

FOI Release

Information released under the Freedom of Information Act

Title: Guidance held by BIS on the issue of "unpaid internships" and "unpaid interns"

Date of release: 14 May 2013

Information request

All guidance held by BIS on the issue of "unpaid internships" and "unpaid interns".

For the purposes of this request, "guidance" should be taken to mean any briefings, notes, memos or legal advice prepared by officials or legal counsel for the benefit of either officials or ministers.

This should include, but not necessarily be limited to, any such guidance relating to the National Minimum Wage Act 1998.

Information released

The Department holds information falling within the terms of your request.

The information, which can be disclosed, is enclosed at Annex A, B, C, D and E.

The remainder of the information is exempt under the following sections of the Freedom of Information Act (FOIA) and is therefore withheld:

Section 35 – Formulation of Government policy

Section 40 – Personal Information

Section 35(1)(a) - Formulation of Government policy

Some of the communications are part of the formulation or development of government policy and is exempt from disclosure under Section 35(1)(a) of the FOIA. Section 35 of the FOI Act is a qualified exemption – it requires us to apply a public interest test. We have considered carefully whether the public interest in disclosing the information overrides the public interest in maintaining the exemption and withholding the information.

There is a general public interest in the disclosure of information as greater transparency makes Government more accountable and there is a public interest in being able to assess the quality of information and advice given to Ministers, which is used in subsequent policy formulation.

However, against this we consider that premature disclosure is likely to open Ministers and officials to undue pressure thereby inhibiting their ability to conduct rigorous appraisal of the business cases. Therefore, this is likely to have a negative effect on the conduct of good government. Ministers and officials need to be able to conduct rigorous and candid assessment of their policies including considerations of the pros and cons without there being premature disclosure which might close off better options. There is a strong public interest in ensuring that this assessment process can be fully completed and we consider that release of the relevant information would prejudice this interest.

In our view, therefore, the balance of the public interest clearly lies in withholding some of the correspondence that has been requested.

Section 40(2) – Personal data

Section 40(2) provides an absolute exemption for personal data which then falls to be dealt with under the Data Protection Act. Personal data of third parties can only be disclosed in accordance with the data protection principles. In particular, the first data protection principle requires that disclosure must be fair and lawful and must comply with one of the conditions in Schedule 2 of the Data Protection Act. We do not think that it is fair to release the names of junior members of staff or third parties and do not think that any of the relevant conditions apply.