

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 August 2017

Public Authority: Department for International Development
Address: 22 Whitehall
London
SW1A 2EG

Decision (including any steps ordered)

1. The complainant submitted a request to the Department for International Development (DFID) for a copy of an evaluation report of the Pilot Health PPP Advisory Facility. DFID sought to withhold this information on the basis of the following sections of FOIA: 27(1)(a), (b), (c) and (d), and 27(2) (international relations), 43(2) (commercial interests) and 40(2) (personal data). The Commissioner has concluded that the withheld information is exempt from disclosure on the basis of section 27(2) of FOIA.

Request and response

2. The complainant submitted the following request to DFID on 10 January 2017 about the Harnessing Non-State Actors for Better Health for the Poor programme:

'I would like to request all documents monitoring and evaluating the 'Harnessing non-state actors for better health for the poor (HANSEHP)' programme, held by DfID.'

3. Later that day he explained that:

*'Actually, to be more specific, I would like to request the evaluation of the Pilot Health PPP Advisory Facility, a programme undertaken by HANSHEP. The evaluation was due to be completed by August 2016.'*¹

4. DFID responded on 2 February 2017 and confirmed that it held the information he requested. However, it explained that it considered the information to be exempt from disclosure on the basis of the following sections of FOIA: 27(1)(a), (b), (c) and (d) (international relations); 40(2) (personal data); and 43(2) (commercial interests).
5. The complainant contacted DFID on 7 February 2017 and asked it to conduct an internal review of this decision.
6. DFID informed him of the outcome of the internal review on 7 March 2017. The review upheld the application of the various exemptions cited in the refusal notice. The review also explained that the requested information was exempt from disclosure on the basis of the exemptions contained at sections 27(2) and (3) as the information in question had been provided to DFID by the International Finance Corporation (IFC) on the explicit understanding that it would remain confidential.

Scope of the case

7. The complainant contacted the Commissioner on 15 March 2017 in order to complain about DFID's decision to refuse to disclose the information he requested. The complainant argued that there was a compelling public interest in the disclosure of the information. The complainant's submissions to support this position are referred to below.

¹ HANSHEP is a group of development agencies and countries which seek to improve the performance of the non-state sector in delivering better healthcare to the poor in developing countries. Current members include DFID and the World Bank Group (including the International Finance Corporation (IFC)). The Pilot Health PPP Advisory Facility was established to support governments in developing countries implement Public-Private Partnerships (PPPs) for health services to the poor. DFID provided funding and the IFC acted as the implementing agency. The report which is the subject of this request was commissioned by the IFC and consists of an evaluation of the Facility.

Reasons for decision

Section 27(2) – international relations

8. DFID argued that the entirety of the requested information was exempt from disclosure on the basis of section 27(2) of FOIA. This section states that:

'Information is also exempt information if it is confidential information obtained from a State other than the United Kingdom or from an international organisation or international court'

9. Section 27(3) clarifies that:

'For the purposes of this section [ie section 27(2)], any information obtained from a State, organisation or court is confidential at any time while the terms on which it was obtained require it to be held in confidence or while the circumstances in which it was obtained make it reasonable for the State, organisation or court to expect that it will be so held.'

10. As noted above, the withheld information consists of a report provided to DFID by the IFC. For the purposes of section 27, DFID argued that the IFC was an international organisation. DFID explained that the IFC provided it with the report in November 2016 with an explicit request that it should not be shared outside of DFID or the World Bank Group. DFID provided the Commissioner with a copy of a letter dating from April 2017 in which the IFC confirms its position that the report remains confidential and should not be disclosed. Furthermore, DFID emphasised that the evaluation report is still under active consideration and thus concerns a live and ongoing issue. Given these circumstances, DFID explained that it was very firmly of the view that the withheld information was, as a matter of fact, confidential information provided by an international organisation and that the IFC's reasonable and stated expectation in sharing it with DFID was that it would remain so.
11. In light of these circumstances, the Commissioner agrees with DFID's position and has no hesitation in accepting that the withheld information constitutes confidential information from an international organisation. The withheld information is therefore exempt from disclosure on the basis of section 27(2) of FOIA.

Public interest test

12. Section 27(2) is a qualified exemption and thus subject to the public interest test. Therefore, the Commissioner must consider whether the public interest in favour of maintaining the exemption outweighs the public interest in disclosing the information.

