



Department  
for Environment  
Food & Rural Affairs

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**Your ref:**  
**Our ref:** RFI 6143  
**Date:** 24 January 2014

Dear,

### **REQUEST FOR INFORMATION: BUSINESS APPOINTMENT RULES**

Thank you for your request for information about business appointment rules, which we received on 4 January 2014. As you know, we have handled your request under the Freedom of Information Act 2000 (FOIA).

You asked:

*"Thanks for your response RFI 5889.*

*I write with a further request.*

*In your response you note that :*

*Mr Beale sought advice from HR on the Business Appointment Rules prior to his resignation. Mr Beale's Manager and the HR Director considered whether or not his appointment at the Wine and Spirits Trade Association was subject to application of the Business Appointment Rules and concluded that his appointment did not meet the criteria to require an application under the Rules, and therefore no application was made. Please can you send me copies of correspondence or other communications between any two or more of Mr Beale, his manager (or other line managers) and the HR department on this matter. I am particularly interested in the specific grounds that the criteria were deemed not to be of relevance.*

*I note that the criteria against which the decisions has to be made are as follows:*

- i. They have been involved in developing policy affecting their prospective employer, or have had access to unannounced Government policy or other privileged information affecting their prospective employer, at any time in their last two years in the Civil Service.*
- ii. They have been responsible for regulatory, or any other decisions, affecting their prospective employer, at any time in their last two years in the Civil Service.*
- iii. They have had any official dealings with their prospective employer at any time in their last two years in the Civil Service.*



- iv. *They have had official dealings of a continued or repeated nature with their prospective employer at any time during their Civil Service career.*
- v. *They have had access to commercially sensitive information of competitors of their prospective employer in the course of their official duties.*
- vi. *The proposed appointment or employment would involve making representations to, or lobbying the Government on behalf of a new employer.*
- vii. *The proposed appointment or employment is consultancy work, either self-employed or as a member of a firm, and they have had official dealings with outside bodies or organisations in their last two years in the Civil Service that are involved in their proposed area of consultancy work.*

*Mr Beale's role at the WSTA is Chief Executive and the WSTA says that 'WSTA members are part of a powerful, unified industry voice, helping us secure the UK as a good place for the wine and spirit sector to do business.'<http://www.wsta.co.uk/about-us.html> It can also be noted that item 4 of the WSTA 'Strategic Plan' is 'To ensure WSTA members' views are represented, understood and considered by policy makers at all levels of government.'<http://www.wsta.co.uk/images/pub/WSTAStrategicPlan.pdf>*

*It seems on the face of it that this must mean that Mr Beale is responsible for the activities of the WSTA and that these activities centrally involve lobbying the government.*

*As a result I am also interested to learn how DEFRA monitors whether former employees stick to any commitments that they might give either in the course of seeking advice from HR or in the course of making an application under the Business Appointments rules. Please can you tell mw how DEFRA manages this issue? What penalties (if any) are there should it be established that a former member of staff has given false information in seeking advice?"*

I enclose a copy of the information you requested, this consists of two emails, one from Mr Beale to Debbie Alder (HR Director at that time) and the other exchange between Martin Nesbit (Mr Beale's manager at that time) and Debbie Alder. Please note that information which is out of scope of the request has been redacted. In addition, the names of other individuals have been redacted as we have decided that the information should be withheld under section 40(2) (third party personal data) of the FOIA, as the information constitutes personal data relating to third parties. Section 40(2) of the FOIA provides that personal data relating to third parties is exempt information if disclosure would breach the Data Protection Act 1998 (DPA).

We consider that disclosure of this information is likely to breach the first data protection principle in Schedule 1 to the DPA, which relates to the fair and lawful processing of personal data, in two ways. First, disclosure would not constitute 'fair' processing of the personal data, second, disclosure would not satisfy any of the conditions for data processing set out in Schedule 2 to the Therefore, we have concluded that this information is exempt from disclosure under section 40(2) of the FOIA.

The other information you requested is as follows:

If conditions are imposed on any new appointment or employment and the Department receives any information that these conditions are not being met, then the Department will investigate and give consideration as to the most appropriate course of action. The Department is mindful of the need to balance the public interest in applying the Rules with the rights of individuals to change employment under the restraint of trade laws. This means that any restrictions will be fair and proportionate so as to be legally enforceable.

In keeping with the spirit and effect of the FOIA, all information is assumed to be releasable to the public unless exempt. Therefore, the information released to you may now be published on our website together with any related information that will provide a key to its wider context.

I attach Annex A, which explains the copyright that applies to the information being released to you.

I also attach Annex B 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,

Ann Tarran

**Direct Line** 020 7979 8583

**Email** [ann.tarran@defra.gsi.gov.uk](mailto:ann.tarran@defra.gsi.gov.uk)

## **Annex A**

### **Copyright**

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## **Annex B**

### **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 18 of the EIRs, as applicable, within 40 working days of the date of this letter. Please write to Mike Kaye, Head of Information Standards, Area 4D, Nobel House, 17 Smith Square, London, SW1P 3JR (email: [requestforinfo@defra.gsi.gov.uk](mailto:requestforinfo@defra.gsi.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 for a decision. Please note that generally the Information Commissioner cannot make a decision unless you have first exhausted Defra's own complaints procedure. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF