

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 11 March 2013

**Public Authority:** Department for Communities and Local Government

**Address:** Eland House  
Bressenden Place  
London  
SW1E 5DU

#### **Decision (including any steps ordered)**

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1. The complainant has requested information relating to a letter sent to Lord Prescott by the Cabinet Office. The Department for Communities and Local Government (DCLG) confirmed that the information was held but that the request was being refused under three subsections of the exemption for prejudice to the effective conduct of public affairs (section 36 of the FOIA).
2. The Commissioner's decision is that DCLG has correctly applied the exemptions and that the public interest favours maintaining the exemptions.
3. The Commissioner does not require the public authority to take any steps.

#### **Background**

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4. In October 2011 DCLG published records of expenditure incurred on Government Procurement Cards (GPC) during the period April 2004 to April 2006 by a predecessor organisation, The Office of the Deputy Prime Minister (ODPM).
5. The publication of the records was reported in the press and in October 2011 Lord Prescott wrote to the then Cabinet Secretary, Lord Gus O'Donnell, seeking an investigation into some of the published payments and confirmation that he had not personally held a GPC during his tenure at the ODPM.

6. The Cabinet Office responded to Lord Prescott on 18 November 2011 and confirmed that he had not held a GPC and, in relation to concerns about the listed payments, it confirmed that much of the expenditure had been legitimately incurred by the ODPM except for seven transactions amounting to £2000 which were made by cloned credit cards. The Cabinet Office subsequently issued a further response to Lord Prescott on 22 November 2011.

## **Request and response**

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7. On 22 July 2012 the complainant wrote to DCLG and requested information in the following terms:

“Further to this article (<http://www.guardian.co.uk/politics/2012/jul/21/prescott-cabinet-office-campaign-letter>) in Sunday’s Observer, would you please send me all correspondence sent between 1st November 2011 and 30th November 2011, originating from or sent to CLG Ministers, civil servants and Special Advisors relating to the letter sent to Lord Prescott on 22nd November 2011 referenced in the article. Would you please ensure any personal e-mail accounts used for corresponding on this official matter are also searched for relevant communications.”
8. Following the Commissioner’s intervention, DCLG responded on 25 September 2012. It confirmed holding the information but refused to provide it citing the exemptions for inhibition to the free and frank provision of advice and the free and frank exchange of views for the purposes of deliberation, and otherwise prejudice to the effective conduct of public affairs at sections 36(2)(b)(i), 36(2)(b)(ii) and 36(2)(c) respectively.
9. The complainant requested an internal review on 25 September 2012. The DCLG responded on 24 October 2012 maintaining its original position.

## **Scope of the case**

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10. The complainant initially contacted the Commissioner on 4 September 2012 to complain that his request for information had not been responded to. The complainant then contacted the Commissioner again on 24 October 2012, having received DCLG’s internal review response to complain that the information requested had been withheld.

11. The Commissioner confirmed with the complainant that his investigation would consider whether DCLG correctly applied the exemptions to refuse the request.
12. As the Commissioner has concluded that DCLG has correctly applied the exemptions at section 36(2)(b)(i) and (ii) and that the public interest favours maintaining the exemption, he has not gone on to consider DCLG's application of section 36(2)(c).

### **Reasons for decision**

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13. The withheld information in this case is identical to the withheld information in case reference FS50478391. Whilst the complainants in the two cases are different, the public authority is the same and the arguments supplied the Commissioner for the application of the exemptions are identical.
14. For brevity, the Commissioner has not reproduced here the content of the 'Reasons for decision' in the decision notice on FS50478391, issued on 6 February 2013, but he has adopted the analysis and concluded that the council correctly applied the exemptions at section 36(2)(b)(i) and 36(2)(b)(ii) for the reasons set out fully in that decision notice. He is sending a copy of that decision notice to the complainant in this case so the complainant is not disadvantaged.

## Right of appeal

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15. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

16. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
17. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Graham Smith**  
**Deputy Commissioner**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**