

## Annex A

### Request

*I am writing to you with a request under the Freedom of Information act.*

*My request relates to meetings between Owen Paterson, the MP for North Shropshire, and officials of the Food Standards Agency. These meetings took place on January 15 2018 and May 24 2018. Mr Paterson attended these meetings as a representative of Finnebrogue, a manufacturer of meat products based in Northern Ireland. Finnebrogue is owned by Lynn's Country Foods.*

*Under the act, I would like to request complete copies of the minutes and agenda of each of these meetings. I would also like to request complete copies of all and any documents (such as briefing material, letters, memos, emails, memorandums of conversations) which were prepared for or connected with each of these meetings, either before or after the event.*

*I would also like to ask your agency, on answering this request, to provide a schedule of documents which are relevant to this request. I believe that there should be a brief description of each relevant document including the nature of the document, the date of the document, and whether the document is being released or not. I believe that providing such a schedule would clarify what documents are being released and what is being withheld, and would also represent best practice in open government.*

### Response

Searches were conducted for emails, letters, briefing material, minutes, agendas and all other notes or records of conversations relating to or resulting from the meetings between FSA officials and Mr Paterson in regard to Finnebrogue. This documentation and correspondence are provided in Annexes C and D of this letter; a schedule of documents is provided at Annex E. Please note that some information has been withheld under section 31, section 40 and section 43 of the Act. Further information regarding the use of these exemptions can be found in Annex B of the letter.

## Annex B

### Section 31 (Law Enforcement)

Some information which relates to the regulatory functions of the FSA and/or other public authorities has been withheld under section 31 (1)(g) and 2(a) and (c) of the Act.

Section 31 (1)(g) and 2(a) and (c) states that:

*Section 31(1) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice*

*(g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2);*

*(2)(a) the purpose of ascertaining whether any person has failed to comply with the law;*

*(2)(c) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise.*

This information is being withheld under section 31(1)(g) and (2)(a) and (c) as the information is held for the purposes of law enforcement and disclosure would be likely to prejudice future regulatory action by appropriate authorities.

We consider section 31(1)(g) and (2)(a) and (c) are engaged as we feel that disclosure of information would be likely to prejudice a public authority's ability to determine the course of any future investigations and furthermore could hinder any enforcement action that may be taken as a result of future incidents.

As a qualified exemption, section 31 requires the undertaking of a public interest test to decide whether the balance of the public interest weighs more heavily in favour of withholding the information or releasing it. There is a lot of public concern about food safety, particularly in relation to the enforcement of food safety issues. It is also in the public interest for there to be confidence in the FSA and other public authorities that where food safety breaches occur we are prepared to take appropriate action.

Against disclosure, however, is a stronger public interest in ensuring compliance with relevant legislation and in ensuring that public authorities are not prejudiced by the inappropriate or premature disclosure of information. The FSA is reliant on retaining the confidence of public authorities that information supplied to the FSA will be used appropriately and proportionately and that the regulatory and enforcement role of that authority will not be undermined by inappropriate disclosure.

We have, therefore, concluded that the balance of the public interest weighs more heavily in favour of withholding this information.

## **Section 40 (Personal Information)**

Some information has been withheld as it contains personal details relating to third parties or staff below Civil Service Grade 7. We consider that it would be disproportionate to publicly disclose these personal details, unless there was a strong public interest to do so.

These individuals have a legitimate and reasonable expectation that their personal details will not be disclosed in the context in which it is held. Disclosures under the Act are not just to those who request it but to the world at large.

Article 5(1)(a) of the General Data Protection Regulations (GDPR) and Section 35 (1) of the Data Protection Act 2018 (DPA) requires the processing of personal data to be fair and lawful.

On balance, we do not consider there to be a legitimate public interest in disclosing this information. Disclosure of this information would contravene the first data protection principle, particularly that to process the data in this way (i.e. by disclosure to the public) would not be fair in all the circumstances. Furthermore, we do not consider that Art 6 (1) of the GDPR is satisfied in that disclosure would not be lawful. Therefore, the information is exempt under section 40(2) and (3) of the Act.

## **Section 43 (Commercial Interest)**

Information which names specific company involvement and/or contains details of the formulation of their products (such as ingredients or their methodology) has been withheld from disclosure under Section 43(2) of the Act.

Section 43(2) states the following:

*(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).*

This information is being withheld under section 43(2) of the Act as we consider that release of this information would be likely to prejudice the commercial interests of the named third parties and/or the FSA.

As section 43(2) is also subject to a public interest test, we have undertaken a public interest test to decide whether the balance of public interest favours disclosing or withholding the information.

Whilst there is a general public interest in increasing transparency and openness, particularly with regards to the provision of safer food, there is also a need to protect the legitimate commercial interests of companies. If food business operators believe that information provided to the FSA (including sensitive information such as production practices of their company) will be published, they would likely to be reluctant to provide the FSA with all the information it requires to carry out its statutory functions in future.

This could be damaging to the FSA's objective of protecting public health in relation to food. It is not in the public interest to disclose information that could be used by competitors and weaken a company's position in an already competitive market. This would give rise to commercial disadvantage, reputational damage and a loss of confidence in both the FSA and the companies concerned.

We believe, therefore, that the balance of the public interest favours withholding the information.