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WhatDoTheyKnow

E-Mails without S36



JJ Evans made this Freedom of Information request to National Archives

Please read the recent response and **update the status** so we know whether it contains useful information.

JJ Evans 8 April 2021

Delivered

Dear National Archives,

Under FOI, please can you provide me with copies of all emails disclosed as part of F0055506 but without any application of Section 36?

Yours faithfully,

JJ Evans

FOI Requests, National Archives 8 April 2021

Dear JJ Evans,

Thank you for your information request to The National Archives. We are handling your request and have given it reference number CAS-67967-C9P0F3.

In line with the restrictions in England, The National Archives' reading room service is suspended for the wellbeing of our visitors, staff and suppliers. Processing of FOI Requests will continue to be affected, as staff access to records is currently restricted. Please see our website for the latest updates on our services and the availability of our collections:

[1]<https://www.nationalarchives.gov.uk/about...>

We will update you on the progress of your request by 07/05/2021 23:59.

Your request is being processed by The National Archives' Freedom of Information Centre. To learn more about the work of the FOI centre please visit the following webpage: [2]www.nationalarchives.gov.uk/foi/

Yours sincerely,

The Freedom of Information Centre

Government & Information Rights

The National Archives

Please don't print this e-mail unless you really need to.

[show quoted sections](#)

References

Visible links

1. <https://www.nationalarchives.gov.uk/about...>

2. <http://www.nationalarchives.gov.uk/foi/>

FOI Requests, National Archives 7 May 2021

National Archives may have refused all or part of your request under **Section 36**.

Dear JJ. Evans,

Thank you for your enquiry of 8th April 2021 regarding a review of information withheld in response to FOI request F0055506.

The National Archives has now re-opened to offer reading room services to pre-booked visitors. Processing of FOI Requests will continue to be affected, as due to ongoing safety measures only a limited number of our team are currently able to work on site. Please see our website for the latest updates on our services and the availability of our collections:

[1]<https://www.nationalarchives.gov.uk/about...>

I am writing to inform you that we are required to conduct a public interest test in relation to your request and we will let you know the result of this by 7th June 2021.

This is because this information is covered by the exemption at section 36 of the Freedom of Information Act 2000.

Section 36 exempts information which would, if released, prejudice the effective conduct of public affairs. When this exemption applies we are required to consider whether it is in the public interest to release the information. However, if it is decided that the public interest would not be served by releasing the information we will explain the reasons for this in our final response.

We will email you to inform you of the outcome of the public interest test as explained above. In the meantime, if you have any queries regarding this email please do not hesitate to contact us. Remember to quote the reference number above in any future communications.

Yours sincerely,

FOI Assessor
Freedom of Information Centre
Government and Information Rights
The National Archives

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References

Visible links

1. <https://www.nationalarchives.gov.uk/about/>

FOI Requests, National Archives 4 June 2021

National Archives may have refused all or part of your request under **Section 36**.

Dear JJ. Evans,

Thank you for your enquiry of 8th April 2021 regarding a review of information withheld in response to FOI request F0055506.

The National Archives has now re-opened to offer reading room services to pre-booked visitors. Processing of FOI Requests will continue to be affected, as due to ongoing safety measures only a limited number of our team are currently able to work on site. Please see our website for the latest updates on our services and the availability of our collections: [1]<https://www.nationalarchives.gov.uk/about/>

We wrote to you on 7th May 2021 to inform you that information in this record is covered by a qualified exemption under the Freedom of Information Act 2000. This requires us to carry out a public interest test to determine whether the information can be released.

The test is still being considered and we hope to have reached a decision by 2nd July 2021. Once the test has been completed we will provide further explanation regarding the decision reached.

We hoped it would have been completed by this time but unfortunately a decision has not yet been reached. Under the FOI Act we are allowed a reasonable period of time to conduct the test, and where a case raises complex public interest considerations we are permitted to extend the time

allowed to reach a decision.

To remind you, the exemption being considered is at section 36 of the Freedom of Information Act 2000. Section 36 exempts information which would, if released, prejudice the effective conduct of public affairs. When this exemption applies we are required to consider whether it is in the public interest to release the information. However, if it is decided that the public interest would not be served by releasing the information we will explain the reasons for this in our final response.

We will email you to inform you of the outcome of the public interest test as explained above. In the meantime, if you have any queries regarding this email please do not hesitate to contact us. Remember to quote the reference number above in any future communications.

Yours sincerely,

FOI Assessor
Freedom of Information Centre
Government and Information Rights
The National Archives

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References

Visible links

1. <https://www.nationalarchives.gov.uk/about...>

FOI Requests, National Archives 9 June 2021

National Archives may have refused all or part of your request under **Section 36 and Section 40**.

