



Department  
for Environment  
Food & Rural Affairs

Seacole Building  
4th Floor  
2 Marsham Street  
London  
SW1P 4DF

T: 03459 33 55 77  
helpline@defra.gov.uk  
[www.gov.uk/defra](http://www.gov.uk/defra)

By email: [REDACTED]

Our ref: EIR2022/26192  
20 December 2022

Dear [REDACTED],

**REQUEST FOR INFORMATION: Catching-up Pheasants and Red-legged Partridges-  
Avian Influenza**

Thank you for your request for information of 21 November 2022 about catching-up pheasants and red-legged partridges, and Avian Influenza. We have handled some of your request under the Environmental Information Regulations 2004 (EIRs).

The EIRs apply to requests for environmental information, which is a broad category of information defined in regulation 2 of the EIRs. Public authorities are required to handle requests for environmental information under the EIRs. They give similar access rights to the Freedom of Information Act 2000 (FOIA).

Your information request and our response are set out below. **Request**

*We should be grateful if you would please:*

- (i) Confirm whether you agree with the summary on the lawfulness on the catching-up of Pheasants and Red-legged Partridges set out above, and if you disagree with any aspects of that summary, explain what you understand to be the correct position; and*
- (ii) Explain what steps, if any, the Secretary of State (and/or any other agency, such as APHA) intends to take to ensure preventative and biosecurity measures are in place as soon as possible to exclude or minimise the risk of transmission Avian Influenza within, or from, the population of any wild game birds caught-up before 2 February 2022, including whether the Secretary of State proposes to prohibit catching-up in this open season; and*
- (iii) Provide copies of all documents relevant to the Secretary of State's consideration of whether to take such steps as indicated in (ii) above, including any risk assessments relating to Avian Influenza in wild game birds (whether produced by Defra or any other agency such as APHA).*

We are writing to inform you that requests that fall within either the Freedom of Information Act 2000 (FOIA) or EIRs would be requests for information held in a recorded format at the time the request was received (21 November 2022). Any correspondence for views,



explanations, or interpretations would not amount to a valid request under these regimes and would be handled as general correspondence.

With that in mind part (i) and (ii) above is not a valid request under the FOIA or EIRs and is being dealt with by the Defra Helpline to provide you with a response under general correspondence. Your reference number for this is PO2022/24352.

In relation to part (iii) above, this is a valid request which we are handling under the EIRs.

We are writing to advise you that the information that you have requested is not held by Defra. While a risk assessment in relation to avian influenza and catching-up has been commissioned, it was not finalised within the relevant time period for this case. The risk assessment will be published in due course, in the usual way, on the Defra website

The information is therefore exempt under regulation 12(4)(a) of the EIRs, which relates to information which is not held at the time when an applicant's request is received. Regulation 12(4)(a) is a qualified exception, which usually means that a public authority is required to conduct a public interest test to determine whether or not information should be disclosed or withheld. However, the Information Commissioner's Office (ICO), who is the independent regulator for requests made under the EIRs, takes the view that a public interest test in cases where the information is not held would serve no useful purpose. Therefore, in line with the ICO's view, Defra has not conducted a public interest test in this case.

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 me. Yours sincerely



**Information Rights Team** [InformationRequests@defra.gov.uk](mailto: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](mailto: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 can be contacted using the following link:

<https://ico.org.uk/make-a-complaint/official-information-concerns-report/official-information-concern/>