



Department of
Justice
An Roinn Dlí agus Cirt
Máinnystrie O tha Laa
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4 December 2024

REFERENCE: FOI24121

Dear Sir,

Thank you for your request for information dated 8th October 2024 and detailed below.

Can the department share the minutes of meetings between the DoJ Minister and the following individuals between 1 April and June 30, 2024:

1. *Liam Kelly*
2. *Judge Burgess*
3. *Judge Marrinan*
4. *Peter Sheridan*
5. *Dame Brenda King*

If there were documents shared at any/all of these meetings or presentations made, I'd like to see the details of those also.

Some of the information you have requested is covered by the following sections of the Freedom of Information Act 2000:

- section 35 (1)(a) (formulation of Government Policy);
- section 35(1)(c) (neither confirm nor deny the provision of advice by any of the Law Officers or any request for the provision of such advice)
- section 36 (2) (b) would, or would be likely to, inhibit— (i) the free and frank provision of advice, or (ii) the free and frank exchange of views for the purposes of deliberation, or
- section 36 (2) (c) would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.

The information requested in relation to minutes of meetings with Judge Burgess and Judge Marrinan is withheld under Section 35(1)(a). The information requested in relation to Dame Brenda King is withheld under Section 35(1) (a)&(c), and the information requested in relation to Liam Kelly and Peter Sheridan is withheld under Section 36(2) (b)&(c).

Qualified Exemptions

The exemption provisions of sections 35(1)(a) confer a qualified exemption to our duty under section 1(1)(b) of the Act – to release the information requested. Information covered by qualified exemptions can only be withheld where the public interest falls in favour of applying the exemptions.

We have provided details of our Public Interest Test considerations in **Annex A** to this letter.

It should be noted that while some of the information you have requested is exempt from disclosure under s42 (legal professional privilege); by virtue of 35(1) (c) and Section 35 (3) of FOIA, we neither confirm nor deny whether the information held was advice provided by law officers. Full public interest considerations in respect of s35(1)(c) and 35(3) can also be found at Annex A of this letter.

If you are unhappy with the result of your request for information you may request an internal review within two calendar months of the date of this letter. If you request an internal review please do so in writing stating the reasons to the address above.

If following an internal review you were to remain dissatisfied you may make a complaint to the Information Commissioner and ask the Commissioner to investigate whether the DOJ has complied with the terms of the FOIA. You can write to the Information Commissioner at:

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

The Commissioner will not investigate a complaint unless an internal review procedure has been carried out.

Further details on the role of the Information Commissioner and the handling of appeals can be found at: www.informationcommissioner.gov.uk

Yours sincerely

Records & Information Manager

Annex A

35(1)(a) (Formulation of government policy).

In favour of release:

- Disclosure prior to a decision being taken will lead to more informed public debate
- Informs the public how policy decisions are reached, what options are being considered, why some are excluded and others preferred
- Avoids the public view that their opinion doesn't count and that the decision was a foregone conclusion
- May expose wrongdoing
- Where there is a large amount of public expenditure or deviation from routine practices, there will be a strong public interest in disclosure

In favour of non-disclosure:

- Maintains private thinking space
- Future release may inhibit debate and the exploration of the full range of policy options that ought to be considered
- The prospect of release may put policy makers in the position of having to defend everything that has been raised during deliberation
- Disclosure could allow targeted lobbying by certain groups that could inhibit objective decisions being made.
- Disclosure could compromise future consultation and thwart the exchange of ideas
- Releasing information relating to the development of some policies is likely to prejudice such development and subsequent implementation.

Conclusion

We are satisfied that the section 35 policy formulation exemption applies. Although the proposed policies will involve changes which could have a significant effect on the general public, the disclosure of the information may have an adverse effect on the policy makers in that they would be less likely to provide full and frank advice or opinions on policy proposals. For that reason, it is our view that the public interest in protecting the policy making activities outweighs the public interest in releasing the information.

S35(1)(c) and s35(3) (neither confirm nor deny the provision of advice by any of the Law Officers or any request for the provision of such advice)

In favour of confirming or denying

There is a public interest in confirming or denying the interests of the public are protected in regard to matters of law.

In favour of neither confirming nor denying

There is a long standing constitutional convention that government does not reveal whether Law Officers have or have not advised on a particular issue, or the content of such advice. There is also a strong public interest in not routinely confirming the occasions on which Law Officers' advice has been sought as it could give rise to questions about why advice was not sought in other cases. If government were then subsequently criticised for not seeking Law Officer's advice on other occasions, it could possibly put pressure on officials to seek such advice where the circumstances do not warrant doing so. It is not in the public interest for government time to be used inefficiently. Furthermore, it is not practicable for Law Officers to advise on every aspect of government policy which has legal implications.

Conclusion

We have concluded that the public interest is best served by neither confirming or denying that Law Officer's advice was sought in this case.

36(2)(b) & (c) (Prejudice to effective conduct of public affairs)

In favour of release:

There is a general public interest in being able to understand the way in which Government works, how decisions are made and the extent to which various factors influenced those decisions. Disclosure would provide greater transparency and accountability, and increased levels of public interest and trust in the conduct of public affairs.

In favour of non-disclosure:

There needs to be a space within which the Justice Minister is able to discuss the Government's position on sensitive issues, such as proposed legislative change, freely and frankly. These are ongoing politically-charged issues for which the Minister requires clear space, free from public pressure, to discuss and allow all options to be considered. Without this space it would likely prejudice the ability to freely explore all options which could, in turn, adversely impact on the outcome for the public. Releasing information on sensitive and current issues is likely to place external pressure on the Minister which may have a negative impact on the long term decisions made by her.

Conclusion

The balance lies in withholding the information.