

Maurice Frankel
CFOI

14 September 2006

Dear Mr Frankel,

Re: Request for information

I refer to your request, which the Department received on 17 August. You asked for:

“(a) the individual returns submitted by departments/central govt bodies following the exercise this March in which they monitored the costs of responding to FOI requests;

(b) any summary of this data produced by DCA;

(c) any analysis of the above data, whether by departments or the DCA.”

I can confirm that the department holds information falling within the scope of all three elements of your request. However, the information is exempt from disclosure under section 35(1)(a) of the FOI Act, which exempts information that relates to the formulation and development of government policy.

This exemption is subject to a public interest test, which requires us to assess whether the public interest falls in favour of maintaining the exemption or releasing the information. In considering this, we have had regard to section 35(4), which states that public authorities should have regard to the particular public interest in the disclosure of factual information which has been used, or is intended to be used, to provide an informed background to decision-taking. While not all of the information falling within the scope of your request falls within the description “factual information”, we have formed the view that some of it does.

We recognise that the release of the information you have requested, both that constituting factual information and that constituting analysis or advice, may enhance the general public interest in greater transparency of decision-making processes and informed public debate on policy formulation. We have paid careful attention to the possibility that the release at this stage of certain factual information falling within the scope of your request might broaden the availability of opinion and advice for



government to take into account when formulating policy in this area.

However, we have also had regard to the fact that government policy in this area is still developing. Taking this into account, we believe that disclosure at this stage of the information you have requested would result in significant detriment to the policy formulation process.

There is a strong public interest in officials and government departments being able fully and frankly to exchange views and information for the purposes of deliberation, particularly in relation to sensitive discussions on a matter of developing government policy. In order for government to succeed in upholding the public interest in high quality policy making, officials need to be able to gather and share all available information, consider the important issues at stake and policy options in respect of those issues, and debate them vigorously in order to expose their merits or demerits and to understand their possible implications. The prospect of premature disclosure of the information you have requested would, both in this instance and more generally, be likely to have a substantial impact on the nature of discussion of policy issues, leading to a reluctance on the part of officials to share sensitive information and engage in and record candid discussion as part of the deliberative process. If the perception existed that information and analyses concerning sensitive issues were liable to be released at too early a stage of the policy process, the free and frank exchange of information between officials and government departments and the candid discussions between officials and ministers that are so vital to high quality policy formulation would be inhibited, to the detriment of both present and future policy formulation.

For those reasons, we consider that the balance of the public interest favours maintaining the exemption at section 35(1)(a) and withholding the information you have requested.

If you are unhappy with the way the Department has handled your request, you may ask for an internal review. Requests for internal review should be addressed to Access Rights Unit, Department for Constitutional Affairs, 5th Floor, 30 Millbank, London SW1P 4XB.

If following the internal review you remain dissatisfied with the Department's treatment of your request then you may take your complaint to:

The Information Commissioner
Wycliffe House,
Water Lane,
Wilmslow,
Cheshire
SK9 5AF

Yours sincerely

Reaz Khedarun
Access Rights Unit