



Department  
for Exiting the  
European Union

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

[foi@dex.eu.gov.uk](mailto:foi@dex.eu.gov.uk)  
[www.gov.uk](http://www.gov.uk)

Tim Kerby

Via:

[request-497669-25117220@whatdotheyknow.com](mailto:request-497669-25117220@whatdotheyknow.com)

Our ref: DEX001312

14 January 2019

Dear Mr Kerby,

### **FREEDOM OF INFORMATION REQUEST REF: DEX001312 - INTERNAL REVIEW**

Thank you for your email of 17 August 2018 requesting an internal review of your request made under the Freedom of Information Act 2000 ('the Act').

I have now undertaken my internal review and have set out my findings below.

I apologise for the time taken to complete the review and provide you with a substantive response. The Department for Exiting the European Union (DExEU) aims to complete all requests for an internal review within a maximum of 40 working days, however, this is not always possible.

### **The Request**

On 16 July 2018 you requested:

---

Part 1: - Details of any polling, opinion survey, focus groups or similar studies carried out with members of the public between the initial referendum and the date of this request, along with results of these studies that look into public opinion on Brexit in general or specific opinions regarding negotiation points (eg freedom of movement, customs agreements etc).  
- Details of any similar studies carried out with business or industry bodies  
- Plans for any future studies of this nature.

Part 2: In addition, please could you detail what performance indicators of the UK economy you are tracking and whether you are studying the effects of the negotiations on these indicators. Please also detail what you intend to track long-term to monitor the impact of Brexit.

---

### **DExEU's response**

The original response on 13 August 2018 stated that some information was held by DExEU however, this was withheld under section 35 (formulation of government policy) of the Act. Our response explained that release of this information would undermine the effective formulation and development of policies which may play a key part in our negotiation strategy regarding our exit from, and future relationship with, the EU. The response concluded that the public interest was weighted in favour of non-disclosure.

The response also provided advice and assistance under section 16(1) of the Act, by providing links to information already available to you.

### **Request for an Internal Review**

On 17 August 2018, you requested an internal review of our response. Specifically, you wrote:

---

I feel that there is a strong public interest for understanding the measure you are tracking before and after Brexit as it gives the public a means to assess whether Brexit is a success or not. I do not believe this prejudices any safe space as these will typically be specific economic indicators and I would expect impact is being tracked across all sectors.

---

### **Outcome of the Internal Review**

I find that our original decision to apply section 35 of the Act to withhold the information in scope of the request was reached correctly, and agree that DExEU correctly balanced the relevant public interest factors in determining that the information should be exempt from disclosure.

I also note that DExEU's original reply should have clearly communicated that 35(1)(a) was the subsection applied. I apologise for this omission.

### **Section 35**

Section 35(1)(a) provides an exemption from disclosing information that relates to the formulation or development of government policy.

[The Information Commissioner's guidance on section 35](#) explains that the purpose of this section is to protect the integrity of the policymaking process, and to prevent disclosures which would undermine it. The scope of section 35(1)(a) is broad and captures a wide range of information. This includes the information you have requested regarding performance indicator data on the UK economy that DExEU is tracking.

## **Public Interest Test**

I note your view that there is a strong public interest for understanding the measures we are tracking before and after Brexit as it gives the public a means to assess whether Brexit is a success or not, and that you do not believe disclosure would prejudice any safe space.

When considering the balance of the public interest in relation to section 35(1)(a), it is important to consider the public interest in preserving a space for developing government policy. This is particularly true for preparing for the UK's exit from the EU. The risk of harming the quality of this process holds significant weight if those involved were not confident that their views and opinions could be freely and frankly given without concern of premature disclosure.

We consider that there is a very strong public interest in being able to carry out this process effectively, and this may be disrupted if the safe space, away from the possibility of disclosure, is not maintained.

There is a strong argument that those who provide advice to Ministers on policy matters, including sharing with Ministers any analysis supported by performance indicators of the UK economy, should be able to do so in an atmosphere which encourages the free and frank exchange of views and ideas, unhindered by the possibility that those opinions will be prematurely disclosed to the public. Given the sensitive nature of this activity, I do consider that the consequences of disclosure would be to undermine the policy formation process considerably and reduce the quality of decision making behind it.

The Commissioner also recognises that public interest arguments to withhold under section 35(1)(a) will be strongest when there is a live policy process to consider. The information in scope falls into this category.

I am therefore satisfied that DExEU correctly considered the public interest factors against the disclosure of the information under section 35(1)(a).

## **Section 16**

Under section 16(1) DExEU has a duty to provide advice and assistance under the Act. Therefore I thought it might be helpful to provide links to further up-to-date information that is relevant to your request:

You may find it useful to know that the Government has undertaken long-term economic analysis of EU exit under different scenarios, which has been published at the following link:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/760484/28\\_November\\_EU\\_Exit\\_-\\_Long-term\\_economic\\_analysis\\_1\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/760484/28_November_EU_Exit_-_Long-term_economic_analysis_1_.pdf)

The Office for Budget Responsibility (OBR) has published analysis of how its forecasts of the economy and public finances might change in the Brexit environment:

<https://obr.uk/brexit-and-our-forecasts/>

Alongside October's Budget, the OBR also published its latest Economic and Fiscal Outlook (EFO). This includes forecasts up to 2023-24 which you might also find helpful:

<https://obr.uk/efo/economic-fiscal-outlook-october-2018/>

This response ends the complaints process provided by the Department. If you are not content with the outcome of your internal review, you may apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Yours sincerely

**D Lam**  
**IR Case Officer**  
**FOI Team**  
**DExEU**