



Foreign, Commonwealth
& Development Office

Information Rights Unit
Foreign, Commonwealth and Development
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Stephen Delahunty
request-736997-e96f7482@whatdotheyknow.com

28 April 2021

Dear Mr Delahunty,

FREEDOM OF INFORMATION ACT 2000 - REQUEST REF: FOI2021-06809

Thank you for your email of 15 March 2021 asking for information under the Freedom of Information Act (FOIA) 2000. You asked:

“In a written question below, the department was asked if it had sought any legal advice in regards to lowering the target for development assistance from 0.7 to 0.5 per cent prior to 26 November 2020.

<https://twitter.com/PreetKGillMP/status/1370316138148732930>

Can the department confirm if it has sought any legal advice, and provide a copy of any advice it received in any format?”

I am writing to confirm that we have now completed the search for the information which you requested.

I can confirm that the Foreign, Commonwealth & Development Office (FCDO) does hold information relevant to your request. I can confirm that FCDO sought legal advice, however, this advice is being withheld under Section 42(1) of the Freedom of Information Act 2000, which provides that information in respect of which a claim to legal professional privilege could be maintained in legal proceedings is exempt information.

In applying this qualified exemption, we have had to balance the public interest in withholding information against the public interest in releasing it.

Factors in favour of disclosure include the general public interest in transparency and public access to the evidence on which government bases decisions. We have also taken into account the particular interest at present in the legal position under the International Development (Official Development Assistance Target) Act 2015.

Factors against disclosure include the strong public interest in protecting legal professional privilege and in government departments receiving comprehensive legal

advice for the effective conduct of business which is given in confidence and with a full appreciation of the facts. There is also a strong public interest in ensuring that disclosure of legal advice does not have the potential to prejudice the government's ability to conduct its business or to diminish reliance that legal advice has been fully considered and presented without fear or favour. These strong public interests apply even where there may be interest in the issue in respect of which legal advice has been sought, and we have concluded that there is in this case no specific, compelling justification to override them.

Therefore, in this case, we believe that the public interest favours withholding the information requested.

Once an FOI request is answered, it is considered to be in the public domain. To promote transparency, we may now publish the response and any material released on [gov.uk](https://www.gov.uk) in the [FOI releases](#) section. All personal information in the letter will be removed before publishing.

If you wish to make a complaint or if you would like a review of our decision, please write to the Information Rights Unit, Foreign, Commonwealth & Development Office, Room WH 2.177, King Charles Street, London, SW1A 2AH. E-mail: information.rights@fcdo.gov.uk You have 40 working days to do so from the date of this letter.

If you are not content with the outcome of your complaint, you may then apply directly to the Information Commissioner for a decision. Generally, the Information Commissioner cannot make a decision unless you have exhausted the complaints procedure provided by the Foreign, Commonwealth & Development Office. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF, or online at: <https://ico.org.uk/make-a-complaint/>

Yours sincerely,

Information Rights Unit