



# Department for Business, Energy & Industrial Strategy

Business Frameworks Directorate  
Department for Business, Energy &  
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Our ref: FOI2017/08251

28 November 2017

Dear Ms Rous,

Thank you for your email of 10 March 2017 where you requested the following information:

Please could you provide me with all emails between the Business Environment Directorate and

- 1- the Financial Reporting Council
- 2- auditors PWC, Deloitte, KPMG, Ernst & Young

Time Period: January 2013 - July 2013.  
Subject matter: audit reform

In response to a request from BEIS, on 22 March 2017 you then kindly provided the following clarification:

Forgive me for not specifying: my request was aimed primarily at discussions of audit reform within the institutions of the European Union.

Under the Freedom of Information Act 2000 ('the Act'), you have the right to:

- know whether we hold the information you require
- be provided with that information (subject to any exemptions under the Act which may apply).

I can confirm that the department holds some information in scope of your request in the form of email exchanges between Business Environment Directorate and the FRC, and between Business Environment Directorate and PWC. There are also emails from Business Environment Directorate which were sent to a combination of PWC, Ernst & Young and FRC where one or more of these recipients is a copy recipient. There are also emails from the FRC to a combination of PWC, Ernst & Young and Business Environment Directorate where one or more of these recipients is a copy recipient. No relevant information is held regarding Deloitte or KPMG.

Attached is the information in scope of your request which BEIS is able to disclose. I apologise for the delay in providing this, which was caused primarily by the volume of the documents that fell within scope.

Some of the information within scope of your request is already in the public domain and accessible via the European Commission's website:

<http://www.consilium.europa.eu/register/en/content/int?lang=EN&typ=ADV>.

This information took the form of "compromise texts" sent from the Presidency of the EU to the Department and then sent from the Department to the Financial Reporting Council to prepare for the various stages of the negotiation of the Directive and the Regulation by officials and attaches at European Council working groups.

Information that is accessible by other means is exempt under Section 21 of the Act and we are not required to provide this information. However, for ease of reference we have provided them here to provide a clear view of the official public record of the negotiations.

All of the documents from the Council of the European Union were exchanged between BEIS and one or more of the organisations listed in your request during the period covered by your request.

The other documents disclosed are an exchange of emails by the Department. I would draw your attention to the disclaimer at the end of the emails sent to the Department.

### **Information withheld under Section 27(1) (International Relations)**

Some of the information you requested has been withheld under Section 27(1) of the Act. This exempts information which, if disclosed would or would be likely to prejudice: ((a) relations between the UK and any other state (b) relations between the UK and any international organisation or international court (c) the interests of the UK abroad or (d) the promotion or protection by the UK of its interests abroad.

This exemption covers information obtained from a state other than the UK or from an international organisation. Although some of the compromise texts prepared by the Presidency are now public documents, the discussion at European Council working groups is generally understood to be in confidence.

In considering whether it is appropriate to withhold information under this exemption we are required to consider whether the public interest in withholding the information for any of these reasons is outweighed by the public interest in its disclosure.

The Department for Business works closely with partner organisations and other public bodies within central government in developing its negotiating position in Europe. The information that the Department holds that is within scope of your request includes comments to the FRC recounting the views of other Member States or institutions of the EU expressed in European Council working groups. It also includes discussion of some of those views and of the proposed changes made by the Presidency in the compromise texts. It also includes speculation as to how other Member States and the institutions of the EU would respond to further proposed amendments to the compromise texts from the UK. Not all of the proposals considered by BE Directorate and the FRC were accepted by other Member States or by the other institutions in the working groups and the information explains why.

We have concluded that the public interest in maintaining those free and open discussions outweigh the public interest in disclosing this information. We consider that the disclosure of this information would be likely in the future to prejudice free and open discussion at European Council working groups as well as in other fora for the discussion between the UK and other Member States or the institutions of the EU on Commission proposals and Presidency proposed compromises.

