



Foreign, Commonwealth
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Vicky Cann

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15 October 2020

Dear Vicky Cann,

FREEDOM OF INFORMATION ACT (FOIA) 2000: INTERNAL REVIEW: IR2020/11149

Thank you for your email of 10 June requesting an Internal Review (IR) of our response to your request ref FOI2020/00926 as follows:

"I am writing to request an internal review of Foreign and Commonwealth Office's handling of my FOI request 'Lobby meetings of UK Perm Rep to EU' and specifically the FCO response of 26 May 2020, REF: FOI2020/00926.

Thank you for the list of meetings. However I find the response inadequate on several points.

1. It is not clear if this is a full list of meetings or not, or if some information has been redacted. It is not clear how the exemptions cited in the letter have or have not been applied to this list.

2. My original request also asked for "the minutes of any and all of these meetings". Your response does not directly address this at all. Do minutes exist for all of these minutes, or only for some meetings, and if so, which? On what specific grounds have each set of minutes not been released? If the FCO considers that some exemptions do apply to the minutes, why have redacted minutes not been provided? Can you assure me that each of the minutes has been carefully assessed for release, or has a blanket approach been applied to refuse the release of all minutes no matter the content?

I would like the FCO to review its response in the light of above and I look forward to receiving further clarification and minutes for the meetings as requested.

I apologise for the long delay in replying and appreciate your patience in that regard.

(Please note that, as your original request was made to the former FCO, i.e. prior to the creation of the FCDO, this internal review only takes into account any relevant information held by the FCO at the time your request was received).

I have reviewed our original response and taken into account the points you make in your IR request.

Firstly, I can confirm that we sent a full the list of meetings concerned. I can also confirm that minutes exist for three of the meetings, and that the redactions cited related to the material contained in those. I apologise that this was not clear from our original response.

On review, I consider that we can release some elements of the minutes to you - please see the attached document. I consider that the remainder of the material is exempt from release under one or more of the following sections of the FOIA:

s27(1)(a)(b)(c)(d) - international relations
s35(1)(a) - formulation of government policy
s43(2) - commercial interests
s41(1) - information provided in confidence

s27

Section 27(1) of the FOIA recognises the need to protect information that, if disclosed, would or would be likely to prejudice relations between the United Kingdom and other states or international organisations. In this case, I agree that release of some the material concerned would be likely to prejudice our relations with specific countries and the EU [sections 27(1)(a) and (b)] and would thus be likely to prejudice the interests of the UK abroad, and the promotion or protection by the UK of those interests [sections 27(1)(c) and (d)].

I acknowledge that releasing the withheld information would increase public knowledge about the meetings concerned. However, in this case, I agree that the public interest in withholding the information outweighs that in its disclosure.

I should add that the reference in the paragraph regarding s27 in our original response to "immigration matters" was incorrect. I apologise for this error.

s35

I also agree that some of the information concerned relates to the formulation or development of government policy, specifically policy relating to EU Exit, and that it is therefore exempt under section 35(1)(a) of the FOIA. Again, I acknowledge the public interest in knowing more about the meetings, however I consider that disclosure of the information concerned would be likely to have a harmful effect on what is an ongoing policy process. I therefore consider that the public interest in withholding the information outweighs that in its disclosure.

I would like clarify that the paragraph regarding s35 in our original response was incorrect in that it referred to “ministerial correspondence and the operation of private offices”. Those sections of s35 are not relevant to the material concerned. Again, I apologise for this error.

s43

I also agree that some of the information is exempt under section 43(2) of the FOIA as its disclosure would be likely to prejudice the commercial interests of the attendees at the meetings concerned. For the reasons given in our original response, I consider that the public interest in withholding the information concerned outweighs that in its disclosure.

s41

Additionally, I consider that some of the information concerned is exempt under section 41(1) of the FOIA as it is information provided in confidence to the FCO, the disclosure of which would constitute a breach of confidence actionable by the individuals concerned. The attendees at the meetings had an expectation of confidence regarding the information they shared and would not expect that information to be released in response to an FOI request. I consider that disclosure of the information would discourage external groups and individuals from holding such meetings, and would thus undermine the ability of UKMis officials to carry out their work effectively.

In this case, I do not consider that there would be a public interest defence to the disclosure of the information concerned.

If you would like a further review of our decision, you can apply directly to the Information Commissioner. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, or online at <https://ico.org.uk/make-a-complaint/>.

Yours sincerely,

**Team Leader
Information Rights Unit**

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