



Department
for Exiting the
European Union

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Gabriel Webber
Via email: request-451143-a2429ada@whatdotheyknow.com

Our ref: DEX000993

10 May 2018

Dear Gabriel Webber,

FREEDOM OF INFORMATION REQUEST REF: DEX000993 - INTERNAL REVIEW

Thank you for your email of 22 January 2018 requesting an internal review of our response to your request made under the Freedom of Information Act 2000 ('the Act'). I have now completed the review of our response.

The Original Request

Your original request for information relating to the reading room set up for viewing Brexit impact statements was handled under reference DEX000924. You asked for "*an electronic copy of all information you hold regarding the provision of previous reading rooms*".

Our response of 9 January 2018 provided some information in scope of your request; and explained that some information had been redacted from the document provided as it was considered to be out of scope of your request.

The Follow-up Request

You replied on the same day submitting a new request for the redacted information that was considered out of scope of your original request. That request and our response is the focus of this internal review.

Substance of Response

Our response of 22 January 2018 refused to provide the information, citing section 14(1) of the Act, explaining that your request was considered to be "a random approach" or "seems to have been solely designed for the purpose of 'fishing' for information without any idea of what might be revealed". A link to the Information Commissioner's Office (ICO) website was provided for further information on the application of this exemption.

Review

I have now reviewed our response, and taken into account the points you made in your request for an internal review.

I have decided to revise our response and with that in mind I have reviewed the redacted information that you requested.

I am able to release some of the information and this can be found in the Annex to this response. I have also identified another document that I consider to be related to your original request for information. I am able to disclose this with some personal information redacted by virtue of section 40 of the Act.

Some of the information is exempt by virtue of section 36 of the Act. The information you have requested is being withheld as it is exempt under Sections 36 (2)(b)(i) and (ii) and 36 (2)(c) of the Freedom of Information Act 2000 ('the Act'), which apply to information if, in the reasonable opinion of a qualified person, the disclosure: would, or would be likely to, inhibit—

- (i) the free and frank provision of advice, or
- (ii) the free and frank exchange of views for the purposes of deliberation, or
- (c) would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.

Section 36 requires consideration of the public interest in disclosure. The information in scope is advice relating to the provision of a reading room.

There is a public interest in understanding how the Department functions, and a general interest in the Government being open and transparent.

Against disclosure we consider that if officials and Ministers had to operate under the assumption that all such advice would be disclosed in response to a freedom of information request and would then be scrutinised without the surrounding context or any opportunity for explanation, this would inhibit the free and frank provision of advice. Advice would inevitably be more reserved, arguments be less balanced and options significantly curtailed, critically diminishing the quality of that advice. Disclosure would also prejudice the general conduct of effective public affairs within the Department.

We therefore find that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information requested.

Other Matters

Your request for an internal review was received in the Department on 22 January 2018 and acknowledged on the same day. You have sent further emails seeking an outcome, and also made a complaint to the ICO regarding the time taken by the Department to respond. As was explained in our email of 15 March 2018 the length of time permitted to undertake an internal review is not set out in the legislation; however, we acknowledge that the ICO guidance advised that internal reviews should be completed in 20 working days wherever possible. I apologise for the time taken to provide you with a substantive response to your complaint.

This response ends the complaints process provided by the Department. If you are not content with the outcome of your internal review, you may 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

Yours sincerely

J Millar
Information Rights Appeals
Freedom of Information Team