



Department
for Exiting the
European Union

**Freedom of Information
Team**

Correspondence Unit
9 Downing Street
SW1A 2AG

foi@dexeu.gov.uk
www.gov.uk

G Webber
Via: a2429ada@whatdotheyknow.com

Our ref: DEX001212

09 July 2018

Dear G Webber,

I refer to your request, where you asked:

Because I am fascinated as to how your Department could have spent 15 weeks on reviewing the case, however, it would be helpful if you could (as a fresh FOI request) disclose to me all recorded information your department holds regarding the processing of request/ internal review reference DEX000993 dated between 22 January and 10 May 2018.

To the extent that any of the recorded information in scope comprises my own personal data, you are welcome to treat this email as a subject access request under the Data Protection Act for that component of the recorded information.

I can confirm that the information requested is held by the Department for Exiting the EU (DExEU).

Some information relevant to your request is being released in Annex A. Please note some information relevant to your request is already available in the public domain therefore, under section 21 of the Freedom of Information 2000 (the "Act") we are not required to search for this information. Section 21 of the Act is an absolute exemption and we do not have to consider the public interest in using section 21. For information relevant to your request please follow the link below:

https://www.whatdotheyknow.com/request/brexit_impact_assessments_readin_3

Annex A is redacted under section 40(2) of the Freedom of Information Act 2000 (the "Act"). Section 40(2) exempts personal information from disclosure if that information relates to someone other than the applicant, and if disclosure of that information would, amongst

other things, contravene one of the data protection principles in schedule 1 of the Data Protection Act. In this case, disclosure of email address and the names of junior staff would contravene the first data protection principle, which provides that personal data must be processed fairly and lawfully. Section 40(2) is an absolute exemption and DExEU is not obliged to consider whether the public interest favours disclosing the information. Some of the information is your own personal data. If you wish to receive this, please provide us with your personal email address.

Section 36

Some of the information is exempt by virtue of section 36 of the Freedom of Information Act 2000 (the "Act"). Sections 36 (2)(b)(i) and (ii) and 36 (2)(c) of the Act apply to information if, in the reasonable opinion of a qualified person, the disclosure: would, or would be likely to, inhibit—

- (b)(i) the free and frank provision of advice, or
- (b)(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.

Public Interest Test Explanation

Some of the exemptions in the FOI Act, referred to as 'qualified exemptions', are subject to a public interest test (PIT). This test is used to balance the public interest in disclosure against the public interest in favour of withholding the information, or the considerations for and against the requirement to say whether the information requested is held or not. We must carry out a PIT where we are considering using any of the qualified exemptions in response to a request for information.

The 'public interest' is not the same as what interests the public. In carrying out a PIT we consider the greater good or benefit to the community as a whole if the information is released or not. The 'right to know' must be balanced against the need to enable effective government and to serve the best interests of the public.

The FOI Act is 'applicant blind'. This means that we cannot, and do not, ask about the motives of anyone who asks for information. In providing a response to one person, we are expressing a willingness to provide the same response to anyone, including those who might represent a threat to the UK.

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 follow up Freedom of Information request for the 'meta data' of the handling of a request, that advice would inevitably be more reserved, arguments be less balanced and this would diminish the quality of that advice and prejudice the effective conduct of 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.

If you have any queries about this letter, please contact the FOI team. Please remember to quote the reference number above in any future communications.

If you are unhappy with the service you have received in relation to your request or wish to request an internal review, you should write to foi@dex.eu.gov.uk or:

Freedom of Information Team (internal review)
Department for Exiting the European Union
9 Downing Street
SW1A 2AG

You should note that DExEU will not normally accept an application for internal review if it is received more than two months after the date that the reply was issued.

If you are not content with the outcome of your internal review, you may apply directly to the Information Commissioner for a decision. Generally, the Commissioner cannot make a decision unless you have exhausted the complaints procedure provided by DExEU. The Information Commissioner can be contacted at:

The Information Commissioner's Office
Wilmslow
Cheshire
SK9 5AF

Yours sincerely,
Freedom of Information Team, DExEU.