

Clive Porro  
Head of Defra's Information Rights Team  
Area 1E  
3-8 Whitehall Place  
London  
SW1A 2HH

By registered post and email to [clive.porro@defra.gsi.gov.uk](mailto:clive.porro@defra.gsi.gov.uk)

Your ref: RFI 0000 2490

1 May 2009

Dear Mr Porro,

### **EIR Request for information about any meeting between Lord Hunt and Mayor Johnson**

I refer to the response to my information request dated 1 April 2009. I would like to request an internal review of that decision.

In particular, the response suggests that, as at the date of my request, Defra did not hold any information relating to the meeting between the Mayor of London and Defra Ministers on 22 January 2009. That is surprising: I would have expected there to have been in existence prior to the meeting a draft agenda, briefing notes, preparatory communications and other exchanges in preparation for the meeting.

The decision not to disclose any information relating to the meeting is said to be based on regulation

12(4)(e) EIR 2004, which relates to internal communications. I would note:

- a) communications between the Department and the Mayor of London plainly are not 'internal' communications (the Mayor of London is not a 'government department' as referred to in regulation 12(8));
- b) the refusal is based on an analysis of the public interest arguments that is entirely generalised and makes no reference to any specific harm to the public interest that might arise from disclosure of the requested information (or any part of it). As you are no doubt aware, that approach has been comprehensively rejected by the Information Commissioner and the Tribunal;
- c) similarly, arguments about the so-called "chilling effect" of releasing information on the ability of officials to advise ministers has been treated very sceptically by the Information Tribunal;
- d) no regard appears to have been given to the duty under regulation 5(1) EIR;
- e) apparently no attempt has been made to draw a distinction between the various categories of information covered by the request, or consideration given to whether the public interest

balance may be different in relation to certain information that does not disclose, e.g. confidential advice;

- f) indeed, no consideration has been given at all to the strong public interest in disclosure of the information, particularly in the light of the presumptions in the EIR, and the importance to the public of receiving information on environmental emissions (in circumstances where thousands of deaths are caused each year by pollution, air quality in London breaches the requirements of EC law, and where the Mayor of London and Defra are in discussions about policies or steps (e.g. removal of the Western Extension of the Congestion Charge Zone) that may make matters worse);
- g) no consideration appears to have been given to whether any of the information could be provided in a redacted form, or whether a summary of the information might be provided; and
- h) the penultimate paragraph of the decision letter appears to rely on confidentiality concerns (again generalised). As you are aware, protection of confidential information is provided for under regulation 12(5)(d) and (e) EIR 2004. However, neither of those exemptions applies to the extent that the environmental information to be disclosed relates to information on emissions.

I look forward to receiving your internal review as soon as possible. I note that the time taken to respond to my request considerably exceeded the timescale required by regulation 5(2) EIR (i.e. as soon as possible and not later than 20 working days). I trust that the internal review will now be carried out swiftly.

Yours sincerely,

Simon Birkett  
Principal Contact  
Campaign for Clean Air in London  
Email: [cleanair@binternet.com](mailto:cleanair@binternet.com)

Cc: Robert Vaughan