



Department
for Exiting the
European Union

Freedom of Information
Team

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Mathias Schindler
Via: request-442339-1385999b@whatdotheyknow.com

Our ref: DEX001302

28 August 2018

Dear Mathias Schindler,

I refer to your request, where you asked:

According to
<http://mollymep.org.uk/2017/10/30/government-list-50-secret-studies/>, 58
studies exist concerning a number of industries and sectors.

A) [CLARIFIED TO:] I would hence propose to narrow the scope of part A
down to information that initiated the creation of the individual studies, such as
a letter asking or proposing to write or commission a study.

B) In case these studies follow a common style guide, I am requesting these
style guides as well as templates and formatting tools as well as any kind of
artwork (in a broader sense) concerning these studies.

C) I am requesting the information the government holds concerning the
selection process for these studies and any information whenever a sector or
industry was discarded, merged, renamed or redefined within the study
drafting process. **[Where this is limited to the information held by the most
relevant individual in DExEU].**

I can confirm that the Department for Exiting the European Union (DExEU) holds information
relevant to your request. We have answered this request under the Freedom of Information
Act 2000 (the "Act").

A) The relevant information held in scope of this part of your request is being withheld as
exempt under section 35(1)(a), formulation and development of government policy, section
27, international relations, and section 40, personal information. These exemptions and
public interest tests, where applicable, are outlined in full at the end of our answer.

B) Please note that we do not hold any information on formatting tools or artwork concerning these studies.

Information which falls in scope of this part of your request is exempt under section 35(1)(a), formulation and development of government policy, and section 27, international relations. These exemptions and public interest tests are outlined in full at the end of our answer.

C) Information held in scope of this part of your request is exempt under section 35(1)(a), formulation and development of government policy. This exemption and public interest test is outlined in full at the end of our answer.

Section 35

The information requested is being withheld as exempt under Section 35(1)(a) of the Act, which protects information held by a government department if its release would prejudice the formulation or development of government policy.

Section 35 is a qualified exemption and I have considered whether the public interest in exempting the information in scope outweighs the public interest in releasing the information. In favour of disclosure, DExEU recognises the importance of transparency in public affairs to ensure the public are able to scrutinise the manner in which authorities reach important decisions. Particular to this exemption we also recognise that policy formulation and/or development is in the public interest as policy can have significant impact on the lives of citizens and there is therefore public interest in the transparency of any deliberations.

Against this, there is a strong public interest in policy making associated with our exit from the EU being of the highest quality and conducted in a safe space to allow for design and deliberation to be done in private. In this case, releasing the commissioning information for this exercise, which is still a live policy issue, may undermine the effective formulation or development of policies which are key to our negotiating strategy. Disclosure would inhibit free and frank discussion at the commissioning stage of similar policy exercises in the future. Without the necessary safe space for unreserved instruction in commissioning information, we find the quality of the eventual advice from the respective exercise would be diminished and would likely in turn lead to poorer decision making, and indication of how we scope and prioritise this type of work generally.

I have therefore determined that in all circumstances of the case, public interest favours withholding the information we hold within the scope of your request over releasing.

Section 27

Some of the information in scope of your request is being withheld as 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 I have considered whether the balance of the public interest favours releasing or withholding this material. Specific to this exemption and this part

of your request, DExEU recognises the public interest in understanding the Department's approach to this exercise, not least when they have been used to inform the UK's negotiating position.

However, as in the case above, this must be considered within the international context of the ongoing negotiations. As previously argued, there is high public interest in the Government withholding information that would harm its negotiation position. In this case, information pertaining to the scope of and approach to this exercise could allow the Government's priorities and negotiating strategy to be inferred. For this reason, there is an overwhelming public interest in withholding information which could prejudice the Government's ability to promote and pursue our interests abroad.

I have determined that in all circumstances of the case, public interest favours withholding the information we hold within the scope of your request over releasing.

Section 40

Some of the information you have requested is exempt from disclosure under section 40(2) of the Act. This section exempts personal information from disclosure if that information relates to someone other than the applicant, and if disclosure of that information would, amongst other things, contravene one of the principles relating to processing of personal data in Article 5(1) of the General Data Protection Regulation ('the GDPR'). In this case, DExEU considers that disclosure would contravene the first data protection principle contained in Article 5(1)(a) of the GDPR, which provides that personal data must be processed lawfully, fairly and in a transparent manner. Section 40(2) is an absolute exemption and the DExEU is not obliged to consider whether the public interest favours disclosing the information.

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@dex.eu.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:

Information Commissioner's Office
Wycliffe House
Water Lane

Wilmslow
Cheshire
SK9 5AF

Yours sincerely,

Freedom of Information Team, DExEU.