



HM Revenue
& Customs

Mr W. Robinson

By email:

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Our ref: FOI2021/04648

Dear Mr Robinson

Freedom of Information Act 2000 (FOIA)

Thank you for your request, which was received on 16 March, for the following information:

“Please could you provide the final business case for HMRC’s pay deal of 2020-2022 as approved by Cabinet Office and HMT teams and ministers. Please include all submitted annexes, counterfactual scenarios, supplementary information and financial modelling of reforms.”

We can confirm we hold information within scope of your request. However, we need to extend the 20 working day time limit for issuing a response.

We consider the business case for our 2020-22 pay deal to be exempt from release under section 36(2)(b)(ii) and section 36(2)(c) of the FOIA for the reasons set out below.

Section 36 – prejudice to effective conduct of public affairs.

Information to which this section applies is exempt information if, in the reasonable opinion of a qualified person, disclosure under the FOIA may be prejudicial to the effective conduct of public affairs. Specifically:

- I. Section 36(2)(b)(ii) exempts information where disclosure would, or would be likely to, inhibit the free and frank exchange of views for the purposes of deliberation; and
- II. Section 36(2)(c) exempts information where disclosure would prejudice, or would be likely to prejudice, the effective conduct of public affairs.

When determining whether disclosure would have a prejudicial effect, section 36 requires an authority’s ‘qualified person’ to give their ‘reasonable opinion’ that disclosure would or would be likely to cause this prejudice or inhibition.

Our approach is to seek the opinions of two of our Commissioners as the ‘qualified person’ asked to make the decision. We can confirm that all the relevant information in relation to your request was provided to two Commissioners for them to make a fully informed decision on the application of section 36. The Commissioners concluded that disclosure would likely prejudice the free and frank exchange of views for the purposes of deliberation as set out in section 36(2)(b)(ii) and would likely prejudice the effective conduct of public affairs under section 36(2)(c), and therefore section 36 exempts the information from disclosure.

Information is available in large print, audio and Braille formats.
Text Relay service prefix number – 18001



It is important that we, Cabinet Office and HM Treasury officials are able to freely exchange views on a range of potentially sensitive and speculative scenarios in a protected space, without fear of the full details of such views being disclosed, and without external interference and distraction. This ability to freely exchange views within a protected space would relate directly to the business case and the discussions and exchanges with Cabinet Office and HM Treasury to approve that business case. It would equally apply to the without prejudice discussions that take place in formal negotiations with trade unions.

Where officials must take into consideration the potential disclosure of these discussions, and the ensuing risks, this will likely inhibit the free and frank exchange of views. Therefore, if the information were to be disclosed, there would likely be a detrimental impact on the quality and scope of future discussions.

This, in turn, would likely prejudice the effective conduct of public affairs as defined in section 36(2)(c) by negatively impacting on our ability to formulate and develop pay and workforce policy. Therefore, our conclusion is that disclosure would likely result in prejudice to the effective conduct of public affairs and the effective exploration of proposals with Cabinet Office and HM Treasury officials in the development of our future pay and workforce policy.

Public interest

Section 36 is a qualified exemption. This means that we must carry out a public interest test to determine whether the public interest in maintaining the exemption under section 36 outweighs the public interest in disclosing the information.

Under section 10(3), when public authorities have to consider the balance of the public interest in relation to a request, they do not have to comply with the request until such time as is reasonable in the circumstances.

Owing to the need to consider, in all the circumstances of the case, where the balance of the public interest lies in relation to your request, we will not be able to reply within 20 working days. We hope to issue a full response by 17 May at the latest.

If you are not satisfied with this reply you may request a review within two months by emailing foi.review@hmrc.gov.uk, or by writing to the address at the top right-hand side of this letter.

If you are not content with the outcome of an internal review you can [complain to the Information Commissioner's Office](#).

Yours sincerely,

HM Revenue and Customs