

I am writing in response to your e-mail of 20 April 2011. This requested copies of any internal documents, reports and memos that relate to issues involving the Department's requirement for councils to publish details of expenditure above £500.

We agreed that we would limit the timescale of the enquiry from 1 September 2010 to 20 April 2011. On 6 May 2011 we agreed to amend the request to providing any internal documents, reports and memos that relate to issues involving the Department for Communities and Local Government (DCLG) requirement for councils to publish details of expenditure above £500. This excludes emails that communicate no other information than the confirmation of the publication of a dataset and exclusively relate to amending documents recording which local authorities were publishing datasets.

Your request has been considered under the Freedom of Information Act 2000 (FOI Act).

On 6 June 2011 we wrote to inform you that we needed to extend our response time limit by 15 working days to give us time to assess whether the public interest in withholding the information outweighed the public interest in disclosing it.

I can now again confirm that the Department does hold the information that you have requested and that I am able to provide you with some of that information. I have attached two PDF documents and nine XLS spreadsheets.

As you will appreciate, we do not systematically keep copies of routine emails, and so whilst we have done our best to collect all of the information that you have requested, we cannot guarantee that the enclosed documentation captures all potentially relevant internal correspondence within the Department. For example, it is at least feasible that officials within the Department may have sent emails that did not mention the requirement to publish details of expenditure above £500 and were only partly about that requirement. However, to the best of our knowledge and on the basis of the searches that we have carried out, the Department holds no other substantive information falling within the terms of your request.

I wish to advise you however that some of the information that the Department does hold cannot be disclosed for the reasons given below.

The names and contact details of many individuals (junior officials in the Department) have been redacted from the information being provided to you. This information is exempt from disclosure under the exemption at section 40(2) of the FOI Act because it is personal data and its disclosure would breach one or more of the data protection principles in the Data Protection Act 1998.

The remainder of the information falling within the terms of your request is exempt from the right of access under the Act by reason of section 35(1)(a), which states information held by a government department is exempt if it

relates to the formulation or development of government policy. This is in relation to the Code of Recommended Practice to Local Authorities on Data Transparency.

Section 35(1)(a) is a qualified exemption which means that information falling within the exemption must still be disclosed unless the public interest served by disclosure is outweighed by the public interest in maintaining the exemption.

The Department is committed to transparency and recognises as a general principle, embodied by the FOI Act, that the public interest is served by releasing on request information held by public authorities. This helps promote transparency and accountability, enables the public to be more informed about and engage in the debate on matters of policy and increases public trust and confidence in good governance. In this case the release of information showing the advice provided to Ministers on these matters would help to demonstrate that Ministers were able to consider an appropriate range of policy options, and their implications, and were therefore able to make informed decisions.

On the other hand, there is a strong public interest in ensuring that there is an appropriate degree of private thinking space within which Ministers can receive advice from officials and be able to consider policy options and their implications. Without this thinking space it is likely that the advice of officials would not be as free, frank and comprehensive as it needs to be; Ministers would be less informed in their considerations resulting in the policy decision-process being undermined. In this case release of this information at this time would, in our view, be likely to undermine the ability to develop proposals for a Code of Recommended Practice. In particular, as policy considerations to inform such a Code are still ongoing, disclosure of the advice given to Ministers about this could give an impression about Ministers' thinking and likely decisions which would make it more difficult to consider other options.

On balance therefore, and in all the circumstances of this case, the Department has concluded that the public interest is best served by maintaining the exemption under section 35(1)(a) in respect of this information at this time.