prejudice to the commercial interests of the businesses whose names and locations in Northern Ireland would be released under this request. The release of this information would provide potential competitors with information on current trading arrangements and markets. This could be used to allow competitors to infiltrate these markets to the detriment of current businesses. Also, DAERA said, current public perception of the dog breeding industry as a result of media and animal rights campaigns, may have created a bias that, with the publishing of the requested details, may result in unwarranted reputational damage to the businesses concerned and this has been borne out in testimony from businesses consulted in respect of this FOI request. Therefore, DAERA considers that disclosure of the details presents a genuine risk to the commercial activities of these businesses as a result of reputational damage, due to the current medial focus coupled with the current public perception of such businesses and practices.
17. In balancing the public interest arguments, the Commissioner accepts that disclosure would to some extent help to increase openness and transparency. The public would be better informed on matters about the commercial shipment of dogs, details of the consignors, consignees and transporters. The Commissioner is also aware of how topical this subject is on dog breeding and the export of dogs. However, given the level of likelihood that commercial harm would occur should the requested information be disclosed, and the compelling arguments DAERA provided, the Commissioner finds that the balance of public interests favours maintaining the section 43(2) exemption.

## **Conclusion**

18. The Commissioner's conclusion is the public interest in disclosure of the withheld information is outweighed by the public interest in maintaining the exemption. Therefore, section 43(2) of FOIA is engaged and DAERA was entitled to rely on this exemption.
19. As the Commissioner has decided that the information requested is exempt from disclosure under section 43(2) of FOIA and that the public interest favours maintaining the exemption, the Commissioner is not required to go on to consider the application of section 40(2) of FOIA.

## Right of appeal

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20. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk).

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

21. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
22. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Phillip Angell**  
**Head of Freedom of Information Casework**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**