



Department
of Health

03/03/2014

DE00000830589

Dear [REDACTED]

Thank you for your request of 18 December 2013 under the Freedom of Information Act (2000). Your exact request was:

"On 28th November 2013 the Parliamentary Under-Secretary of State for Public Health announced that she had commissioned a "new review into standardised packaging of tobacco" to be headed up by Sir Cyril Chantler.

Under the Freedom of Information Act (FOIA) please supply

- 1. Copies of all Department of Health correspondence and records of meetings (including but not limited to emails, letters and minutes of meetings) containing reference to the "new review into standardised packaging" for the period October 1st 2013 to December 18th 2013.*
- 2. Copies of all Department of Health correspondence and records of meetings (including but not limited to emails, letters and minutes of meetings) containing reference to the appointment of the Chairman of the "new review into standardised packaging" for the period October 1st 2013 to December 18th 2013.*
- 3. Copies of all Department of Health correspondence and records of meetings between Sir Cyril Chantler and the Department of Health for the period October 1st 2013 to December 18th 2013.*
- 4. A copy of the budget allocated by the Department of Health to the "new review of standardised packaging" headed up by Sir Cyril Chantler.*
- 5. Details of how many Department of Health staff (including permanent civil servants) have been allocated to work on the review in (a) a full time or (b) a part time basis - and the costs associated with their re-allocation of duties."*

I can confirm that the Department of Health does hold information relevant to your request.

A summary of the information held by the Department is provided below:

Date	Document
8 November 2013	Meeting note: Introductory meeting. DH and Sir Cyril Chantler
13 November 2013	Meeting note: Review of standardised tobacco packaging. DH and Sir Cyril Chantler.
6 December 2013	Standardised Tobacco Packaging Briefing Pack (Some of the information has been withheld in the briefing pack because it falls outside of the scope of the request.)
6 December 2013	Letter from the Common Sense Alliance to Jane Ellison PS(PH)
10 December 2013	Letter from Jane Ellison PS(PH) to Deborah Arnott (Action for Smoking and Health).
16 December 2013	Draft Letter from Jane Ellison PS(PH) to the Common Sense Alliance.
6 November 2103	Email – FW: Packaging – appointment Q&A
6-7 November 2013	Email train - RE: Sir Cyril Chantler appointment letter
7 November 2013	Email train - Re: Sir Cyril Chantler
7 November 2013	Email - Sir Cyril
8 November 2013	Email - tobacco packaging review
27 November 2013	Email - FW: Sir Cyril biog and CV
27-28 November 2013	Email train – FW: Chantler Review – Information Request
28- 29 November 2013	Email train – RE: Standardised packaging
28 November – 3 December 2013	Email train – RE: Plain Packaging – letter attached this time
28 November - 3 December 2013	Email train – RE: Announcement on standardised packaging for tobacco products
29 November 2013	Email train – RE: 3 rd Annual Report
29 November 2013	Email train – RE: NCD briefing
3 December 2013	Email – RE: Public enquiries about the Chantler review
4 -17 December 2013	Email train – Chantler Review Launch
11-12 December 2013	Email – POC4 827242 – for info only?
12 December 2013	Email – FW: Request for Advice: Standardised Packaging
16 December 2013	Email – Corresp Common Sense Alliance

Please note that some of the information held by the Department is in the public domain, and so, under section 21 of the FOI Act (information accessible to the applicant by other means), we will refer you to the published sources:

1.) Press Release. 28 November 2013.

<https://www.gov.uk/government/news/independent-review-of-standardised-packaging-for-tobacco>

2.) Written Ministerial Statement. Department of Health. Tobacco Control Update. 28 November 2013.

<http://www.parliament.uk/documents/commons-vote-office/November-2013/28%20November/7-Health-TobaccoControl.pdf>

3.) Correspondence between Jane Ellison PS(PH) and Sir Cyril Chantler.

<http://www.kcl.ac.uk/health/packaging-review-docs/ellison-letter.pdf>
<http://www.kcl.ac.uk/health/packaging-review-docs/chantler-response.pdf>

4.) Independent Review Method Statement.

<http://www.kcl.ac.uk/health/packaging-review-docs/method-statement.pdf>

5.) Parliamentary Questions.

PQ 178255
Priti Patel (Witham): To ask the Secretary of State for Health, what evidence from Australia his Department has been seen after the first 12 months of the standardised packaging experiment in that country.
http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm131210/text/131210w0003.htm
PQ 178257
Priti Patel (Witham): To ask the Secretary of State for Health, what other government departments were consulted before the announcement of the change in policy on the introduction of standardised packaging for tobacco products.
http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm131210/text/131210w0003.htm
PQ 178256 & PQ 178258
Priti Patel (Witham): To ask the Secretary of State for Health, what analysis his Department has commissioned into non-tobacco substances found in illicit and counterfeit cigarettes.
Priti Patel (Witham): To ask the Secretary of State for Health, what assessment his Department has made of the threat to public health of illicit and counterfeit cigarettes.
http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm131210/text/131210w0003.htm
PQ 179404
Mr Graham Brady (Altrincham and Sale West): To ask the Secretary of State for Health, if he will ensure that the terms of reference for the review of plain

packaging of tobacco products allow an examination of the incidence of the use of illegal and unbranded cannabis by young people.

