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Date: 22<sup>nd</sup> June 2018

Mr Gary Clarke  
[request-471730-266fdc12@whatdotheyknow.com](mailto:request-471730-266fdc12@whatdotheyknow.com)

DfE Ref No. DfE/IR/2018-0005

Dear Mr Clarke

### **Freedom of Information Act 2000**

I refer to your email of 24<sup>th</sup> May 2018 requesting an internal review of the Department's response to your request for information of 16<sup>th</sup> March 2018, referenced as DfE 2018-0043.

I am pleased to advise that this Internal Review has now been completed. You may wish to be aware that I have considered the response of 16<sup>th</sup> March purely from the perspective of the Department's obligations under the FOI Act 2000 and in line with the Code of Practice issued under Section 45 of the Act.

As you are aware, the Department's response withheld communication in relation to FOI or EIRs. I can confirm as requested that the only communication held by the Department which falls within the scope of your request is from the Minister.

I note the comments made in your request for an internal review. I can confirm that the dates shown in the column entitled "*Date response first created in the Department's electronic records management system container*" of Annex B of the Department's response are the dates on which each draft response was first started. Draft responses take varying times to prepare and I would ask you to note that the date on which a response was first started may not be the date of the final version.

I have considered the exemption at Section 35(i)(d) of the FOI Act under which the communication held by the Department was withheld, and the public interest test arguments used by the Department to make this decision.

I consider that the public interest arguments in favour of release outweigh those against disclosure, and that the balance of public interest therefore lies in releasing this communication.

I can therefore advise that the communication withheld from the Department's response is as follows:

"0034 is a terribly worded reply. 'Neither confirm nor deny' is awful terminology."

I would like to take this opportunity to remind you of your right to appeal to the Information Commissioner's Office if you are not happy with this response, and have attached a copy of the Department's Access to Information Factsheet which provides relevant contact details.

For information on our Privacy Notices please see: <https://www.economy-ni.gov.uk/sites/default/files/publications/economy/Privacy-Notice-FOI-EIR-SAR.pdf>

Yours sincerely



**Bernard McCaughan**  
Head of Information Management Unit

## Access to Information Fact Sheet

Note: This leaflet gives an overview of some of the main provisions of the Freedom of Information Act and Environmental Information Regulations and should not be regarded as a legal interpretation.

**1. What is the Freedom of Information Act?** The Freedom of Information (FOI) Act 2000 was fully implemented on 1<sup>st</sup> January 2005, giving you the right to request information from public authorities. This allows you to access information about how the Department works, spends public money, reaches decisions, etc.

**Information may also be obtained under:**

- **The Data Protection Act 2018 (DPA)** - this allows you access to information held *about you* by both public and private organisations, and gives you the right to make sure it is correct.
- **The Environmental Information Regulations 2004 (EIRs)** - This legislation gives you access to any environmental information held by organisations that perform public functions.

**2. How do I get information about Department for the Economy under these Acts?** You can find information on the Department's website: <https://www.economy-ni.gov.uk> If you can't see what you're looking for you can contact us by email at [foi@economy-ni.gov.uk](mailto:foi@economy-ni.gov.uk) or write to us at:

Information Management Unit  
Department for the Economy  
Netherleigh, Massey Avenue  
Belfast BT4 2JP

Please state your name, address, telephone number and specific details of the information you require.

**3. How long does it take to get information under the FOI Act?** Once a written request for information is received, we will respond promptly, and at any rate, within 20 working days. In certain circumstances a final response may be made outside this period where additional time is needed to determine whether or not disclosure would be in the public interest.

**4. Is there a cost?** This depends on a number of factors including the volume and complexity of material requested. Responses to enquiries that cost the department less than £600 to process<sup>i</sup> will be provided free of charge, although there may be a small charge for disbursements<sup>ii</sup>. The Department has a right to refuse an FOI request if the cost of locating and retrieving the information exceeds £600. We will not refuse a request for environmental information on the grounds of cost alone; however we have the right to charge a reasonable amount to cover processing costs. In all cases, we will notify you of any estimated costs before proceeding with the request.

**5. What happens if the information I want is not available?** The Department is not obliged to create or acquire information it does not already hold, but we will try to assist where possible. We may contact you about what relevant information we do hold, or may offer to transfer your request to another public authority that might help.

**6. Can I have any information at all?** The FOI Act and Environmental Information Regulations allow you access to much of the information held by public bodies. But some types of information are exempted, for example personal details about others, or where disclosure might prejudice a company's commercial interests.

**7. What if I am refused information?** We will tell you if information is being withheld and why. If you are unhappy with how we have handled your request you have the right to request an internal review. To request an internal review send an email or letter within 40 working days, to our Head of Information Management Unit – see contact details at point 2 above.

If a request for an internal review refers to EIR legislation we will reply to you within 40 working days. If a request for an internal review refers to FOI legislation we will reply to you within 20 working days. If you are not satisfied with the result of the internal review you may appeal to the Information Commissioner (details provided below at point 9). The Commissioner will normally expect an internal review to have been carried out prior to appeal.

**8. How do I find out more?** More information is available from office of the Information Commissioner at:

<b>Website:</b>	<a href="http://www.informationcommissioner.gov.uk">www.informationcommissioner.gov.uk</a>	<b>Phone:</b>	01625 545 700
<b>Post:</b>	Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF	<b>Email:</b>	<a href="mailto:ni@ico.org.uk">ni@ico.org.uk</a>

#### **Re-use of Information**

Some information supplied to you under the FOI Act may continue to be protected by copyright. You are free to use it for your own purposes, including private study and non-commercial research, and for any other purpose authorised by an exception in current copyright law. Documents (except photographs) can be also used in the UK for the purposes of news reporting without requiring permission. Any other re-use, for example commercial publication, would require the permission of the copyright holder.

Most documents produced by government departments will be protected by Crown Copyright and most Crown Copyright information can be re-used under the [Open Government Licence](#). Further details are available on the [The National Archives](#) website. Copyright in other documents may rest with a third party. For information about obtaining permission from a third party, see the Intellectual Property Office's website at [www.ipo.gov.uk](http://www.ipo.gov.uk).

<sup>i</sup> Includes the cost of locating, retrieving and extracting the information

<sup>ii</sup> Disbursements may include costs of photocopying, printing, postage etc