



Foreign &
Commonwealth
Office

10 June 2015

**Caribbean, Central America & Mexico
Department**

Foreign and Commonwealth Office
King Charles Street
London SW1A 2AH

Website: <https://www.gov.uk>

FREEDOM OF INFORMATION ACT 2000 REQUEST REF: 0144-15

Thank you for your email of 11 February 2015 asking for information under the Freedom of Information Act (FOIA) 2000. You asked:

This is a request for information under the Freedom of Information Act. My request relates to the Dominican Republic's Law 169/14, introduced in May 2014. For more information, see Amnesty International: <http://www.amnesty.org/en/news/dominican-republic-no-more-hope-tens-thousands-stateless-and-risk-expulsion-if-residence-deadli>

I would like to request all correspondence and communications held by the Foreign & Commonwealth Office that relate to Law 169/14, including press clippings, email correspondence, briefings and reports.

I am writing to confirm that we have now completed the search for the information which you requested and I can confirm that the Foreign and Commonwealth Office (FCO) does hold information relevant to your request. Please find attached the information that the FCO can release to you.

The following exemptions have been applied against your request: Section 27 – International relations, Section 35 – Formulation of government policy, Section 40 – Personal information, Section 41 – Information provided in confidence and Section 42 – Legal professional privilege.

Section 27(1)(a) & (b) of the FOIA recognises the need to protect information that would be likely to prejudice relations between the UK and the Dominican Republic if it was disclosed. The application of section 27(1)(a) & (b) requires us to consider the public interest test arguments in favour of releasing and withholding the information. We acknowledge that releasing information on this issue would increase public knowledge about the issue and our relations with the Dominican Republic (and to a certain extent, Haiti), but this section recognises that the effective conduct of international relations depends upon maintaining trust and confidence between governments. If the UK does not maintain this trust and confidence, its ability to protect and promote UK interests abroad through international relations will be hampered, which will not be in the public interest. The Dominican Republic and IGOs may be 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 these reasons we consider that the public interest in maintaining this exemption outweighs the public interest in disclosing the information.

Section 35 is statutory recognition of the public interest in allowing government to have a clear space, immune from exposure to public view, in which it can debate matters internally with candour and free from the pressures of public political debate.

Section 35 (1) (a) of the FOIA relates to the formulation or development of government policy. This is a qualified exemption which requires the application of a public interest test. It is recognised that there is a public interest in 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 the pros and cons without there being disclosure which might inhibit the free and frank discussion of all policy options. It is our view that disclosure of this information would mean that we would risk undermining future decision making and discussion on these subjects in future. For these reasons we consider that the public interest in maintaining this exemption outweighs the public interest in disclosure of the information.

Some of the withheld information is personal data relating to third parties. It is our view that disclosure of this information would breach the first data protection principle, which states that personal data should be processed fairly and lawfully. Section 40(2) and (3) of the FOIA therefore apply. It is the fairness aspect of this principle which we think would be breached by disclosure in this case. In such circumstances section 40 confers an absolute exemption on disclosure. We do not therefore have to apply the public interest test.

Some of the information that you requested has been withheld under Section 41 (1) of the Freedom of Information Act – information provided in confidence. This allows for information to be exempt if it was obtained by the public authority from any other person and the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person. Section 41 also confers an absolute exemption on disclosure, and therefore a public interest test is not required.

Some of the information you have requested is exempt under section 42(1). Section 42(1) of the Act recognises the validity of withholding information that is subject to Legal Professional Privilege (LPP), which exists in order to encourage clients to be frank and open with their legal adviser. It is important that the government is able to seek legal advice so that it can make its decisions in the correct legal context. The legal adviser must be in possession of all material facts in order to provide sound advice. The government must, therefore, feel confident that it can disclose *all* relevant facts to its legal adviser. It should be able to do so without fearing that this information will be disclosed to the public. In turn the legal adviser will consider the issues and the arguments and weigh up their relative merit.

Transparency of decision making and knowing that decisions are taken in the correct legal context are two reasons why it might be argued that information subject to section 42(1) should be disclosed. However, the process of providing legal advice relies for its effectiveness on each side being open and candid with the other. Such candour is ensured by the operation of LPP. The importance of this principle was debated and reinforced in the

House of Lords in *Three Rivers District Council and BCCI v The Governor and Company of the Bank of England* [2004] UKHL 48. For these reasons, I consider that the public interest in maintaining LPP under section 42(1) outweighs the arguments in favour of disclosure.

Once an FOI request is answered, it is considered to be in the public domain. To promote transparency, we may now publish the response and any material released on gov.uk in the [FOI releases](#) section. All personal information in the letter will be removed before publishing.

The copies of information being supplied to you continue to be protected by the Copyright, Designs and Patents Act 1988. You are free to use it for your own purposes, including any non-commercial research you are doing and for the purposes of news reporting. Any other re-use, for example commercial publication, would require the permission of the copyright holder. Most documents supplied by the FCO will have been produced by government officials and will be protected by Crown Copyright. To re-use Crown Copyright documents please consult the [Open Government Licence v3](#) on the National Archives website.

Information you receive which is not subject to Crown Copyright continues to be protected by the copyright of the person, or organisation, from which the information originated. You must ensure that you gain their permission before reproducing any third party (non-Crown Copyright) information.

Yours sincerely,

Deputy Head Caribbean Team
Caribbean, Central America & Mexico Department



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.