



Department for Business Innovation & Skills

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By email: Richard Peterson
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Our ref: 2014/12698

6 August 2014

Richard Peterson,

This is in response to your email of 14 June 2014 where you wrote:

It has been brought to my notice that you and Post Office Ltd (POL) have been having talks with the National Federation of SubPostmasters (NFSP), I understand that the NFSP would like to be put on the payroll of POL at the expense of the taxpayer. I have been told this deal will be worth millions of pounds to the NFSP. The name of the deal is a Memorandum of Understanding.

Could you let me see all communications you have had with the NFSP and POL regarding this Memorandum of Understanding.

Under the Freedom of Information Act 2000 ('the Act'), you have the right to:

- know whether we hold the information you have requested;
- be provided with that information (subject to any exemptions under the Act which may apply).

I should first clarify that the Department has not been involved in talks with Post Office Ltd or the National Federation of Subpostmasters regarding a memorandum of understanding. Discussions between Post Office Ltd and the National Federation of Subpostmasters are an operational matter, and are the responsibility of management at Post Office Ltd and at the National Federation of Subpostmasters respectively. The Government, as shareholder, does not play a role in operational matters of Post Office Ltd; and it plays no role whatsoever in the operation of the National Federation of Subpostmasters. The Government is not involved in discussions between the two parties regarding a memorandum of understanding.

The Department understands that discussions concerning a memorandum of understanding between the two parties are confidential and ongoing. However, the Department has previously received correspondence from a third party enclosing a draft version of the memorandum. In response, the Department has notified both parties that a draft version has been made public, and the only emails the Department holds are in relation to this correspondence.

Copies of the correspondence are disclosed at Annex A. Some information constitutes personal data and has been withheld. Section 40 of the Act provides an absolute exemption for personal data which then falls to be dealt with under the Data Protection Act (DPA). Personal data of third parties can only be

disclosed in accordance with the data protection principles. In particular, the first data protection principle requires that disclosure must be fair and lawful and must comply with one of the conditions in Schedule 2 of the DPA. We do not think that it is fair to release the names of junior members of staff or third parties and do not think that any of the relevant conditions apply.

Some information also relates to the commercial interests of Post Office Ltd, and is being withheld under Section 43 of the Act. Section 43(2) exempts information if its disclosure would, or would be likely to, prejudice the commercial interests on any person. In this context, we recognise that there is a general public interest in the disclosure of information, as greater transparency makes Government more accountable. Against this, however, there is a public interest in ensuring that the commercial interests of external businesses and organisations are not damaged or undermined by disclosure of information which could adversely impact future business. Releasing such information could prejudice the ongoing commercial and confidential discussions between two organisations that are operationally independent of Government.

Therefore, having considered the public interest in detail we consider that the public interest in disclosing this information is outweighed by the public interest in favour of withholding the information.

In our letter dated 14 July, we advised you that we were considering the public interest in relation to section 36(2)(b) of the Act. After careful consideration, we have concluded that the public interest in relation to the information falling within scope of this exemption falls in favour of release.

Appeals Procedure

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be sent to the Information Rights Unit at:

Information Rights Unit
Department for Business, Innovation & Skills
1 Victoria Street
London
SW1H 0ET
E-mail: foi.requests@bis.gsi.gov.uk

Please remember to quote the reference number above in any future communications.

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 decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliff House, Water Lane, Wilmslow, Cheshire, SK9 5AF

Yours sincerely,

Post Office Network Team Shareholder Executive

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