



Foreign &  
Commonwealth  
Office

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Alan Bell

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11 March 2019

Dear Mr Bell

**FREEDOM OF INFORMATION ACT 2000 - REQUEST REF: 0060-19**

Thank you for your email of 15 January 2019 asking for information under the Freedom of Information Act (FOIA) 2000. You asked:

*I note that in the explanatory memorandum to The Overseas Association Decision (Revocation) (EU Exit) Regulations 2019 there was a consultation in which a substantive reply with a series of questions was received.*

*"One substantive reply was received with a number of questions which the Foreign and Commonwealth Office addressed in writing and those explanations as to how the Regulations would operate were accepted."*

*Please could you release the reply and the subsequent response by the FCO to the questions raised.*

For reference: <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-overseas-association-decision-revocation-eu-exit-regulations-2019>

I am writing to confirm that we have now completed the search for the information which you requested.

I can confirm that the Foreign and Commonwealth Office (FCO) does hold information relevant to your request.

The information you have requested is exempt under section 27 of the Freedom of Information Act 2000 (FOIA). Section 27(1)(a) recognises the need to protect information that would be likely to prejudice relations between the United Kingdom and other states if it was disclosed. Section 27(5) of the FOIA makes clear that references to a State other than the UK includes references to any territory outside the United Kingdom and therefore also includes references to the British overseas territories. In this case, the release of information relating to discussions between the UK government and the Cayman government on EU exit would be likely to harm our relations with the Cayman Islands.

The application of s.27(1)(a) requires us to consider the public interest test arguments in favour of releasing and withholding the information. We acknowledge that releasing information on this issue would increase public knowledge about our relations with the Cayman Islands. However, s.27 (1) (a) recognises that the effective conduct of international relations depends upon maintaining trust and confidence between governments. If the United Kingdom does not maintain this trust and confidence, its ability to protect and promote UK interests through international relations will be hampered, which will not be in the public interest. The disclosure of information detailing our relationship with the Cayman Islands Government could damage the bilateral relationship between the UK and the Cayman Islands. This would reduce the UK government's ability to protect and promote UK interests through its relations with the Cayman Islands, which would not be in the public interest.

In addition, some of the information you have requested is exempt under section 42(1) of the FOIA. Section 42(1) of the Act recognises the validity of withholding information that is subject to Legal Professional Privilege (LPP), which exists in order to encourage clients to be frank and open with their legal adviser. It is important that the government is able to seek legal advice so that it can make its decisions in the correct legal context. The legal adviser must be in possession of all material facts in order to provide sound advice. The government must, therefore, feel confident that it can disclose all relevant facts to its legal adviser. It should be able to do so without fearing that this information will be disclosed to the public. In turn the legal adviser will consider the issues and the arguments and weigh up their relative merit.

Transparency of decision making and knowing that decisions are taken in the correct legal context are two reasons why it might be argued that information subject to section 42(1) should be disclosed. However, the process of providing legal advice relies for its effectiveness on each side being open and candid with the other. Such candour is ensured by the operation of LPP.

For these reasons we consider that the public interest in maintaining the exemptions under sections 27 and 42 of FOIA outweighs the public interest in disclosing the information requested.

If you wish to make a complaint or if you would like a review of our response, please write to the Central FOI Unit at the Foreign and Commonwealth Office, Room WH2.177, King Charles Street, London, SW1A 2AH. E-mail: [foi-dpa.pmcs@fco.gov.uk](mailto:foi-dpa.pmcs@fco.gov.uk). You have 40 working days to do so from the date this letter. Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of the above, you may then apply directly to the Information Commissioner for a review of our response. Generally, the Information Commissioner will only carry out a review once you have exhausted the internal FCO complaints procedure. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

You can find responses to other FOI requests on the FCO's [website](#).

Yours sincerely,

Case Manager

Parliamentary, Ministerial and Central Services



We keep and use information in line with the Data Protection Act 1998. We may release this personal information to other UK government departments and public authorities.