

FOI Request (received 05 February 2024) - Reference: DFI/2024-0050

Pursuant to the FOI Act 2000 and any other relevant statutory provisions please provide me with any introductory materials which have been prepared for or provided to the new Minister, John O'Dowd MLA, including but not limited to the "First Day Brief".

Response (issued 28 February 2024)

I refer to your request received by this Department on 5th February 2024 in which you request information under the Freedom of Information Act 2000.

Your request asked for any introductory materials which were been prepared for or provided to the new Infrastructure Minister, John O'Dowd MLA including but not limited to the "First Day Brief".

RESPONSE

In response to your request, the Department has completed a search and I can confirm that it does hold information in relation to your request.

I have considered the public interest in this case, and attach all the information that I have determined is suitable for disclosure into the public domain.

Attached is a copy of the First Day Brief.

There is additional information that matches the criteria of your request however I have considered that this is not suitable for disclosure at this stage, and have withheld this information, under s35(1)(a), s35(1)(d), and s42(2) of the Freedom of Information Act.

Section 35(1)(a) is designed to protect the necessary safe space in which government policy is formulated and implemented. This safe space allows officials to provide advice and make suggestions freely and frankly, without the "chilling effect" of potential disclosure of all records to the public.

Section 35(1)(d) covers information relating to the operation of Ministerial private offices. Government ministers have their own private offices comprising a small team of civil servants. They form the bridge between the minister and their department.

The private office's role is to regulate and streamline the ministerial workload and allow the minister to concentrate on attending meetings. As such this exemption covers information such as routine emails, circulation lists, procedures for handling ministerial papers or prioritising issues, travel expenses, information about staffing, the minister's diary, and any

purely internal documents or discussions which have not been circulated outside the private office.

Section 42(2) covers information relating to legal professional privilege. As some of the information that meets the criteria of your request the department can neither confirm nor deny its existence and to do so would involve the disclosure of any legal privileged information. As such this exemption has been engaged.

A number of parts in the attached documents have also been redacted under s35(1)(a)(b), s40(2), s42(2), s43(2) of the FOI Act 2000 and Regulation 12(5)(b) and Regulation 12(4)(d) of the Environmental Information Regulations (EIR).

Section 35(1)(a) is designed to protect the necessary safe space in which government policy is formulated and implemented. This safe space allows officials to provide advice and make suggestions freely and frankly, without the “chilling effect” of potential disclosure of all records to the public.

The purpose of s35(1)(b) relates to Ministerial communications and is to protect the operation of government at Ministerial level. It prevents disclosures which would significantly undermine ministerial unity and effectiveness or result in less robust, well-considered or effective ministerial debates and decisions.

Section 40(2) is relates to the personal information of employees or third-party data and as such any personal information has been withheld.

Section 42(1) of the FOIA provides that information is exempt from disclosure if the information is protected by legal professional privilege (LPP) and this claim to privilege could be maintained in legal proceedings. As such this exemption has been engaged and the relevant sections redacted.

Section 43(2) allows protections for commercially confidential information. The information being withheld, in this case, has the necessary quality of confidence, as it is not trivial, nor is it in the public domain. Disclosure would adversely affect the commercial interests of both the Department and third parties.

Third parties, who have shared commercially sensitive information with the Department, have a reasonable (and actionable) expectation of confidentiality in relation to information provided to the Department about their legitimate economic interests.

Disclosure would also damage the Department’s own legitimate economic interests, as the commercial information is current, compromising the Department’s ability to achieve best value for money for the public purse. There is a need to protect the Department’s

commercial bargaining position in relation to policy decisions that the Minister is being asked to make.

I am satisfied that the public interest is best served by withholding the redacted information at this time.

Regulation 12(5)(b) of the EIR relates to an ongoing legal issue, and disclosing the information at this time would adversely affect the course of justice by placing information in the public domain before it has been assessed as part of the legal processes. Whilst the Department has taken into account the presumption in favour of disclosure, there is an overriding public interest in ensuring that legal proceedings are carried out in a fair manner, and this means there is a greater public interest in withholding the information at this time. Therefore, the exception under Regulation 12(5)(b) is being applied.

Regulation 12(4)(d) of the Environmental Information Regulations 2004 has also been applied due to a matter that relates to material currently in the course of completion (including decision making documentation) that will be potentially subject to a submission for a final determination by the Minister.

Copyright notice

The supply of information under the Freedom of Information Act or the Environmental Information Regulations does not give the recipient or organisation that receives it the automatic right to reuse it in any way that would infringe copyright. Information supplied continues to be protected by copyright. You are free to use it for your own purposes, including for private study and non-commercial research, and for any other purpose authorised by an exception in current copyright law. Documents (except photographs) can also be used in the UK without requiring permission for the purposes of news reporting. Any other re-use, for example commercial publication, would require the permission of the copyright holder.

Most documents provided by a government department or agency will be protected by Crown Copyright. Most Crown Copyright information can be re-used under the [Open Government Licence](#). For information about the OGL and about re-using Crown Copyright information, please see [The National Archives website](#).

Copyright in other documents may rest with a third party. For information about obtaining permission from a third party please see the [Intellectual Property Office's website](#).