6 Attachments

F0055506 section 36 Page 7.jpg

117K [Download](#)

F0055506 section 36 Page 25.jpg

66K [Download](#)

F0055506 section 36 Page 20.jpg

120K [Download](#)

[Show all attachments](#)

Dear JJ. Evans,

Thank you for your enquiry of 8th April 2021, in which you asked for information withheld from FOI request F0055506 under section 36 of the FOI Act.

Your request has been handled under the Freedom of Information (FOI) Act 2000. The FOI Act gives you the right to know whether we hold the information you want, and to have it communicated to you, subject to any exemptions which may apply.

Unfortunately, we are unable to provide you with this information because it remains covered by the exemption at section 36(2)(b & c) of the FOI Act, which exempts information if release would prejudice the conduct of public affairs. For further information concerning this exemption, please follow this [1]link to the website of the Information Commissioner's Office.

Section 36 (2) (b-c) is a qualified exemption. It exempts information from release if, in the reasonable opinion of a qualified person, disclosure of the information would, or would be likely to; inhibit the free and frank provision of advice, the free and frank exchange of views for the purposes of deliberation, or would otherwise prejudice, or would be likely to otherwise prejudice, the effective conduct of public affairs.

We are required to conduct a public interest test when applying any qualified exemption. This means that after it has been decided that the exemption is engaged, the public interest in releasing the information must be considered. If the public interest in disclosing the information outweighs the public interest in withholding it then the exemption does not apply and must be released. In the FOI Act there is a presumption that information should be released unless there are compelling reasons to withhold it.

With the agreement of the Qualified Person, who in this case is the Chief Executive of the National Archives, in whose reasonable opinion this exemption is engaged, the public interest has now been concluded and the balance of the public interest has been found to fall in favour of non-disclosure.

Considerations in favour of the release of the information included the principle that there is a public interest in showing a true and open account of government decision-making, making for greater accountability and increasing public confidence in the integrity of the decisions made. There is also a general public interest in being able to evaluate government policy.

However, it is considered that the release of some of the information requested would prejudice the effective function of the process for retention and transfer of public records. It is important that officials are able to exchange views freely and frankly and to fully discuss any

issues that effect this process. To release some of the information requested may act as an inhibitor to necessary discussions which would not be in the public interest and would be likely to prejudice The National Archives ability to carry out its obligations under the Public Records Act 1958. As such, release of this information would be seen to prejudice the effective conduct of public affairs.

After careful consideration, it has been decided that the balance of the public interest lies in favour of withholding the information on this occasion and that the factors for non-disclosure outweigh any benefits of release.

In order to help distinguish the volume of information that was withheld under section 36, I have attached images of those emails, provided in response to FOI request F0055506, which engaged section 36. Information withheld under section 36 is marked in red. All other exempt information was withheld under section 40(2) of the FOI Act.

Section 40 exempts the release of personal information about a 'third party' (someone other than the requester), if revealing it would breach the terms of Data Protection Legislation. Data Protection Legislation prevents personal information from release if it would be unfair or at odds with the reason why it was collected, or where the subject had officially served notice that releasing it would cause them damage or distress. Personal information must be processed lawfully, fairly and in a transparent manner as set out by Art. 5 of the General Data Protection Regulation (GDPR).

In this case the exemption applies because the emails contain the names and contact details of junior officials. Releasing personal information about junior members of staff, who have not given express permission, would be deemed to be unfair, as there is no expectation that this information would be released into the public domain. This would be unlawful under Data Protection Legislation as it would be in breach of one of the Data Protection Principles and, under section 40(2) of the FOI Act, we are not obliged to provide information that is the personal information of another person if releasing would contravene any of the data protection principles. Therefore, the names of all civil servants below SCS grade were redacted.

If you are dissatisfied with the handling of your request or the decision which has been reached, you have the right to ask for an internal review. Internal review requests must be submitted within two months of the date of this response and should be addressed to:

Quality Manager
Programme Management Office
The National Archives
Kew
Richmond
Surrey
TW9 4DU
[2][[email address](#)]

Please mark your complaint clearly. You have the right to ask the Information Commissioner (ICO) to investigate any aspect of your complaint. However, please note that the ICO is likely to expect internal complaints procedures to have been exhausted before beginning her investigation.

Yours sincerely,

FOI Assessor
Freedom of Information Centre
The National Archives

EXPLANATORY ANNEX

Your request in full:

Under FOI, please can you provide me with copies of all emails disclosed as part of F0055506 but without any application of Section 36?

Please don't print this e-mail unless you really need to.

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References

Visible links

1. <https://ico.org.uk/media/for-organisatio...>
2. [mailto:\[email address\]](mailto:[email address])