



Department
for Exiting the
European Union

Freedom of Information Team
Correspondence Unit
9 Downing Street
SW1A 2AG

foi@dexeu.gov.uk
www.gov.uk

Alex Boothe
Via: request-496750-7524c353@whatdotheyknow.com

Our ref: DEX001304

07 August 2018

Dear Alex Boothe,

I refer to your request, where you asked:

Under the Freedom of Information Act, I'd like to receive a copy of the original White Paper put together by David Davis, Steve Baker and the Department for Exiting the European Union that was due to be published last month and is now being replaced by the fundamental outlined as a result of the Chequers Cabinet Meeting on Friday July 6th.

As this original White Paper no longer represents the government's negotiation position, I'd like to receive a copy and have it published so that the public is able to see what was included in this White Paper. Clearly a significant amount of resources, funded by taxes in essence by taxpayers, I believe we have a right to see what our income tax and national insurance contributions was spent on.

This original White Paper that I believe was originally finalised in June, must be made publicly available, as a majority of the public believe this represents the stance that we voted for on voting day following the EU referendum campaign.

The Government's White Paper, 'The future relationship between the United Kingdom and the European Union', was published on 12 July 2018. The Department for Exiting the European Union ('DExEU') holds information which is relevant to your request, although it does not hold an 'original White Paper' as in all areas of policy making it is usual to revise and update papers as input and comments are received from Ministers. DExEU considers that the information it holds which is relevant to your request is exempt from disclosure under sections 27(1)(a)-(d) and 35(1)(a) of the Freedom of Information Act 2000 ('the Act').

Section 35 of the Act

Information falling within the scope of your request is exempt under section 35(1)(a) of the Act as it is information relating to the formulation or development of government policy.

The exemption in section 35(1)(a) of the Act is referred to as a 'qualified exemption' and is subject to a public interest test (PIT). This test is used to balance the public interest in disclosure against the public interest in favour of withholding the information, or the considerations for and against the requirement to say whether the information requested is held or not. We must carry out a PIT where we are considering using any of the qualified exemptions in response to a request for information. The 'public interest' is not the same as what interests the public. In carrying out a PIT we consider the greater good or benefit to the community as a whole if the information is released or not. The 'right to know' must be balanced against the need to enable effective government and to serve the best interests of the public. The Act is 'applicant blind', this means that we cannot, and do not, ask about the motives of anyone who asks for information. In providing a response to one person, we are expressing a willingness to provide the same response to anyone, including those who might represent a threat to the UK.

We have considered whether the public interest in exempting the information in scope outweighs the public interest in releasing the information. DExEU recognises that there is a general public interest in disclosure of information and we recognise that openness in government increases public trust and engagement with government. We also recognise the public interest in understanding the development of the draft White Paper, as inferred by your request, particularly due to its significance in our negotiations with the EU and the impact it will have on citizens.

Against this, there is a strong public interest in policy making associated with our exit from the EU being of the highest quality and being fully informed by a consideration of all options. It is important that policy officials can exchange views on available options and openly discuss and understand potential implications, especially on live issues. In the development of a White Paper, policy officials must be able to present policy proposals to colleagues in draft form so that they can be considered properly without the risk of premature disclosure. Such considerations must take place within a safe space to enable policy proposals to be explored thoroughly and free from undue external pressure. In releasing the information in scope, those considerations would be subject to a chilling effect which would inhibit the free and frank exchange of advice. Releasing the information in scope may undermine the effective formulation or development of policies which may play a key part in our negotiation strategy regarding our exit from the EU, or create unintended consequences which could potentially jeopardise policy formulation or development in the future.

Having considered the public interest factors both in favour of, and against disclosing the requested information, DExEU has decided that the public interest in maintaining the exemption outweighs the public interest in favour of disclosure.

Section 27 of the Act

Release of draft White Paper material inferred by your request is exempt under section 27(1)(a-d) of the Act, which exempts information from release if to do so would, or would be likely to, prejudice: (a) relations between the UK and any other State; (b) relations between the UK and any international organisation or international court; (c) the interests of the UK abroad, or; (d) the promotion or protection by the UK of its interests abroad.

Section 27 is a qualified exemption and further to the general reasons to support disclosure

referenced above we appreciate the public interest in understanding the development of the government's proposal for the future relationship between the UK and EU as expressed in its White Paper published on 12 July 2018.

Opposing this, we have taken into account that there is a substantial public interest in the government being able to properly evaluate their approach to foreign policy and in doing so, being able to successfully pursue our national interests abroad. Following the formal notification from the UK of its intention to withdraw from the EU, we find that avoiding disclosure of any documentation which is likely to prejudice the UK's relationship with the EU or its Member States, or otherwise prejudice the promotion or protection by the UK of its interests in the context of the withdrawal negotiations, is in the public interest. Releasing draft White Paper material inferred by your request would prejudice our relationship with the EU and its institutions by indicating previous proposals. In addition, there is a strong public interest in the protection of any information which may give insight to and undermine the UK's negotiations with the EU or adversely affect the UK's national interests.

Taking into account all the circumstances of this case, I have concluded that the public interest favours withholding the information we hold which is relevant to your request.

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@dexeu.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.