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IR2020/04569

Case ref: FOI2020/03383

19 October 2020

Internal Review of response to Freedom of Information Request

I am writing following your email of 14 September 2020 in which you ask for an internal review of the Department's response to your information request dated 10 September 2020 (our reference: FOI2020/03383). I am the Head of Knowledge and Information Management in the Department for International Trade and have undertaken this review. When carrying out this review I considered what information the Department held at the time of your request, whether the original response was correct, and whether any additional information should now be released to you.

Background

On 15 July 2020 you made an information request relating to Round Robin FOI lists. Part of your request asked for copies of Round Robin lists sent to DIT over the space of two weeks. The full wording of your request can be found at Annexe A.

DIT sent you a response to this information request on 10 September 2020 in which the Department answered questions one to three relating to the criteria for sharing FOI Round Robin requests with Clearing House at the Cabinet Office. It also provided copies of the information requests it had sent to Clearing House, in the two weeks prior to your request, with the personal data of the requesters redacted under section 40(2) of the Freedom of Information Act 2000 (FOIA). In response to your final question, DIT provided a list of the FOI Round Robin lists received from Clearing House but redacted the personal data of the requesters under section 40(2) FOIA and also redacted the advice from Clearing House under section 36(2)(b) FOIA. The response letter can be found at Annexe B.

On 14 September 2020 you requested an internal review of DIT's FOI response. This can be found at Annexe C.

On 21 September 2020, DIT contacted you to ask what your specific concerns were with the FOI response so that the reviewer could take these into account. This can be found at Annexe D. DIT did not receive a response to this correspondence.

Internal Review

In the absence of any specific concerns about the FOI response, I have considered the entirety of the response again.

I am satisfied the Department complied with its obligations under the Freedom of Information Act 2000 when providing a response to your information request. The Department provided factual responses to questions one to three and correctly supplied redacted copies of requests that were sent to Clearing House in the time period requested (question four). I also agree with the Department's use of section 36(2)(b) FOIA to withhold the advice received from Clearing House on the FOI Round Robin list. I have provided more detail on how I have come to this decision below.

Questions 1 – 3: Criteria

I can see no fault with the Department's responses to these questions. You have been informed whether DIT holds any information pertinent to your request and have been provided with that information, where it is held.

Therefore, I am satisfied that this part of your request was handled appropriately in line with FOIA.

Question 4: FOI requests sent to Clearing House

DIT redacted the names of requesters under section 40(2) FOIA. Having revisited the information, disclosure of their names would clearly be a breach of the first data protection principle on the basis that disclosure would be unfair. Requesters have a reasonable expectation that their personal would not be processed in this manner by being released into the public domain as part of an FOI request.

For this reason, I am satisfied that DIT complied with its obligations under FOIA when it withheld these names from disclosure but provided the wording of the FOI requests.

Question 5: Round Robin advice from Clearing House

Having reviewed the information falling within scope, I believe DIT was right to engage the exemption at section 36(2)(b) FOIA to the advice from Clearing House. This is because disclosure would be likely to inhibit the free and frank provision of advice and exchange of views in future if a precedent for releasing advice from Clearing House were to be established. As this is a qualified exemption, DIT was required to apply the public interest test.

The FOI response letter provided a good explanation of the public interest arguments for and against disclosure of the advice. I do not plan to reiterate them here as they can be

found at Annexe B. I agree that, on balance, the public interest in withholding the advice is stronger than the public interest in releasing it.

I note that you provided a copy of an ICO Decision Notice relating to a similar matter when submitting your FOI request. As explained above, having looked at the public interest arguments put forward in DIT's response letter, I am of the opinion that the public interest lies with withholding the advice.

Conclusion

I am satisfied that DIT correctly complied with its duties under FOIA for the reasons set out above.

I hope that my explanation has been useful. If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner to complain about it. The Information Commissioner can be contacted at:

Information Commissioner's Office,
Wycliffe House,
Water Lane, Wilmslow,
Cheshire,
SK9 5AF

Yours sincerely,

Head of Knowledge and Information Management