Home Office

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www.gov.uk

Mr L P Brooks
request-253987-7eb94ece@whatdotheyknow.com

19 May 2015

CR34419

Dear Mr L P Brooks,

I write further to my letter of 16 March in which I informed you that I needed additional time to consider your Freedom of Information request concerning UK investment in security at the port of Calais: I have now completed my consideration.

Your full request can be viewed in full at **Annex A**.

In summary, the Home Office is able to provide the information you have requested at Q.1, 2 and 3; but has decided to withhold the information at Q.4 and 5 by relying on the exemptions at **section 27 – International relations**, and **section 43 – Commercial interests** – of the Freedom of Information Act (the Act) 2000.

More detailed explanations can be found at **Annexes B** – **F** which accompany this response.

I hope you find this reply useful; however if you remain dissatisfied you may request an independent internal review of our handling of your request by submitting a complaint within two months to the address below, quoting reference **CR34419**. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

Information Rights Team
Home Office
Third Floor, Peel Building
2 Marsham Street
London SW1P 4DF
E-mail: info.access@homeoffice.gsi.gov.uk

As part of any internal review the Department's handling of your information request will be reassessed by staff who were not involved in providing you with this response. If you remain dissatisfied after this internal review, you would have the right of complaint to

the Information Commissioner as established by section 50 of the Freedom of Information Act.

Yours sincerely

R Taylor
Information Rights Team

Annex A

FOI Request –Mr L P Brooks– 16 February 2015

Dear Home Office,

I am writing to request information in reference to the below question from the House of Commons Hansard record from 05/01/2015:

"5 Jan 2015 : Column 13
Charlie Elphicke: Can my hon. Friend confirm that the £12 million in the agreement will be spent on bolstering security and not on a welcome centre at Calais? Will he also reject representations from UKIP that the border controls at Calais should be scrapped and brought back to Dover?

James Brokenshire: I am very pleased to underline the points that my hon. Friend makes. We are not providing financial support for any day centres. Our financial support is focused on security at Calais and on confronting the organised criminality that seeks to take advantage of those trying to come to the UK. The juxtaposed controls absolutely benefit this country and we have no plans to change that"

Hansard link:
http://www.publications.parliament.uk/pa/cm201415/cmhansrd/cm150105/debtext/150105-0001.htm

I would like to request:
1) what is the specific name of the "agreement", mentioned in the above question, that will see £12 million spent on bolstering security in Calais?

2) what is the breakdown of fund allocation of the £12 million by: a) government departments, b) sector (private/public/voluntary)?

3) how much of the £12 million will be opened to private tender?

4) any, and all, documents which outline a budget or funding allocation for the £12 million for for the entirety of the three year programme?

The above question also references support for "day centres". In reference to this I would also like to request:

1) all communiques between UK govt and the relevant French authorities concerning the Centre Aéré Jules Ferry day centre since 2001?

Yours faithfully,

MR. L P Brooks

Annex B

1) what is the specific name of the "agreement", mentioned in the above question, that will see £12 million spent on bolstering security in Calais?

There is no specific name for this agreement: the agreement follows the UK/France joint statement 2014 which can be seen in full via the following link:

http://www.google.co.uk/url?url=http://www.statewatch.org/news/2014/sep/uk-fr-2014-09-20-joint-statement-calais-en.pdf&rct=j&frm=1&q=&esrc=s&sa=U&ei=mXD4VLWODq-M7AbZy4GICw&ved=0CCAQFjAD&usg=AFQjCNEG3bkERnnhxkPP_hxFg9YK-W7q_A

Annex C

2) what is the breakdown of fund allocation of the £12 million by: a) government departments, b) sector (private/public/voluntary)?

At this point it might be helpful if I clarify that £10.5m of the £12m Joint Fund is committed i.e. it has been decided how this money will be used. Although the specific details have not yet been finalised, we estimate that out of the figure of £10.5m; £2.38m is likely to be allocated to Government Departments, and £8.12m is likely to be allocated to the private, public and voluntary sector.

The remaining (£1.5m) balance is not yet committed and different options are currently being considered.

Annex D

3) how much of the £12 million will be opened to private tender?

Of the £10.5m committed to the Joint Fund, £6.3m has been opened for private tender.

Annex E

4) any, and all, documents which outline a budget or funding allocation for the £12 million for for the entirety of the three year programme?

I can confirm that this information is held by the Home Office, however, I have decided that this information cannot be disclosed pursuant to the exemption at section 43(2) of the Act.

While some of the exemptions in the Act are 'absolute', the majority are what is termed as 'qualified' and are subject to a Public Interest Test (PIT).

