



27 July 2017

**FREEDOM OF INFORMATION REQUEST: 0435-17**

Thank you for your e-mail of 3 May in which you asked for the following information under the Freedom of Information Act (FOIA):

*I would like to request the following documents for research purposes:*

- 1. I am particularly searching for cables related to the Hong Kong Legislative elections of 1995. The elections were held on 17 September 1995 so it would be great if you have cables from the week following the election results. And the last telegram of Patten "I have relinquished the administration of this government. God Save The Queen. Patten"*
- 2. Anything related to Hong Kong which contains "2047" or anything that refers to the fate of Hong Kong after the Basic Law expires in 2047.*
- 3. Cables related to the Occupy Central protest in Hong Kong or cables related to political reforms in Hong Kong (the most recent).*

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. I am pleased to enclose the material which we can release to you. Some information is being withheld under the following exemptions of the FOIA:

- Section 27 International Relations
- Section 35 Formulation of government policy
- Section 38 Health and Safety
- Section 40 Personal information
- Section 41 Information passed in confidence

**Section 27 - International Relations**

Some information has been withheld under the International Relations exemption contained in Section 27 of FOIA. The disclosure of this information would be likely to prejudice relations between the UK and the US, Chinese and Hong Kong Special Administrative Region (SAR) Governments, and the promotion or protection by the UK of its interests abroad.

The effective conduct of international relations depends upon maintaining trust and confidence between governments. This relationship of trust allows for the free and frank exchange of information on the understanding that it will be treated in confidence. If the UK does not respect such confidences, its ability to protect and promote UK interest through international relations will be prejudiced. The US, Chinese and Hong Kong SAR Governments may be more 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. The arguments in favour of disclosure for reasons of transparency and better understanding of international relations have been weighed against the need to protect relations between the UK and the US, Chinese and Hong Kong SAR Governments, and promote or protect UK interests abroad. For all these reasons, we consider that in all the circumstances of the case, the public interest in maintaining this exemption outweighs the public interest in disclosing the information covered by section 27 (1) (a) and (2).

### **Section 35 - Formulation of government policy**

Some information has been withheld under the formulation of government policy exemption sub-sections 35(1) (a) of FOIA. 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 also recognise that the communications Ministers make with foreign counterparts may have a significant impact on the lives of citizens and there is a public interest in their deliberations being transparent.

There is a general public interest in understanding the formulation of foreign policy. This public interest has to be weighed against the public interest in good policy making and delivery that is informed by a full consideration of all the options. Within government, officials and Ministers must be able to discuss policy freely and frankly and in order to fully understand the possible implications of all the available options and deliver it effectively. The candour of all involved would be affected by their assessment of whether the content of the discussions will be disclosed. If discussions were routinely made public there is a risk that officials 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 and policy delivery. Taking into account all the circumstances of this case, I have concluded that the balance of the public interest favours withholding this information.

### **Section 38 Health and Safety**

Some of the information is exempt under section 38(1) (a) and (b) as disclosure would or would be likely to endanger the physical or mental health of any individual or endanger the safety of any individual. This qualified exemption also requires the application of the public interest test. In applying the public interest test we again took into consideration the factors in favour of disclosure; in this case that releasing such information would demonstrate openness and public accountability regarding contingency planning for staff at the British Consulate General during the 2014 Occupy protests in Hong Kong. We balanced these against the grounds for non-disclosure. We felt that disclosure of details related to contingency planning could pose a risk to staff safety. On balance we concluded that the public interest in maintaining this exemption outweighs the public interest in disclosing the information.

## **Section 40 Personal information**

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

## **Section 41 Information provided in confidence**

Some information within the scope of your request has been withheld under the confidential information exemption, under Section 41 of FOIA. This relates to information shared by business and third parties in relation to the 2014 Occupy protests in Hong Kong. We recognise when information has been passed to the FCO in good faith, and when the disclosure of it would be likely to be considered a breach of confidence. If these documents were to be released to you, our future relationship with those parties could be damaged due to this breach of trust. This is an absolute exemption and so the public interest test does not apply.

For these reasons, we consider that the public interest in maintaining these exemptions outweighs the public interest in disclosing it.

Yours sincerely,

China 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.