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Our Ref No: DETI 2015-0095
Date: 4 November 2015

Ms Jayne Girvan
request-287462-cc77bfc8@whatdotheyknow.com

Freedom of Information request

I refer to your email of 8th October which sought an internal review of the Department's handling of your request for copies of communications about the Small Business Commissioner Consultation.

This review has now been completed.

You may wish to be aware that I have not been involved in the handling of your request and have considered this purely from the perspective of the Department's statutory obligations under the Freedom of Information Act 2000 and in line with the Code of Practice issued under Section 45 of the Act.

I have examined relevant internal documentation and processes and note that:

- Your request was submitted on 22nd August 2015
- The Department's statutory deadline for reply was 21st September 2015
- The Department has not yet issued a reply
- The Department advised you on 28th September that it needed additional time to consider public interest test arguments
- The Department acknowledged that, in line with Section 10(3) of the Act, you should have been advised of this delay before the normal 20 working day deadline of 21st September.

My review has established that the information requested engages Section 28 of the Freedom of Information Act. The exemption at Section 28 relates to information which would, or would be likely to, harm relations between administrations within the UK and can only be applied if it is in the public interest to do so. Under Section 10(3) of the Act, the Department can extend the statutory deadline for reply if more time is needed to determine where the balance of public interest lies, but must advise the applicant of this extension before the normal deadline for response expires.

I note some of the information you have requested was supplied to the Department by third parties and as such, is subject to consultation with those third parties in line with

the Code of Practice issued under Section 45 of the Act. It has also found that while making every effort to answer your request, the Department has also been dealing with a number of conflicting priorities.

I note your comments on a lack of regard shown by Department both to the legislation and to your rights as a citizen and can assure you that this is not the case.

However my review has confirmed that the Department did not meet the statutory requirements of the Freedom of Information Act by providing you with a response, or advising you of the need for additional time to consider public interest test arguments, within the designated timeframe.

The Department is therefore in breach of its obligations under the Act and the response to your request will be issued as soon as possible.

I would take this opportunity to confirm your right of appeal to the ICO if you are not happy with this response, and have attached DETI's Access to Information Fact Sheet in which you will find further details.

Pat Finlay (Mrs)
Corporate Services