



Department  
for Exiting the  
European Union

Freedom of Information Team  
Correspondence Unit  
9 Downing Street  
SW1A 2AG

[foi@dexeu.gov.uk](mailto:foi@dexeu.gov.uk)  
[www.gov.uk](http://www.gov.uk)

DEXEU ref: DEX000099  
Internal Review ref: DEX000099IR

19 January 2017

Iain Overton

Via: [request-369172-6ecd3242@whatdotheyknow.com](mailto:request-369172-6ecd3242@whatdotheyknow.com)

### **INTERNAL REVIEW UNDER THE FREEDOM OF INFORMATION ACT 2000**

Dear Mr Overton,

Thank you for your email of 22 November 2016 requesting an internal review of our handling of your request for information, made under the Freedom of Information Act 2000 ('the Act') on 04 November 2016. I apologise for the delay in my response.

In your initial request for information, you asked to be provided with "any briefing papers to Mr Davis MP regarding the benefits and the pitfalls of leaving the single market."

I have considered the points you make about the use of Section 12 of the Act on time limits and have carefully reviewed the handling of your request.

Although I appreciate the points you raise in your request for an internal review, Section 12 allows that the time included in the £600 limit should include:

- "determining whether the information is held;
- locating the information, or a document containing it;
- retrieving the information, or a document containing it; and
- extracting the information from a document containing it."

I believe that the time necessary to locate, retrieve and extract information likely to be relevant to your request would be likely to exceed the limit. I have outlined this reasoning below.

Relevant information covered by your request is likely to be held in several different email accounts, each of which would need to be searched. Relevant information covered by your request is also likely to be held outwith the email system, so further searches would have to be made of document storage of a large number of officials.

It is likely that information could conceivably not include any specific reference to the term

“single market” while still being related to your request - for example where it referred to specific or potential tariffs, so further searches for related terms would have to be made.

Finding if this information exists and then retrieving and extracting it from all of these locations, and compiling the information which is relevant to your request is likely to exceed the appropriate limit laid down in the regulations.

In your request for an internal review, you ask that we carry out this search up to the limit imposed by Section 12. The ICO guidance (I attach a link hereto) states that (Point 30) a public authority can stop searching as soon as it realises that it would exceed the appropriate limit to fully comply with the request – indeed the guidance recommends that the authority should do so. They are also, under the guidance, not obliged to search up to the appropriate limit.

[https://ico.org.uk/media/1199/costs\\_of\\_compliance\\_exceeds\\_appropriate\\_limit.pdf](https://ico.org.uk/media/1199/costs_of_compliance_exceeds_appropriate_limit.pdf)

I have therefore concluded that in the circumstances, it was reasonable to apply Section 12 of the Act to your initial request, and uphold the decision given in our previous letter.

However, I also wish to provide you further assistance as to how you might frame a similar request that will fall within the limitations of Section 12. This might be through giving a short and specific timescale, reducing the number of people and/or types of information about which you wish to enquire, and/or relating the request to more specific topics.

So for example a request likely to fall within the time limits might relate to records of “key briefing submissions made to the Secretary of State regarding [specific topic X] between [dates Y and Z].” The more specific the topic (particularly) the more likely the search can be confined to a manageable number of documents, therefore avoiding the limit imposed by Section 12.

I should, however, make clear that if DExEU does hold any information relevant to such a request, it may still be subject to one or more of the exemptions contained in the Act.

I appreciate that receiving a refusal under the Act can be frustrating, and I hope that my response goes some way to assisting you. We would be pleased to offer further advice in framing future requests if you so wish (within reason of course).

This response concludes the appeals process available from the Department for Exiting the European Union. If you are still unhappy with the handling of your request for information, 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 House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Yours sincerely,

Nick Short  
Head of Freedom of Information, DExEU