

Gareth Young  
(by email)

16 June 2010

Dear Mr Young

I refer to your request of 18 May under the Freedom of Information Act for the following information:

*all the minutes of the Cabinet Sub-Committee on Devolution  
Scotland, Wales and the Regions (DSWR).*

The Cabinet Office holds information within scope of this request.

We consider that the information you seek is exempt under Section 35(1)(a) and (b) and Section 28 of the Freedom of Information Act. Both of these exemptions are qualified exemptions and therefore subject to the public interest test.

Section 35(1)(a) and (b)

The information is exempt under s35(1)(a) and (b), which relates to the formulation or development of government policy, and Ministerial communications. We accept that there is public interest in improving public understanding of the development of Government policy on devolution and the way Cabinet Government operates more generally. We recognise that the decisions Ministers make have a significant impact on the lives of citizens and there is a public interest in this process being transparent. We also recognise that greater transparency makes government more accountable to the electorate and increases trust.

However, there is a countervailing public interest in protecting the constitutional convention of Cabinet collective decision-making. Ministers will reach collective decisions more effectively if they are able to debate questions of policy freely and in confidence. The maintenance of this convention is fundamental to the continued effectiveness of Cabinet government, and its continued existence is therefore manifestly in the public interest.

In relation to the specific documents you have requested, the policy discussions in this area are ongoing and the adverse effect of disclosing these documents now would not be diminished by the fact that the documents date from 1997 and 1998. The matters discussed at DSWR are



not matters of purely historical interest, but are important matters of current discussion and debate, as your email acknowledges.

We therefore conclude that the public interest in withholding the information outweighs the public interest in disclosure.

### Section 28

We also consider that the exemption in s28 is engaged because it is information held by the United Kingdom government on matters which concern the Scottish Administration and the Welsh Assembly Government, the disclosure of which would, or would be likely to, prejudice relations between those devolved administrations and the United Kingdom government. The documents you have requested contain discussions between then Ministers, including individual and divergent views, and the disclosure of these minutes would prejudice the UK government's current dealings with those administrations.

We acknowledge, as I explain above, the public interest in the development of policy on devolution. However, in addition to the public interest arguments in favour of protecting the convention of Cabinet collective decision-making, there is a public interest in ensuring effective administration in Scotland and Wales. The issues discussed in the minutes are of current importance; are of particular interest to the Scottish Administration and Welsh Assembly Government; and contain discussions between Ministers about those issues, the disclosure of which could adversely affect the government of the United Kingdom's current dealings with those administrations. The release of material that would damage those relationships could not be considered to be in the public interest. We therefore conclude that the public interest in withholding the information outweighs the public interest in disclosure.

If you are unhappy with this decision in relation to your request you may ask for an internal review. If you wish to do so you should contact:

Sue Gray  
Propriety and Ethics  
70 Whitehall  
London  
SW1A 2AS

[sue.gray@cabinet-office.x.gsi.gov.uk](mailto:sue.gray@cabinet-office.x.gsi.gov.uk)

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

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

If you have any queries about this letter, please contact me.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Sheila Scobie'.

Sheila Scobie