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From: **Chris Hodgkins** <chrishodgkins3@gmail.com>
Date: Tue, 14 Jun 2022 at 11:01
Subject: FOI Internal Review response - IR2021/07330
To: <simon.case@cabinetoffice.gov.uk>

Dear Mr Case

Cabinet Office Internal Review Reference: IR2021/07330
(Original Case Reference: FOI2021/00993)

Please forgive the late reply to the Cabinet Office's response to my request for a review of my request under the Freedom of Information Act 2000.

I submitted my request on the 16th January 2021.

I received a response on the 18th of January 2021 and then a further response extending the time limit on the 12th of February 2021.

On the 12th of March 2021, I received a response that I thought was unsatisfactory and requested an internal review on the 19th of March 2021.

On the 30th of March 2021, I received an email saying that the Cabinet Office FOI team will "endeavour to complete an internal review within 20 working days".

On the 25th of June 2021, I wrote to the Cabinet Office asking if there was any progress on my internal review. I received an email from the FOI team apologising for the delay, that my case was still under consideration and they will be providing a response shortly.

On the18th of September 2021, I again wrote to the Cabinet Office FOI team asking if there was progress on my internal review. There was no reply.

On the 17th of February 2022, I finally received the review I requested.The review is attached.

It took a year for my case to be reviewed and I would like to know why it took so long. There can be no excuses, the Sue Gray reports knocks all excuses off the table and the recent news that 91,000 civil servants are unfortunately about to lose their jobs indicates that there is no staff shortages to blame.

Furthermore in the light of Lord Frost's admissions reported in the Independent on the 22nd of March 2022:

"David Frost has admitted his Brexit trade deal failed touring musicians and other artists by inflicting punishing costs and red tape, in an extraordinary U-turn.

The negotiator of the agreement had staunchly defended the agreement – blamed for making many tours unaffordable – and refused to get involved in attempts to improve it.

But, in a lecture delivered three months after he quit as Brexit minister, Lord Frost has now admitted it was a mistake not to compromise with the EU and called for a rethink.

'We should take another look at mobility issues,' he said,

15 months after The Independent revealed he rejected such a deal in the Brexit talks.

'There is a whole set of problems here that is making life difficult on both sides: youth mobility, movement of specialists like musicians and artists.'

Lord Frost argued “these problems can be solved” without crossing the UK’s red line of ending free movement of EU citizens – despite ministers repeatedly insisting that is not possible.

And he admitted he had been 'too purist', saying a deal removing 'excessive paperwork and process requirements' is needed, adding: 'We should try to get to it.'

The peer also revealed the government did consider shifting to 'a more pragmatic position' last year, claiming the 'vaccine wars' with the EU made that 'impossible', but adding: 'This time we should try harder."

And the former Brexit Chief Negotiator now supports tearing up the NI Protocol.

In Tarley Smith’s reply to me he says, and I quote
“ … international trade agreements tend to build on the respective parties’ previous agreements …
And he also suggests that he would not like to
“ … hinder the UK’s ability to negotiate ambitious and commercially advantageous trade deals with other partners ..”
I would therefore challenge the reasons he cites - as I

think they will be in the forthcoming debates in Parliament. It is time for transparency and openness.

The EU is a trading bloc of 27 countries with a population of 450m, and this trade deal is borne from a divorce not a new arrangement. Unlikely therefore that it will “affect other parties”.

And would disclosure really result in less advantageous trade deals with other parties?

Lord Frost by denouncing the Trade Agreement has driven a coach and horses through those negotiations, and has probably seriously damaged the UK’s ability to negotiate with another party.

But, in the light of Lord Frost's admission that he failed musicians and other artists, that it should be rethought because it is solvable, I should be grateful if you would revisit my original request and provide the information I require. It will also save the Information Commissioner a job.

Yours sincerely

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From: **Cabinet Office FOI Team** <no-reply@cabinetoffice.ecase.co.uk>

Date: Thu, 17 Feb 2022 at 17:05
Subject: FOI Internal Review response - IR2021/07330
To: <chrishodgkins3@gmail.com>

Dear Chris Hodgkins,

Please find attached our response to your request for an Internal Review (reference IR2021/07330).

