



Foreign &  
Commonwealth  
Office

**Corporate, Staffing and Visits Section**

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Vicky Cann  
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11 April 2019

Dear Ms Cann,

**INTERNAL REVIEW OF FREEDOM OF INFORMATION (FOI) REQUEST REF: 0536-18**

Thank you for your email of 12 September 2018 asking for an internal review of the decision conveyed to you in our letter dated 20 August 2018.

I apologise for the delay in sending you a substantive response. I am writing to confirm that I have now completed my review, including a full examination of all the material requested and consideration of the exemptions applied.

***Search for information***

Your original FOI request stated:

'Could I request a list of the lobby meetings (with representatives of companies, organisations and other stakeholders) held by the Permanent Representative and his Deputy in the past 6 months? As before, I would like to request a list of these meetings: who was present at the meeting, including the names of organisations/ lobbyists present, as well as the date of the meeting, and the subject matter discussed.'

I have considered the scope of the meetings considered and agree with the scope set out in the original decision, notably that we have considered meetings with the following to be within scope and undertaken the review of the search accordingly: all private sector organisations, including individual companies, consultancies and law firms; all trade, business and professional associations; NGOs; think tanks, research organisations and academic institutions; religious organisations.

I have also reviewed and agree with the original response which considered the following to be outside the scope of your request: other members of the UK and other governments; individuals from the EU institutions including MEPs; and UK parliamentarians.

I have reviewed the information held by UKRep on that basis, covering the same six-month time period, i.e. from 8 November 2017 to 8 May 2018, and I am content that a reasonable search was carried out in relation to your request.

### ***Use of exemptions***

The decision on your original request set out that the information requested was exempt under Section 36(2)(b)(i) and (ii) of the FOIA (prejudice to the effective conduct of public affairs) and Section 27 (c) and (d) (international relations). It also considered some of the information to be exempt from release under Section 40 of the FOIA (personal information). The decision explained the application of the different exemptions including, where applicable, the public interest arguments.

In your email of 12 September, requesting an internal review, you challenge the application of each of these three exemptions to the material concerned.

### **Section 36**

As part of the internal review, I have considered the application of Section 36, the public interest test, the Information Commissioner's Office (ICO) guidance and the arguments you set out in your email. I have considered factors including the timing of the request, whether the issue is still live, and the content and sensitivity of the information in question.

I agree with you that there is high public interest in scrutinising the way the UK conducts its affairs in Europe and that disclosure of the information requested would permit the public to know more about the wide range of stakeholders that the UK Permanent Representative and his deputy meet. I acknowledge that there is a general public interest in greater transparency in how Government operates and in how it reaches decisions. This needs to be weighed against the fact that there is a strong public interest in protecting the space that officials have to consider and discuss options, and provide free and frank advice, to ensure that full and proper consideration to policy issues can be given. I consider, in addition, that the information requested is both sensitive and live, as negotiations on the exit of the UK from the EU continue.

As the request refers specifically to lobby meetings, I have referred to the Information Commissioner Office's guidance which states that where lobbyists have been involved in discussions they are less likely to be inhibited in their contributions by the possibility of disclosure as they are trying to further their own agenda by influencing the public authority.

On balance, while the fact the information requested about lobby meetings has been disclosed may be an additional consideration before lobbyists request future meetings with the UK Permanent Representative and Deputy Permanent Representative, I do not consider it very likely that this fact would deter them from contributing to discussions. So, for the reasons outlined above, whilst I acknowledge that s36 does apply to the information concerned, I consider that, in this case, the public interest in disclosing this information outweighs the public interest in withholding it.

### **Section 27**

Section 27(1)(c) and (d) of the FOIA recognise the need to protect information that would be likely to prejudice the interests of the UK abroad and the protection and promotion of these interests. In my internal review, I have considered whether the disclosure of the information requested would, or would be likely to, prejudice the international relations or interests of the United Kingdom or its interests abroad and further considered the public interest test in this regard. I agree with the original decision that the UK's exit from the EU is complex and that, in the current stage of negotiations we should not disclose information that would be likely to harm the negotiations, or the UK's policy or strategic positioning'. I therefore agree that s27 does apply to the information concerned.

However, whilst I agree that disclosure of the information could lead to speculation about strategy and distract from the process of negotiations, in this particular case, I do not consider that disclosure is likely to prejudice the UK's interests in those negotiations. On review, therefore, I consider that the public interest in releasing the information, in order to further understanding of and participation in the issues concerned, outweighs the public interest in withholding it.

#### Section 40

The original decision states that had we not applied the Section 36 exemption, we would have disclosed the names of the organisations concerned but would have exempted the names of the individuals involved in the meetings under section 40 of the FOIA. In your email of 12 September, you argue that it is fair for the names of those attending the meetings to be disclosed.

I have reviewed the application of this exemption, referring in particular to the ICO guidance which sets out that '[t]he more senior the representative of the other organisation, the more likely it is that it would be fair to release their names'. With specific reference to lobby meetings, the guidance that says 'if someone normally acts as spokesperson for the other organisation, disclosure of their name is more likely to be fair. This is particularly the case when the other organisation is lobbying the public authority in order to influence it; in such cases there should be a general expectation that names will be released'. On the basis that my review has concluded that the public interest under both sections 36 and 27 favours release of the information in scope, I have gone on to consider whether it would be fair and lawful to release the names of the participants in the meetings concerned. In line with the general expectation set out above, I consider that we can disclose the names of the senior representative(s) involved in the meetings. In this particular case, and in line with our standard practice, I consider it fair and lawful that we continue to withhold the names of more junior participants in the meetings under s40 of the FOIA.

In summary, following my internal review, I consider that, whilst s27 and s36 were correctly applied to the information concerned, I have decided that, in both cases, the balance of public interests in releasing the material outweighs that in withholding it. Please find below the information we can now release to you.

#### ***Handling the Request and Disclosure Refusal***

In your request for internal review, you mention that the deadline for the original response was extended two times. I apologise for the delay in providing a substantive response. Whilst we do make every effort to comply with ICO guidance on response times, consideration of the public interest test in more complex cases can take longer.

In your email, you also expressed disappointment with the handling of your previous FOI request (0370-18), because you did not consider that our response of 4 May provided appropriate advice on how to refine your request to enable us to reply within the statutory cost limit. I have reviewed our reply of 4 May, which suggested that you might wish to narrow the scope of your request to a specific sector; it also advised that narrowing the timescales only would still require over 150 staff to search their agendas which we estimated would still take more than 3.5 working days. I consider, therefore, that the reply did offer appropriate advice and assistance on this issue.

### ***Next Steps***

If you are not satisfied with the outcome of this review and wish to make a complaint you can 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,

Corporate Section, UKRep



We keep and use information in line with the Data Protection Act 1998. We may release this personal information to other UK government departments and public authorities.

Lobby meetings (with representatives of companies, organisations and other stakeholders)  
held by the UK Permanent Representative to the European Union and his Deputy from  
8 November 2017 to 8 May 2018

As set out in the original response, the Permanent Representative and Deputy Permanent Representative meet regularly with a range of stakeholders, including but not limited to, industry associations, business people, trade unions, journalists, think tankers, academics and so on in the normal pursuance of their duties as is the usual practice for the head of any FCO mission and other senior diplomats overseas. The list below is the result of a reasonable search which has been carried out based on the information recorded in the diaries of the Permanent Representative and his Deputy over the six month period. This list is not exclusive, and in addition to the information below, over these dates, both the Permanent Representative and his Deputy met a wide range of interlocutors in the course of their regular business in other meetings and events in Brussels and in the UK. They also joined meetings with interlocutors hosted by colleagues in UKRep Brussels which are not on the list.

Meetings with UK Permanent Representative

<b>Date of meeting</b>	<b>Organisation</b>	<b>Lead representative(s)</b>	<b>Subject matter discussed</b>
9/11/2017	City of London Corporation's Special Representative to the EU	Jeremy Browne	Finance and ongoing EU business
20/11/2017	Centre for European Reform	Charles Grant	Ongoing EU business
21/11/2017	International Rescue Committee	David Miliband	Future of UK/EU cooperation on development/ humanitarian issues
28/11/2017	Bank of America Merrill Lynch	Alex Wilmot-Sitwell	Finance and ongoing EU business
30/11/2017	Ford	Steven Armstrong	Goods and EU
30/11/2017	GSK	Phil Thomson	Health, Life Science environment and ongoing EU business
09/01/2018	Centre for European Reform	Charles Grant	Ongoing EU business
30/01/2018	International Regulatory Strategy Group (IRSG)	Mark Hoban	Finance and ongoing business
30/01/2018	CBI	John Allan	Ongoing EU business
01/02/2018	Barclays	Jes Staley	Ongoing EU business
07/02/2018	National Grid	John Pettigrew	Ongoing EU business
07/02/2018	British Trades Union Congress	Frances O'Grady	Social and environment issues
10/04/2018	City of London Corporation	Jeremy Browne Mark Hoban	Finance and ongoing EU business
11/04/2018	British Trades Union Congress	Frances O'Grady	Social affairs and ongoing EU business
27/04/2018	UK Farming Union Presidents	Minette Batters Andrew McCornick John Davies	Farming and ongoing EU business

		Ivor Ferguson	
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Meetings with UK Deputy Permanent Representative

Date of meeting	Organisation	Lead representative(s)	Subject matter discussed
28/11/2017	Chief Executive of the NHS Confederation	Niall Dickson	Ongoing EU business and Health
16/01/2018	British Telecom	Alex Towers	Telecoms/Digital Policy and Regulation, European Electronic Communications Code (EECC), Free flow of data, ongoing EU business
23/01/2018	Premier League	Bill Bush	Copyright, Broadcasting
06/02/2018	Energy UK	Lawrence Slade	Internal Energy Market, EU ETS, Single Electricity Market (Ireland)
12/02/2018	IFPI	Frances Moore Lodovico Benvenuti	Copyright, Broadcasting
15/02/2018	Ford	Steve Biegun	Ongoing EU business
20/02/2018	Russell Group	Professor Sir Anton Muscatelli Dr Tim Bradshaw	Research and Erasmus
27/02/2018	EuroCommerce	Neil McMillan	Trade
27/02/2018	ETUC (European Trade Confederation)	Luca Visentini Esther Lynch	Trade
8/03/2018	UUKI	Professor Paul Boyle Professor Colin Riordan Professor Dame Janet Beer	Research and Erasmus
28/03/2018	MSD International	Kevin Ali	Ongoing EU business
09/04/2018	Dow	Heinz Haller	Industrial strategy, Ongoing EU business, silicones.
12/04/2018	BBC	Clare Sumner	Copyright, Electronic Communications code, AVMSD, Broadcasting
12/04/2018	Universal Music Group	Nigel Sheinwald	Copyright
24/04/2018	Google	Kent Walker	Digital Single Market (GDPR, ePrivacy, free flow of data etc.), copyright
26/04/2018	EDIMA	Maud Sacquet (CCIA) Jochen Mistiaen (DIGITALEUROPE) Lenard Koschwitz (Allied for Startups) Innocenzo Genna (EuroISPA) Dom Hallas (Coadec)	Copyright/Intellectual Property