### **Information withheld under Section 35(1)(a) (Formulation or development of government policy)**

Some of the information you requested has been withheld under Section 35(1)(a) of the Act. This exempts information held by a government department if it relates to “the formulation or development of government policy”. In considering whether it is appropriate to withhold information under this exemption we are required to consider whether the public interest in withholding the information for this reason is outweighed by the public interest in its disclosure.

Many of the issues considered in the negotiation of the EU Audit Directive and Regulation remain current policy issues. Implementation of the requirements of the Directive and Regulation by the Government is only now nearing completion and guidance on some of the requirements is still in preparation. Many of the matters that were considered, such as the framework on regulation of auditors of EU listed companies incorporated outside the EU now fall to be considered given the UK’s departure from the EU and remain matters of ongoing policy consideration.

The information that the Department holds that is within scope of your request includes comments between the FRC and BE Directorate on these matters and between BE Directorate and the audit firms. Those exchanges also recount views expressed by third parties that have been consulted. Policy development in these areas continues to benefit from the free and open exchange of views between BE Directorate and the FRC and, in a consultation capacity, between BE Directorate and the FRC and the audit firms. While we appreciate that there may be a public interest in the public understanding the interaction between the Government, these parties and the EU on these matters, in this case this transparency also poses a risk to the protection of the decision-making process which needs to be based on free exchanges of views. We have concluded that the public interest in the continued development of policy in these important areas through this free and open exchange of views exceeds the public interest in their disclosure.

### **Information withheld under Section 41(1) (Information provided in confidence)**

Some of the information you requested has been withheld under Section 41(1) of the Act. Information is exempt if it was obtained by the department from any other person (including another public authority such as the FRC) and the disclosure of that information would constitute an actionable breach of confidence. This is an absolute exemption. Much of the information exchanged between the FRC and BE Directorate and between BE and the relevant audit firms was exchanged on the basis of a clear expectation of confidence.

### **Information withheld under Section 42 (1) (Legal Professional Privilege)**

Some of the information you requested has been withheld under Section 42(1) of the Act. This exemption applies if the information is subject to legal professional privilege (LPP). LPP protects information shared between a client and their legal adviser for the purposes of seeking or

obtaining legal advice. It also applies where that advice is shared on a confidential basis with a third party. Many of the amendments to the Presidency compromise texts discussed at the Council working groups were the subject of legal advice, which was recounted or referred to in conversations between the FRC and BEIS.

In considering whether it is appropriate to withhold information under this exemption we are required to consider whether the public interest in withholding the information for this reason is outweighed by the public interest in its disclosure. There is a clear public interest in a free and open exchange as to legal advice provided by a lawyer to their client. The disclosure of legal advice on matters relating to the operation of the EU Audit Directive and Regulation, and therefore of the UK's audit regulatory framework, would, we believe be likely to hamper the administration of justice in the enforcement of that framework. We have concluded that the public interest in the administration of justice outweighs the public interest in the disclosure of this information.

### **Information withheld under Section 40(2) (personal data)**

Some of the information requested constitutes personal data and has also been withheld. Section 40(2) of the Act provides an absolute exemption for personal data which then falls to be dealt with under the Data Protection Act. Personal data of third parties can only be disclosed in accordance with the data protection principles. In particular, the first data protection principle requires that disclosure must be fair and lawful and must comply with one of the conditions in Schedule 2 of the Data Protection Act. Under these data protection principles, it is not appropriate or fair to release the personal information of junior officials within the department or third parties, and we do not consider that any of the relevant conditions apply for release.

### **Appeals procedure**

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within 40 working days of the date of receipt of the response to your original request and should be addressed to the Information Rights Unit:

Information Rights Unit  
Department for Business, Energy & Industrial Strategy  
1 Victoria Street  
London  
SW1H 0ET

Email: [FOI.Requests@beis.gov.uk](mailto:FOI.Requests@beis.gov.uk)

Please remember to quote the reference number above in any future communications.

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 House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely,

Business Frameworks Directorate