

Caitlin Smith

2 April 2009

caitlin.smith@bbc.co.uk

Dear Ms Smith,

FOI request (our reference FOI 261916, your reference 189/1/9)

I am writing regarding your request for information, which the Cabinet Office received on 26 January 2009. I apologise for the delay in replying. Your request is being dealt with in accordance with the Freedom of Information Act 2000. In that request, you asked for:

- “1. Who in the Home Office approved the publication of this information?
2. Who in the Cabinet Office or the Prime Minister's office approved its publication?
3. Which individuals were aware prior to publication of the fact that release of some information involved was contrary to the advice of some government statisticians? (If it is not possible for any reason to list all individuals to which this applies, please list as many as possible)
(*Please note that with respect to the three questions above, I would like in each case to know the name, the job title and grade. If you decide not to release some of the names, I would still like to know job title and grade).
4. At what point did the following individuals first become aware of the fact that release of some information involved was contrary to the advice of some government statisticians -
 - a) the Prime Minister
 - b) the Home Secretary
 - c) other Home Office ministers
 - d) other Cabinet Office ministers(If in some of these cases the information is not held, please nevertheless provide for as many individuals as possible)
5. Please supply a copy of all communications (including emails) between Karen Dunnell and (a) the Home Office or (b) Downing St which relate in any way to this matter
6. Please supply a copy of records of all meetings or phone calls between Karen Dunnell and (a) the Home Office or (b) Downing St which relate in any way to this matter.”

I can confirm that the Cabinet Office holds some information falling within the description specified in your request.

Taking each of your requests in turn, our response follows:

1. Information recording who in the Home Office approved publication is not held by the Cabinet Office.
2. No such information is held by the Cabinet Office because the fact sheet was a Home Office publication and was published under Home Office authority, as explained in Kevin Brennan's letter of 25 February to Tony Wright (attached).
3. The Cabinet Office holds some information of this nature. However, the information is governed by section 40 (2) of the Freedom of Information Act. Section 40(2) exempts personal information from disclosure if that information relates to someone other than the applicant, and if disclosure of that information would, amongst other things, contravene one of the data protection principles in section 1 of the Data Protection Act. In this case, I believe disclosure would contravene the first data protection principle, which provides that personal data must be processed fairly and lawfully. This is an absolute exemption and the Cabinet Office is not obliged to consider whether the public interest favours disclosing the information. For a more general account please see, in addition to Kevin Brennan's letter, Sir Gus O'Donnell's letter of 16 January 2009 to Tony Wright, which is attached and is also available from the Public Administration Select Committee's website. I also attach Sir Gus O'Donnell's further letter of 5 March which explains why we do not feel it appropriate to identify individuals.
4. As Kevin Brennan's letter explains Home Office Ministers were not aware there were outstanding concerns around the use of NHS data until after the fact sheet had been published. I can also confirm that the other ministers you ask about were not aware of this before the publication of the fact sheet.
5. No such information is held by the Cabinet Office.
6. The telephone call from Karen Dunnell to Jeremy Heywood is referred to in Jeremy Heywood's letter of 12 December to Michael Scholar (attached) which has been published and it is also referred to in the Public Administration Select Committee's evidence session of 5 February and in the written evidence published by the Public Administration Select Committee on 5 March. Cabinet Office holds no other records of any such meetings or phone calls.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

If you are unhappy with the service you have received in relation to your request or wish to request an internal review, you should write to:

Sue Gray
Director
Cabinet Office
70 Whitehall
London
SW1A 2AS

email: foiteam@cabinet-office.x.gsi.gov.uk

You should note that the Cabinet Office will not normally accept an application for internal review if it is received more than two months after the date that the reply was issued.

If you are not content with the outcome of your internal review, you may apply directly to the Information Commissioner for a decision. Generally, the Commissioner cannot make a decision unless you have exhausted the complaints procedure provided by Cabinet Office. The Information Commissioner can be contacted at:

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

Internet: https://www.ico.gov.uk/Global/contact_us.aspx

Yours sincerely,

DAVID DEATON

Head of Statistical Reform Team

cc Alison Potter-Drake (CO Press Office)
Nicola Beckford (BBC)