<http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm131203/text/131203w0003.htm>

Please also be aware that some of the information held by the Department is being withheld under the exemptions below.

Please note that we have taken the approach of specifying within the document which exemption applies to each redaction, apart from in the case of section 40, i.e. for all redactions that do not have an exemption specified for them in the document, section 40 applies:

Section 40

Please note that this information has been redacted under section 40(2) of the Freedom of Information Act which provides for the protection of personal information. Section 40 prohibits a public body from disclosing personally identifiable information as doing so would contravene data protection principles. Please note that the names of officials below Senior Civil Servant level have been redacted.

Section 22

Please note that information falling within the scope of your request is being withheld under section 22, which states that public bodies are not obliged to disclose information that is intended for future publication.

Section 22 is a qualified exemption, and we are required to assess as objectively as possible whether the balance of public interest favours disclosing or withholding the information.

In general, there is a strong public interest in information being made as freely available as possible. However Sir Cyril Chantler is still undertaking his independent review and the report has not yet been published. The review secretariat has informed the Department that the review report is likely to contain details of the operation of the review. The Department takes the view that public interest in the disclosure of this information at this time will be satisfied by the publication of the review in the near future. Therefore, we consider that releasing this information before its due publication date would not be in the public interest.

Section 35(1)(a)

We consider that some information that falls under the scope of your request is exempt under section 35(1)(a) of the FOI Act, which provides protection for the information that relates to the formulation or development of government policy. Section 35(1)(a) is a qualified exemption and requires consideration of

the public interest test. While we recognise a general public interest in the operation of the independent review, we must take into account that the purpose of section 35 of the FOI Act is to protect the internal deliberative process which is a key part of all policy making. The exemption is intended to ensure that Ministers and officials are not deterred from a full and proper deliberation of policy formulation. We consider that releasing information into the public domain at the present time, would undermine Ministers' and officials' space for consideration and debate. After careful consideration, the Department has determined that the balance of public interest favours withholding the information that relates to this policy.

Section 35 (1)(b)

We consider that some information that falls within the scope of your request is exempt under section 35(1)(b) of the FOI Act, which provides protection for the information that relates to ministerial communications. Section 35(1)(b) is a qualified exemption and requires consideration of the public interest test. While we recognise a general public interest in the operation of the independent review, we must take into account that the exemption is intended to ensure that Ministers are not deterred from a full and proper deliberation of policy formulation. We consider that releasing information into the public domain at the present time, would undermine Ministers' space for consideration and debate. After careful consideration, the Department has determined that the balance of public interest favours withholding the information that relates to this policy.

Section 42

We consider that this information is exempt from release under section 42 of the Freedom of Information Act (legal professional privilege (LPP)). Section 42 is a qualified exemption and, as such, we are required to assess the public interest in withholding this information against that of its release.

To explain, LPP covers confidential communications between lawyers and clients, along with certain other information that is created for the purposes of litigation, or for the purposes of obtaining legal advice or assistance in relation to rights and obligations.

The Department recognises that there is a general public interest that is served in making information available to promote greater transparency and accountability in the Department's decision-making process. However, the Department considers that there is also a compelling public interest in upholding the established principle of confidentiality in communications between lawyers and their clients, and therefore upholding the principle of LPP.

The principle of LPP is well established. The requirement for high quality, comprehensive legal advice which is provided without fear of disclosure, and which assesses both the strengths and weakness of a proposed decision or policy, or defence of a legal claim, is essential for the effective conduct of the Department's business.

This advice needs to be offered with a full appreciation of all the relevant facts, and on the basis that it will remain confidential between the parties. It is in the public interest that decisions taken by the Department are informed by, or based on, legal advice, as necessary.

Furthermore, it is the Department's view that waiving LPP would impede that decision-making process, which would be contrary to the public interest and also contrary to a very settled practice which is recognised by the Courts and the Information Tribunal.

Through disclosure, there is a risk that in the future, clients and lawyers may avoid making a permanent record of advice that is sought or given, or may make only a partial record where there is the prospect that any resulting legal advice may be disclosed. This would be most certainly be contrary to the public interest, as it would diminish the quality of record keeping with adverse consequences on the decision-making process as a whole.

The Government's willingness to seek frank legal advice is essential in upholding the rule of the law.

Therefore, taking all these factors into account, we have concluded that the public interest in withholding this information substantially outweighs any public interest that there might be in releasing the information you seek.

If you have any queries about this email, please contact me. Please remember to quote the reference number above in any future communications.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to:

Head of the Freedom of Information Team
Department of Health
Room 520
Richmond House
79 Whitehall,
London
SW1A 2NS

Email: freedomofinformation@dh.gsi.gov.uk

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner (ICO) for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by the Department. The ICO can be contacted at:

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely,

A black rectangular redaction box covering the signature of the Freedom of Information Officer.

Freedom of Information Officer
Department of Health

freedomofinformation@dh.gsi.gov.uk