



Department  
for Exiting the  
European Union

Freedom of Information Team  
Correspondence Unit  
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[www.gov.uk](http://www.gov.uk)

Rachel Mawhood  
Via: request-449739-7f799e17@whatdotheyknow.com>

Our ref: DEX000896

31 January 2018

Dear Rachel Mawhood,

I refer to your request, where you asked:

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At the moment, some (perhaps all) Government departments e-mail is handled by Symantec MessageLabs ("cloud" based service integrating messaging and web security services) on servers hosted in other EU countries (eg Germany and the Republic of Ireland). After Brexit, I understand, this arrangement is likely to be illegal under existing EU data privacy and protection laws.

So far I have seen nothing in the media anywhere or in Government announcements about this being one of the 58 impacts of Brexit, so I should be grateful to be sent any information you may be able to disclose on

(a) the UK Government's planned "milestones" for seamlessly migrating government messaging, data transfer and web security services - including the new online criminal court - to data centre hosting within the UK after Brexit, so that email arrangements of Government departments - and their access to their own archived data and e-mail communications - do not vanish at 11.00pm on Friday 29 March 2019 (because no longer compliant with EU data privacy laws about not sending data out of the EU); and

(b) how much this will cost the British taxpayer.

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I can confirm that, in accordance with section 31(3) of the Freedom of Information Act 2000 (FoIA), the Department for Exiting the EU (DExEU) can neither confirm nor deny whether we hold any information in the scope of your request.

**Section 31(3)**

Section 31(3) of FoIA confirms that the duty to confirm or deny does not arise if to do so would, or would be likely to, prejudice any of the matters mentioned in section 31(1), namely the prevention or detection of crime, the apprehension or prosecution of offenders, or the exercise by any public authority of its functions for the purpose of ascertaining whether any person has failed to comply with the law.

Section 31 is a qualified exemption and I have considered whether the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in confirming whether or not DExEU holds any information relating to your request. DExEU recognises that there is a general public interest in disclosure of information and recognises that openness in government may increase public trust in and engagement with the government. I also recognise a public interest in assuring the public that effective arrangements are in place for our exit from the EU.

Opposing this, there is a very strong public interest in the prevention and detection of crime. It is contrary to this public interest to disclose information which would facilitate the commission of crime or hinder its detection. Information security is in place to safeguard the public interest and in confirming or denying if we held any information relating to your request, we may undermine system security and thus the public interest. Taking into account all the circumstances of this case, I have concluded that the public interest favours maintaining the exclusion of the duty to confirm or deny whether we hold information in relation to your request.

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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](mailto: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.**