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Owen Boswarva
By email: owen.boswarva@gmail.com

Our ref: IR2024/08782
18 June 2024

Dear Owen,

INTERNAL REVIEW: Documents around the LandIS Agreement between Cranfield University and Defra

Thank you for your email which we received on 22 April 2024 appealing against the decision to withhold information. Your original request was dealt with under the Freedom of Information Act 2000 (FOIA), and I have handled your request for an internal review under the same legislation.

Summary

In accordance with Defra's internal review procedures, I have reviewed your complaint in discussion with policy colleagues who handled your original request.

I have considered your appeal, including your arguments in favour of revising the redactions in Annex C of our original response and disclosure of the LandIS Agreement dated 3 September 1999 and the LandIS Addendum dated 1 April 2003, and reviewed the public interest arguments for and against disclosure. On reflection I have concluded that the information that was the subject of your complaint was not properly withheld under the FOIA.

I have therefore decided to disclose a revised version of the Heads of Agreement document as Annex C, as well the LandIS Agreement 1999 as Annex B and the LandIS Addendum 2003 as Annex A, subject to appropriate personal information being withheld under sections 40(2) and 40(3A) of the FOIA.

I set out in the annex below a fuller explanation of our decision.

Yours sincerely,



Head of Information Rights

Email: InformationRequests@defra.gov.uk

Annex

Chronology

21 March 2024	<p>You submitted the following request:</p> <p><i>Thank you for your responses to my request for information about the LandIS Agreement between Cranfield University and Defra (your references FOI2023/24515 and IR2024/00835).</i></p> <p><i>I would like to submit a new information request for some related information that is summarised in Schedule 1 – Annex A of the latest LandIS Agreement.</i></p> <p><i>Please provide copies of the following documents (or the information in the documents):</i></p> <ul style="list-style-type: none"><i>• Heads of Agreement dated 24th April 1987, which cover transfer of LandIS ownership from MAFF/AFRC/LAT to Cranfield</i><i>• "Deed of Assignment" from Lawes Agricultural Trust to Cranfield, dated 31st July 1993</i><i>• LandIS Agreement dated 3rd September 1999</i><i>• LandIS Addendum dated 1st April 2003</i>
19 April 2024	<p>We responded to your request providing you with some information and refusing some under sections 40(2) and 40(3A), and section 43(2) of the FOIA.</p>
22 April 2024	<p>You then requested an internal review as follows:</p> <p><i>would like to request an internal review of Defra's response to the access to information request that I submitted on 21 March 2024 (your reference FOI2024/06716).</i></p> <p><i>In carrying out your internal review of Defra's response, please consider in particular the following points:</i></p> <ol style="list-style-type: none"><i>1. Defra has made redactions to the cover page and signature page of Annex C, on the basis that the redacted material is personal information. I have no objection to the redaction of names and signatures of staff, but think those pages have been over-redacted as the redactions obscure the organisational affiliations of the individuals. Please consider disclosing the job titles and/or organisations of the individuals – for example, on the cover page the domain name part of the email addresses will not be personal</i>

	<p><i>information. It is also unclear why the date on the cover page has been redacted.</i></p> <p><i>2. Defra has withheld the LandIS Agreement dated 3rd September 1999 and the LandIS Addendum dated 1st April 2003 in their entirety on the basis that disclosure would prejudice the commercial interests of Cranfield University, and more specifically that “disclosure of such information would be to the detriment of Cranfield University as it will show financial information, information on preparing for expiry or termination of the contract and personal information.”</i></p> <p><i>I think it is highly unlikely that disclosure of any information in the two documents would prejudice the commercial interests of Cranfield University (or of any other party), given that the agreement and addendum were formed more than 20 years ago. The information is clearly historical and represents versions of the LandIS Agreement that are no longer live. To the extent that there may be any valid basis for exempting parts of the two documents from disclosure, this does not explain why Defra has withheld the documents in their entirety. As you are aware, the current LandIS Agreement was disclosed to me, with some redactions, on 6 March 2024 (your references FOI2023/24515 and IR2024/00835) and is now in the public domain.</i></p>
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Exemption 1: Sections 40(2) and 40(3A) Personal information

These sections were properly engaged because some of the information related to personal information of persons other than the requestor.

Personal data, such as names, titles, signatures and any other personal identifiers was withheld under sections 40(2) and 40(3A) of the FOIA, which provides an exemption from the right to information if it is personal data of a third party and release would be a contravention of the principles as set in Article 5(1) of the UK General Data Protection Regulations (GDPR). This means in applying this exemption we do not need to apply a public interest test. We consider that disclosure of this information is likely to breach the first data protection principle, which provides that personal data must be processed lawfully, fairly, and in a transparent manner. Disclosure would not constitute 'fair' processing of the personal data because they would not reasonably have expected their signature to be made public in relation to a release under this legislation. We therefore find that this exemption applies in relation to withholding the personal information in the disclosed information.

However, I recognise that some of the information redacted under this exemption in the original request does not in itself constitute personal information, and so a revised version of the Heads of Agreement document is attached at Annex A.

Exemption 2: Section 43 Commercial sensitivity

This section was properly engaged because it relates to information which if disclosed would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding the information).

However, after careful consideration, I have decided that, given the passage of time, the public interest now falls in favour of disclosure of the LandIS Agreement dated 3 September 1999 and the LandIS Addendum dated 1 April 2003 . These are now attached as Annexes B and C to this letter. Please note that appropriate personal information has been withheld under Sections 40(2) and 40(3A), explained above.

Rights of appeal

We hope that the above answers your complaint satisfactorily. However, if you remain dissatisfied, you have the right to apply directly to the Information Commissioner for a decision. <http://www.ico.org.uk/complaints.aspx>