Public interest in disclosure of the withheld information

13. For its part DFID recognises that there is a general public interest in transparency and accountability and in raising public understanding of how the UK government engages with partner governments and international institutions. It also acknowledged that there is also a clear public interest in demonstrating the effectiveness of its joint partnerships. To help meet this public interest, DFID noted that it routinely publishes a wide range of project information on its 'Development Tracker' and this includes the detailed business case and a series of annual reviews relating to the HANSHEP programme.
14. The complainant argued that it is in the public interest for this evaluation to be released so that the public in both the UK and recipient countries can see how aid money has been used in this programme, what its impact has been, and in order to inform future such programmes. He suggested that if such evaluations are not publicly released, then there is little point in holding them.

Public interest in maintaining the exemption

15. DFID argued that there is a very strong public interest in the UK being able to maintain good international relations. In the context of this request DFID explained that the IFC and the wider World Bank group are key international partners for the UK with relations extending to a very broad and deep range of interests (for example, trade, security, climate change, migration). A breakdown in trust between the UK and the World Bank caused by the disclosure of confidential information, such as the withheld information in this case, would have an adverse effect on the UK's ability to pursue these wide-ranging and significant areas of policy interest. DFID argued that damage to relations with World Bank partners would make it much more difficult for it to carry out the public policy objectives of reducing poverty.
16. Similarly, DFID argued that there is a very strong public interest in the UK being able to support partner organisations such as the IFC in preserving good working relations and essential information flows with their own clients and international partners. On this point DFID explained that disclosing the withheld information would undermine IFC's commitments and obligations to protect information provided to

them in confidence. As a result DFID suggested that disclosure of the withheld information would be likely to damage the IFC's relationships with key partners and impede their ability to promote international development. DFID emphasised that it considered such outcomes to be clearly against the public interest.

17. Furthermore, DFID argued that there is also a very strong public interest in ensuring that the UK government receives full and frank information from its partners. DFID explained that in many cases, as with this evaluation report, the information has to be detailed and completely candid if it is to be of value to the organisations concerned. It emphasised that for this to occur, those involved must be free of any inhibitions that might interfere with their ability to give full and frank comments, including concerns that the information will be exposed prematurely to public scrutiny or comment.
18. Finally, DFID explained that in its view the public interest would be harmed by any negative impact on the exchange of information between the UK and its international partners. This could be either through information no longer being provided in future or by a failure by its partners to respect the confidentiality of the information that they received from the UK government. Such an outcome would reduce the likelihood of open and effective dialogue in future and would significantly undermine the UK's ability to respond to international development needs.

Balance of the public interest

19. The Commissioner agrees that this a clear public interest in the disclosure of information which allows the public to understand how DFID interacts with international partners in achieving its objectives. More specifically disclosure of the withheld information would provide the public with a detailed insight into a programme in which DFID was involved with, namely the HANSHEP programme. However, the Commissioner does not agree with the complainant's suggestion that unless such evaluation reports are made public there would little to be gained from conducting them. The withheld information is being used by the IFC and DFID as part of their evaluation of the project. In the Commissioner's view the report does therefore serve a clear purpose even without being placed into the public domain.
20. With regards to the arguments in favour of maintaining the exemption the Commissioner agrees with DFID that there is very strong public interest in ensuring the UK maintains effective relations with international organisations. In the particular circumstances of this request the Commissioner believes that this factor attracts particular weight given that the withheld information not only contains a candid

assessment of the programme in question but also relates to an ongoing live issue which only strengthens the argument that DFID's relations with the IFC, and the wider World Bank Group, would be negatively affected if the information was disclosed. In the Commissioner's view such factors also makes it more likely that DFID's ability to receive confidential information from other international partners in future would be undermined if the withheld information was disclosed under FOIA. Consequently, given the likelihood of such risks, and indeed the inherent public interest in upholding a confidence, the Commissioner has concluded that the public interest firmly favours maintaining the exemption.

21. In light of her finding in relation to section 27(2) the Commissioner has not gone on to consider DFID's reliance on the other exemptions it has relied upon.

Right of appeal

22. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

23. 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.
24. 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

Jonathan Slee
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF