



Foreign &
Commonwealth
Office

Devolution Unit
Foreign and Commonwealth Office
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08 October 2015

Dear

FREEDOM OF INFORMATION ACT 2000 REQUEST REF: FOI 0803-15

Thank you for your email of 13 August 2015 asking for information under the Freedom of Information Act (FOIA) 2000. You asked:

Please could you send a copy of all correspondence (emails, letters and memos) sent to or from the Devolution Unit in the Foreign Office relating to the Scottish independence referendum over the following period: 1st September 2014 to 28th September 2014

I am writing to confirm that we have now completed the search for the information which you requested.

I can confirm that the Foreign and Commonwealth Office (FCO) does hold information relevant to your request. From 22 August 2014 up until the referendum, UK civil servants were subject to purdah restrictions which limited their communications on this issue (the specific Cabinet Office guidance which covered this period is available to view at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/344686/Scottish_referendum_guidance_for_UK_government_civil_servants_on_their_role_and_conduct_15_August_2015.pdf); for this reason there was a relatively small volume of correspondence found during our search. I am pleased to enclose the material that the FCO can release to you. Some material is being withheld under the following exemptions of the Freedom of Information Act (FOIA):

- Section 21 - Information accessible to the applicant by other means
- Section 27 - International relations
- Section 28 - Relations within the UK

- Section 35 - Formulation of Government Policy
- Section 40 Personal information

Section 21 – Information accessible to the applicant by other means

Under Section 21 of the FOIA we are not required to provide information in response to a request if it is already reasonably accessible to you. Some of the material you requested falls under this exemption. This material consists of factual summaries of media reporting in Norway, Italy, New Zealand, Latvia and UAE about the Scottish Referendum. This is an absolute exemption and so the Public Interest Test does not apply.

Section 27 – International Relations

Some of the information has been withheld using Section 27 – international relations. The disclosure of this information would be likely to prejudice relations between the United Kingdom and a number of States, and to prejudice the interests of the United Kingdom abroad.

We acknowledge the public interest in this subject and the public interest in transparency, accountability and better understanding of international relations. However, the effective conduct of international relations depends upon maintaining trust and confidence between governments. The relationship of trust allows for the free and frank exchange of information on the understanding that it will be treated in confidence. If the UK does not respect such confidences, its ability to pursue UK interest through international relations will be prejudiced. Other States may be more reluctant to share sensitive information with the UK Government in future and may be less likely to respect the confidentiality of information supplied by the UK Government, to the detriment of UK interests. For all these reasons we consider that in all the circumstances in this case, the public interest in maintaining this exemption outweighs the public interest in disclosing the information covered by Section 27(1)(c), and (2).

Section 28 – Relations within the UK

Some information has been withheld under Section 28 – relations within the UK. Section 28 (1) is a qualified exemption and as such, we have considered where the greater public interest lies. Disclosure could meet the public interest in transparency and accountability. However, the effective conduct of UK internal relations depends upon maintaining trust and confidence between Administrations. If the United Kingdom does not maintain this trust and confidence, its ability to protect and promote UK interests through internal relations would be hampered, which will not be in the public interest. The disclosure of information could potentially damage the relationship between the UK and the Devolved Administrations which is not in the public interest. For these reasons we consider that the public interest in maintaining this exemption outweighs the public interest in disclosing it.

Section 35 – Formulation of Government Policy

Some of the information you requested has been withheld under exemption 35(1)(a), formulation of government policy. It is recognised that there is a public interest in the greater transparency in the decision making process to ensure accountability within public authorities. However, officials need to be able to conduct rigorous and candid risk

assessments of their policies and programmes including considerations of pros and cons without there being a risk of premature disclosure which might close off better options and inhibit the free and frank discussion of all policy options. This would have a negative impact on the quality of decision making, which is clearly not in the public interest. We have judged that in this case, the public interest in maintaining this exemption outweighs the public interest in disclosure.

Section 40 – Personal Information

Some of the information you have requested is personal data relating to third parties, the disclosure of which would contravene one of the data protection principles. In such circumstances Sections 40(2) and (3) of the Freedom of Information Act apply. In this case, our view is that disclosure would breach the first data protection principle. This states that personal data should be processed fairly and lawfully. It is the fairness aspect of this principle, which, in our view, would be breached by disclosure. In such circumstances, Section 40 confers an absolute exemption on disclosure. There is, therefore, no public interest test to apply.

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Yours sincerely,

Devolution Unit



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