Yours sincerely,

FOI Team

70 Whitehall

London, SW1A 2AS

Web www.cabinet office.gov.uk

Chris Hodgkins

Via: chrishodgkins3@gmail.com

17 February 2022

Dear Chris Hodgkins

Cabinet Office Internal Review Reference: IR2021/07330

(Original Case Reference: FOI2021/00993)

REVIEW OF REQUEST UNDER THE FREEDOM OF INFORMATION ACT 2000

Thank you for your email of 19 March, in which you asked for an internal review of our response to your request for information of 16 January. I sincerely apologise for the delay in issuing you with this response. Your original request asked for the following information from the Cabinet Office:

1. The explicit and concrete proposals that the Government put to the European Commission regarding work permits for creative professionals;

2. The explicit and concrete proposals the European Commission put to the United Kingdom; and

3. The reasons the Government did not secure visa- and carnet-free access for UK musicians travelling to work in the European Union.

Your request for an internal review only makes reference to item 1, so I shall focus on this

element of our original response.

I have carefully reviewed the handling of your request and I consider that the exemptions at Section 27(1) of the Freedom of Information Act were properly applied. Section 27(1) exempts the disclosure of information if this this disclosure 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 interest of the United Kingdom abroad; or (d) the promotion or protection by the United Kingdom of its interests abroad. Publishing the UK's legal text would engage each of these four tests.

In previous correspondence I set out the negative impact that publishing the UK's negotiating proposals would likely have on the UK's trade policy function. The draft market access offers,

which includes the annexes on short-term business visitors that you have requested, are a particularly sensitive component of services FTA negotiations. The ambition of one party's commitments on market access is always a function of the ambition of the other party's, and so the parties' respective offers are not typically published until agreement on the depth of the FTA is reached - a milestone that is achieved through the negotiations themselves. You will note that the EU did not publish their draft services annexes either.

Moreover, international trade agreements tend to build on the respective parties' previous agreements, so the UK's future negotiating partners would greatly benefit from understanding the proposals we had tabled in preceding negotiations. Future - and indeed current - negotiating partners would see the offer we prepared for the EU as something that the UK could table in the context of other negotiations, despite the fact that the UK's draft offer for the EU was prepared in view of the specific circumstances of the UK-EU negotiation.

Finally, without the assurance that proposals made in the context of a negotiation will remain confidential, the UK's ability to strike trade agreements in the national interest will be blunted. Trade officials will become unwilling to engage in negotiations on sensitive issues for fear that this information will ultimately enter the public domain. Indeed the need for confidentiality is the reason why the terms of reference for the UK-EU negotiations included commitments from both sides regarding the disclosure of the other party's documentation.

With these considerations in mind, publishing the UK's negotiating proposals would likely hinder the UK's ability to negotiate ambitious and commercially advantageous trade deals with other partners, or operate productively at the WTO - thereby engaging Section 27(1)(a) and Section 27(1)(b). Undermining the UK's ability to strike trade deals also falls under the definition of the interests of the United Kingdom abroad, engaging Section 27(1)(c) and Section 27(1)(d).

The judgement of whether your request engages Section 27(1) is subject to the prejudice test. It is clear that Section 27(1) is designed to protect the UK in circumstances such as the one posed by your FOI request. The disclosure of this information would allow trade negotiators from other third countries to gain insight into the UK's positions, making it more difficult to effectively conduct the UK's trade policy. It is further likely that this disclosure, and potentially future disclosures similar to the one you have requested, would lead to less advantageous trade agreements for the UK.

I believe that the balance of the public interest was fully considered for the reasons set out in my letter of 12 March. I have therefore concluded that I should uphold the decision given in our letter.

I have considered the additional points you have made in your email dated 19 March. The Government agrees that touring is important to the UK's cultural industries, which is why we pursued provisions in the Trade and Cooperation Agreement that would have addressed the work permits that some UK performers now face. The considerations you set out in this more recent email, however, do not override the exemptions to the Freedom of Information Act as set out above.

If you are unhappy with the handling of your request for information you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

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

Tarley Smith
Cabinet Office