

Margaret Rose McNaughton
Director of Transport & Food in Schools



TL Jones
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Our Ref: DE/2022-0054

10 May 2022

Dear TL Jones

Freedom of Information Act 2000

I refer to your request under the above legislation received on 7 April 2022 requesting the following information:

Agendas, minutes and emails relating to meetings and discussion with the Department for Education about the formulation of home education law, policy and guidance in Northern Ireland and England dated from 26 January 2022.

The information you have requested is enclosed. Please refer to the schedule and the documents found at Annex A. Any redactions pertain to the identity and contact details of junior members of staff or 3rd parties, and have been made using the exemption provided by s.40(2) of the Act, which relates to the disclosure of personal information.

I have to advise you that some of the information you requested is being withheld as it falls under section 35 of the Freedom of Information Act. The attached annex to this e-mail sets out the exemption in full, as well as the factors the Department considered when deciding where the public interest lay. It also includes a list of the types of documents analysed when considering your request.

If you are unhappy with the level of service you have received in relation to your request, you may ask for an internal review within two calendar months of the date of this letter. You may write to the Departmental Information Manager, Rathgael House, 43 Balloo Road, Rathgill, Bangor BT19 7PR or send an email to: freedom.info@education-ni.gov.uk if you wish to make a complaint.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a review of our original decision.

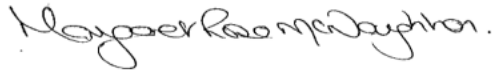
The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House

Water Lane
Wilmslow
Cheshire SK9 5AF

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

Yours sincerely

A handwritten signature in black ink that reads "Margaret Rose McNaughton." The signature is written in a cursive style with a period at the end.

MARGARET ROSE McNAUGHTON

Schedule of documents

<u>No.</u>	<u>Source of Document</u>	<u>All information released</u>	<u>Quote Exemption used (if any)</u>	<u>Reason for application of Exemption</u>
<u>1</u>	E-mail from Dept Education at Westminster to Dept of Education in N. Ireland with proposed agenda for meeting on 27 April 2022.	No	<u>Section 40 (2) data protection exemption</u>	Contains personal information
<u>2</u>	E-mail from Dept Education at Westminster to Dept of Education in N. Ireland updating N. Ireland on the current situation and suggesting a meeting.	No	<u>Section 35 (1) (a) covering formulation and development of government policy.</u>	Information relates to policy in development.
<u>3</u>	E-mail from Dept Education at Westminster to Dept of Education in N. Ireland suggesting a meeting on 27 April 2022 via Zoom.	No	<u>Section 35 (1) (a) covering formulation and development of government policy.</u>	Information relates to policy in development.

Annex B Public Interest Test

Section 35 Information relating to Government Policy/Ministerial Communications

Information held by a government department or by the National Assembly for Wales is exempt information if it relates to: the formulation or development of government policy. In considering the public interest test in connection with the formulation or development of government policy, section 35 provides that regard must be had to the particular public interest in the disclosure of factual information that has been used, or is intended to be used, to provide an informed background to the decision-taking.

Factors for disclosure	Factors for withholding
<ul style="list-style-type: none"> • The right of the public to have access to information; • Disclosure will reveal reasons for decisions; • The accountability of administrators and scrutiny of decision-making processes; • There is a presumption of a general public interest in disclosure. It would promote transparency and accountability of public authorities, greater public awareness and confidence in the Government's policy and decision-making processes. 	<ul style="list-style-type: none"> • The need to preserve confidentiality having regard to the subject matter and the circumstances of the information; • Where release of the records could impair the integrity and viability of the decision making process to a significant or substantial degree without a compensating benefit to the public; • When broader community interests must be considered, as distinct from those of the applicant and the subject of the information; • While frank and open debate is a key component of high quality policy formulation, there is a public interest, in appropriate situations, in maintaining a private space for discussion away from public scrutiny to effectively formulate and develop policy. • The Department needs to be able to discuss and evaluate various policy options with candour and the release of material outlining the discussions between colleagues in the EA may inhibit that. • The disclosure of such information would diminish the quality of the decision making process, resulting in weaker policy formulation.

Reasons why public interest favours withholding information:

The information contained within emails (points 2 and 3 in the table in Annex A) provides a brief outline and update on policy in development in other jurisdictions in the UK. While disclosure of information may better inform the public about ongoing policy developments in those jurisdictions and discussions taking place, the release of these records could impact on cross-jurisdictional relationships and undermine the safe space in which live policy issues, best practice and ideas can be shared, freely and frankly. The release of information could prevent views and opinions being expressed which could prejudice policy development and its subsequent implementation. It is, therefore, the Department's view that under Section 35 (1) (a) the arguments in favour of non-disclosure of a part of the information outweigh those in favour of disclosure.