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Alan Dransfield  
Via: alanmdransfield@gmail.com

Our ref: IR2021/06358

19 April 2021

Dear Alan Dransfield

## **FREEDOM OF INFORMATION REQUEST REF: FOI2021/03866 - INTERNAL REVIEW**

We refer to your email of 18 March in which you requested an Internal Review. Your request for an Internal Review was prompted by the Cabinet Office's response of the same day to your request for information (reference FOI2021/03866) under the Freedom of Information Act 2000 ('the Act').

This letter constitutes the outcome of the Internal Review. My findings are below.

### **The request**

On 17 February you submitted a request for information. You wrote:

*'Under protection of the FOIA 2000 please provide me with the following information.  
1, Cabinet Office Committee meeting minutes ref recent proposal to make FOIA 2000 changes.  
2.Minutes of meetings between Michael Gove and the Duchy of Lancaster for the last 12 months'*

### **The response**

The Cabinet Office responded to you on 18 March. It informed you that:

*'Following a search of our paper and electronic records, I can confirm that the information requested in the second part of your request is not held by the Cabinet Office.*

*In regards to the first part of your request, in reliance on the exclusion at section 35(3) of the Freedom of Information Act, I can neither confirm nor deny whether information is held which is subject to the exemptions at section 35(1)(a) and (b) of the Act. Section 35(1)(a) and (b) states that information held by a government department is exempt information if it relates to the formulation or development of government policy and communications between ministers.*

*Section 35(3) says that the duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1). Section 35(3) only applies where, in all the circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether or not the Cabinet Office holds the information.*

*The Cabinet Office acknowledges that general public interest in disclosure of information and I recognise that openness in government may increase public trust in and engagement with the government. In reliance on Section 35 the Cabinet Office recognises 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. 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 neither confirming nor denying whether information is held.'*

### **Request for an Internal Review**

On 18 March, you requested an Internal Review of your request for information. You wrote:

*'Please review your decision ref section 35.1 exemption, I do not accept you can/should apply section 35 .Moreover, I believe you are in breach of section 77of the FOIA 2000. My request far outweighs the Cabinet Office need to hide the truth about the Cabinet Office. Using section 35 does actually deny my civil,human and legal rights to obtain this information , Public interest also outweighs the CO need to hide this information  
I look forward to your response. with thanks'*

### **Outcome of the Internal Review**

Thank you for your email of 18 March 2021. You asked for an internal review of our response to your request for information of 17 February 2021. In your request you asked for information concerning Cabinet Office Committee meeting minutes ref recent proposal to make FOIA 2000 changes.

I have carefully reviewed the handling of your request, and I consider that the exemptions at section 35 of the Freedom of Information Act were properly applied. I believe that the balance of the public interest was fully considered for the reasons set out in our letter of 18 March. I have therefore concluded that I should uphold the decision given in our letter.

I have considered the points you make about the balance of the Public Interest test applied by the Cabinet Office. There will always be some public interest in disclosure to promote transparency and accountability of public authorities, and raise public awareness of the Government's approach to policy. However, disclosing information pertaining to Cabinet Committee agenda items would inhibit Ministers' discretion in how they approach such discussions and ultimately reach collective decisions on policy issues. Disclosure of Cabinet and Cabinet Committee agenda would undermine the safe space required for the free and frank

debate that underpins collective responsibility and decision making by giving rise to commentary on the decision making in particular cases.

After weighing up the competing public interest considerations, I believe that the balance of the public interest has been fully considered. I consider that it is reasonable in the circumstances of the case to neither confirm nor deny that the Cabinet Office holds any information within the scope of your request under section 35(3) of the Act and that the public interest in maintaining the exemption outweighs the public interest in disclosure.

### **The Information Commissioner**

This response ends the complaints process provided by the Cabinet Office. If you are not content with the outcome of your internal review, you may apply directly to the Information Commissioner. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Yours sincerely

Rachel Anderson  
Head of Freedom of Information  
Cabinet Office