



Ally Tibbitt

request-596063-eaf89e77@whatdotheyknow.com

8 October 2019

Dear Mr Tibbitt,

FREEDOM OF INFORMATION REQUEST DB 1827 – INTERNAL REVIEW

Thank you for your email of 6 September 2019 in which you request an internal review of the Office's response to your request of 8 August (referenced 1827).

You had originally emailed the Office asking for the following information under the Freedom of Information Act 2000:

- *How much has the Scotland Office spent on commissioning research or polling into UK citizen's attitudes toward the union, Scottish devolution and Scottish independence in the last three years? Please use a broad interpretation of research. For example, this should include, but should not be limited to, consultation, focus groups, desk research, social listening, persona development or other qualitative methods, as well as more formal surveys and polling.*
- *Please provide an itemised breakdown of any expenditure where one or more studies or polls have been commissioned. This should include details of the supplier, the date commissioned, the cost, and a short summary of the work undertaken.*
- *Please supply any outputs of research into the topic of the Union, Scottish Devolution and Scottish Independence, held by the Scotland Office - even if it was commissioned by another public sector body or government department. This could include reports, statistical tables, electronic presentations, or audio and video recordings of interviews.*
- *Wherever possible, I would prefer not to receive the requested information in pdf format files. Please supply data in a machine readable format such as MS Excel or CSV.*
- *To be clear, I do not seek any records that relate to the internal policy response or discussions civil servants may have generated in relation to these research materials. Just the research itself.*

The Office replied on 6 September 2019. The response said that:

1. Some of the information you requested is exempt under Section 21(1) of the Freedom of Information Act. Section 21 exempts information if this information is reasonably accessible to the applicant by other means. Section 21 is an absolute exemption and the Office is not required to consider whether the public interest favours disclosure of this information.
2. The other information you requested is being withheld as it is exempt under section 35(1)(a) of the Freedom of Information Act 2000 (the Act), as it relates to the formulation or development of government policy.

In your request for an internal review, you wrote:

I am disappointed that so little information has been released on the detail of the research results. These results in themselves should not fall within a 35(1)(a) exemption of the Freedom of Information Act 2000 (the Act).

The purpose of an internal review is to assess how your Freedom of Information request was handled in the first instance and to determine whether the original decision that was given to you was correct.

The purpose of Section 35 generally is to protect good government, and reflects and protects some longstanding constitutional conventions of government in order to preserve a safe space to consider policy options in private. Section 35(1)(a) covers any information relating to the formulation and development of government policy which, in its disclosure, would undermine the integrity of the policymaking process and result in less robust, well-considered or effective policies. Departments can only withhold the information if the public good in maintaining the exemption outweighs the public good in disclosure.

The previous response asserted that the information you requested was not in the public good to disclose. It can be said that this response understated the degree to which the public might be interested in the information, clearly many people would be. Nevertheless, I am of the position that the conclusion was still correct. The data that the Scotland Office holds, whilst having been generated through projects commissioned by other government departments, will be used to form the basis of government policy.

As set out above, and by the Information Commissioner's guidance on the use of exemptions, it is longstanding convention that policymakers should operate in a 'safe space'. There is a risk that if the information were to be publicised, the ability for policymakers to develop high-quality policies would be adversely affected. Therefore, on balance, I conclude that the original reason given for not releasing further information was correct.

If you are not content with the outcome of this review you have the right to apply directly to the Information Commissioner for a decision. The contact details are as follows:

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

Yours sincerely

FOI Officer
Office of the Secretary of State for Scotland