

7 October 2010

Jonathan Cook Esq.
request-11082-fe470388@whatdotheyknow.com
(by email only)

Dear Mr Cook,

REVIEW OF REQUEST UNDER THE FREEDOM OF INFORMATION ACT 2000

I am writing further to your email of 18 August 2010 in which you asked for an internal review of the Cabinet Office's handling of your request of 28 April 2009. I have reproduced your original request as an annex to this letter for ease of reference.

You asked, in your email of 18 August, for my review to look at three areas, which I have set out below.

- 1. Why did it take so long to provide me with a response?*
- 2. Please provide me with a copy of all documentation generated as a result of my FOI request.*
- 3. Publication of the document I requested has been blocked because of section 36.2.C of the act. I would like this judgement reviewed, particularly with respect ensuring that the communications of senior officials are treated with the same standards of openness as the communication of junior officials.*

Taking the points you raise in turn, there was, I am sorry to say, no good reason for the unacceptable delay in providing you with a response to your original request. I know the response of 28 July apologised for this delay but I would also like to reiterate this apology.

Second, you requested all the information generated as a result of your request. The internal review process is a chance for public authorities to look again at the handling of requests, for example investigating whether or not the exemptions cited are engaged and (where applicable) the balance of public interest falls. By way of background, the Ministry of Justice has further details on internal reviews on their website here:

<http://www.justice.gov.uk/guidance/foi-procedural-unhappy.htm>



If you would like to submit a new request for all this information then we would of course be willing to consider it, but this is not something I have considered as part of my review of your original request.

Third, you asked me to review the decision to withhold the information under section 36(2)(c) of the Freedom of Information Act. I have looked at the information and I agree with the opinion of the qualified person that the exemption is engaged. I have also considered whether the balance of public interest does fall in favour of releasing the information or (as the letter of 28 July 2010 set out) it falls in favour of maintaining the exemption and withholding the information. My view is that the public interest does fall in favour of maintaining the exemption. I note your comment about how the communications of senior officials should be treated with the same standard of openness as the communications of junior officials, but I am not convinced this is directly relevant to the issue at hand. When officials, both junior and senior, correspond with others on the understanding that the correspondence was confidential there is a strong public interest in protecting those confidences. That is the situation in this particular case.

Finally, I agree with the original decision, as outlined in the letter of 28 July 2010 about the scope of the request. The piece of correspondence within the scope of your request also relates to a number of other issues and these are not within the scope of your request. It is possible, in any event, that these issues may be covered by other exemptions too, but I have obviously not considered that here given the information is not in scope.

I am copying this letter to the Information Commissioner as I know you have already contacted the Commissioner about our handling of your initial request.

Yours sincerely,

Zara Smart

PP. SUE GRAY



ANNEX

Could you please make available all e-mail and other written correspondence from Gus O'Donnell relating to the complaint from former Prime Minister John Major in 2008 concerning his complaint to Gus O'Donnell regarding the behaviour of Damian McBride.