The exemption under section 43(2) is one such exemption. The PIT is used, in the case of this exemption, to assess the balance of the public interest for and against the requirement to say whether it is in the public interest for the requested information to be disclosed or not. The 'public interest' is not the same as what interests the public. In carrying out a PIT we consider the greater good or benefit to the community as a whole.

The 'right to know' must be balanced against the need to enable effective government and to serve the best interest of the public. The Act is 'applicant blind'. This means that we cannot, and do not, ask about the motives of anyone who asks for information.

In providing a response to one person, we are expressing a willingness to provide the same response to anyone, including those who might represent a threat to an individual or to the UK.

On this basis, and with regard to question 4 of your request, please find set out below, a consideration of the balance of public interest with respect to section 43(2) of the Act.

The full text of the Act reads as follows:

43 - (2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

Section 43(2) allows us to exempt information if its disclosure would, or would be likely to, prejudice the commercial interests of any persons. If we were to disclose some of the information you have requested, this would be likely to prejudice the commercial interests of both the Home Office and those companies with whom the Home Office enters into contracts.

This exemption requires us to consider whether, in every respect the public interest in maintaining the exemption stated above, outweighs the public interest in disclosing the information.

<u>Considerations in favour of disclosing the requested information</u>

We have considered the public interest in disclosing the information to you. There is a general public interest in openness and transparency in the Home Office's use of public funds, and in particular to maintain the department's accountability to taxpayers. Disclosure of this information would demonstrate transparency on how decisions are

made, how public funds are spent, and would in turn engender confidence in the integrity of the procedures involved. The public would also be in a better position to assess the decision-making processes and would be able to assess whether or not the Home Office is getting best value for money.

Releasing the requested information would lead to greater accountability between the Home Office and the public regarding government expenditure.

Considerations in favour of withholding the requested information

We have also considered the public interest in maintaining the exemption to disclose the requested information. There is a public interest in Government departments being able to secure contracts that represent value for money and anything that would undermine this is not in the public interest. Value for money can be best obtained where there is a healthy competitive environment, coupled with the protection of the Government's commercial relationships with industry: were this not to be the case, there would be a risk that:

- Companies would be discouraged from dealing with the public sector, fearing disclosure of information that may damage them commercially, or
- Companies would withhold information where possible, making the decision-making process more uncertain as it would be based on limited and censored data.

At the time of this response, procurement activity is on-going and has not yet been completed. Therefore disclosure of the requested information would be likely to prejudice the relationships and formality of the commercial process.

Conclusion

Taking all the above considerations into account, we have concluded that the balance of the public interests identified lies in favour of maintaining the exemption. This is because the overall public interest lies in ensuring that the Home Office's ability to protect its commercial competitiveness is not prejudiced.

Annex F

1) all communiques between UK govt and the relevant French authorities concerning the Centre Aéré Jules Ferry day centre since 2001?

I can confirm that this information is held by the Home Office, however, I have decided that this information cannot be disclosed pursuant to the exemption at **section 27(1)** of the Act – **International relations**

The full text of the Act reads as follows:

> *27 - (1) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice-*
>
> *(a) relations between the United Kingdom and any other State,*
> *(b) relations between the United Kingdom and any international organisation or international court,*
> *(c) the interests of the United Kingdom abroad, or*
> *(d) the promotion or protection by the United Kingdom of its interest abroad.*

Public interest considerations in favour of disclosure

The Home Office recognises that that there is a general public interest in transparency and openness in government. Such openness would lead to a deeper public understanding and awareness in matters relating to international relations. In this context there is a public interest in knowing the content of communications between the UK government and the French authorities regarding the Centre Aéré Jules Ferry, since 2001. Disclosure would provide a real insight into diplomatic activity and the nature and extent of the relationship between the 2 countries.

Public interest considerations in favour of maintaining the exemption

The Home Office recognises that disclosure could adversely affect not only the UK's relationship and reputation with the French authorities, but also with other countries. Delivery of our domestic and foreign policy objectives relies to a large extent on the free flow of confidential information between the UK and other countries. Full and frank discussions take place; views and information are exchanged. There clearly would be a prejudice to international relations if the information you have requested is disclosed: countries may be less willing to assist the UK in the future and/or less likely to share such documents or information with us, thereby impeding our ability to negotiate effectively with countries – for example on immigration matters – and also impeding our ability to develop and/or carry out public policy in the public interest of safety and security of UK citizens.

The effect of disclosure would clearly not be in the public interest.

Conclusion

I have considered whether in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. I

have concluded that the public interest identified lies in favour of maintaining the exemption.