



Foreign &  
Commonwealth  
Office

**Caribbean and Bermuda Section**  
Foreign and Commonwealth Office  
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14 November 2016

**FREEDOM OF INFORMATION ACT 2000 REQUEST REF: 0985-16**

Thank you for your email of 17 October asking for information under the Freedom of Information Act (FOIA) 2000. You asked:

*Please disclose ALL documentation - whether written, audio or video - regarding discussions between the Turks & Caicos Islands (TCI) Government and the FCO, within the last 12 months, with respect to the abolishing/eliminating the role of the Chief Financial Officer (CFO).*

*In particular, please disclose any and all documentation concerning the following:*

- 1) Any agreements between the TCI and the UK with respect to the role of CFO.*
- 2) Correspondence between the TCI government and UK government.*
- 3) Minutes of any meetings between the TCI government and UK Government.*
- 4) Any other information in this regard that is accessible to the public*

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. However, there is no information that falls within the scope of this request, and which is in the possession of the FCO, which is also accessible to the public. We therefore consider that the FCO does not therefore hold any information relevant to category 4 of your request.

Please find attached the information that the FCO can release to you. Some information has been withheld using section 35 – Formulation of government policy, section 42 – Legal professional privilege and section 40 – Personal information.

Section 35 is a qualified exemption and I have considered whether the balance of the public interest favours our release of this material. There is a general public interest in disclosure of information and I recognise that openness in government may increase public trust in and

engagement with the government. I recognise that the decisions Ministers make may have a significant impact on the lives of citizens and there is a public interest in their deliberations being transparent. These public interests have to be weighed against a strong public interest that policy-making and its implementation are of the highest quality and informed by a full consideration of all the options. Ministers must be able to discuss policy freely and frankly, exchange views on available options and understand their possible implications. The candour of all involved would be affected by their assessment of whether the content of the discussions will be disclosed prematurely, as it formed part of briefing on ongoing policy. If discussions were routinely made public there is a risk that Ministers may feel inhibited from being frank and candid with one another. As a result the quality of debate underlying collective decision making would decline, leading to worse informed and poorer decision making. Taking into account all the circumstances of this case, I have concluded that the balance of the public interest favours withholding some of the information that would fall within the scope of your request.

Section 42(1) of the FOIA 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. 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. For this reason, I consider that the public interest in maintaining LPP under section 42(1) in respect of some of the information that would fall within the scope of your request outweighs the arguments in favour of disclosure.

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, s.40 confers an absolute exemption on disclosure. There is, therefore, no public interest test to apply.

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](https://www.gov.uk) in the [FOI releases](#) section. All personal information in the letter will be removed before publishing.

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Yours sincerely,

Caribbean and Bermuda Section  
Overseas Territories Directorate



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