



Department
for Work &
Pensions

DWP Central Freedom of
Information Team
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[DWP Website](#)

Our Ref: FOI2020/71597

13 January 2021

Dear Claire Hall,

Thank you for your Freedom of Information (Fol) request received on 18th November. You wrote:

“I am seeking information from the Department for Work and Pensions under the Freedom of Information Act 2000.

Please provide any submission(s) made on behalf of the Department to the Independent Review of Administrative Law in response to the panel's call for evidence which ran from 7 September to 26 October 2020.”

DWP Response

We can confirm that the Department holds the information you have requested but it is being withheld from release under the exemption at Section 36(2)(c) of the FOI Act which states;

(2) Information to which this section applies is exempt information if, in the reasonable opinion of a qualified person [in this context, a Minister of the Crown], disclosure of the information under this Act

(c) would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.

We consider that the submission is exempt from disclosure under section 36(2)(c) of the FOIA, because in the reasonable opinion of the DWP's qualified person, its release would prejudice the effective conduct of public affairs. The Panel should have an opportunity to independently review and analyse all the evidence it has collected without interference. To disclose the evidence, the Panel has collected before they have drafted or submitted their Report to Government would adversely affect the Panel's purpose and objectives, and further would likely result in resource pressures which could cause delay to the wider process. Following the Panel's submission of its Report to Government, the Government will also require time to initially review and consider the Report and the underlying evidence.

Section 36 is a qualified exemption which means that the decision to disclose the requested material is subject to the public interest test. When assessing whether or not it was in the public interest to disclose the information to you, we took into account the following factors:

Public interest considerations favouring disclosure

- The issues under consideration by the IRAL Panel are of constitutional importance, and the evidence on which the Panel's Report is based will provide context to the Panel's conclusions. There is therefore legitimate public interest in that evidence being released.
- Transparency is important to the Panel's process. Release of the evidence would increase transparency.

Public interest considerations favouring withholding the information:

- The Panel has not yet reached any conclusions, and therefore the legitimate public interest in the release of the underlying evidence is not particularly strong at this time.
- The Panel must have a safe space in which to analyse and consider the evidence collected (including the submissions), away from the public gaze and to reach its conclusions. The damage that would likely be inflicted by premature release of evidence collected would impact on the Panel's deliberations and potentially their Report. It is not a credible use of the panel or government's time if they spend time and effort defending and debating publicly options which are still being considered.
- Premature release of evidence collected also has the potential to interfere and/or distract the Panel's process, by causing delay to the ultimate submission of their Report to Government.

On balance, we are satisfied that the public interest in maintaining the exemption outweighs the public interest in disclosure

If you have, any queries about this letter please contact us quoting the reference number above.

Yours sincerely,

DWP Central Freedom of Information Team
Department for Work and Pensions

Your right to complain under the Freedom of Information Act

If you are not happy with this response you may request an internal review by e-mailing freedom-of-information-request@dwp.gov.uk or by writing to: DWP Central FoI Team, Caxton House, 6-12 Tothill Street, London, SW1H 9NA.

Any review request should be submitted within two months of the date of this letter.

If you are not content with the outcome of the internal review you may apply directly to the Information Commissioner's Office for a decision. Generally, the Commissioner cannot make a decision unless you have exhausted our own complaints procedure. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Website: [ICO Contact Information](#) or telephone 0303 123 1113 or 01625 545745