



Direct Communications Unit
2 Marsham Street, London SW1P 4DF
Switchboard 020 7035 4848 Fax: 020 7035 4745 Textphone: 020 7035 4742
E-mail: public.enquiries@homeoffice.gsi.gov.uk Website: www.homeoffice.gov.uk

Julia Ross
Julia.Ross@bbc.co.uk

Your Ref: 162/2010

Our Ref: 14220

Date: 09 June 2010

Dear Ms Ross

I am writing further to our e-mail of 12 May, about your request for unpublished reports and communications relating to mephedrone since 01 January 2009. Your request is being handled as a request for information under the Freedom of Information Act 2000.

We are considering your request. Although the Act carries a presumption in favour of disclosure, it provides exemptions which may be used to withhold information in specified circumstances. Some of these exemptions, referred to as 'qualified exemptions', are subject to a public interest test. This test is used to balance the public interest in disclosure against the public interest in favour of withholding the information. The Act allows us to exceed the 20 working day response target where we need to consider the public interest test fully.

Some of the information which you have requested is being considered under the exemptions in sections 31 and 36 of the Act. Section 31 relates to law enforcement as the scope of your request includes communication records and minutes of meetings held with enforcement partners, which invokes partial or full disclosure of information supplied by or relating to strategic and operational information supplied by or relating to enforcement partners dealing with the protection of the public. Section 36 relates to the prejudice to the effective conduct of public affairs, in that you have requested copies of 'unpublished reports or communications' supplied by officials in their public functions to support the Government in conducting its public affairs. These are qualified exemptions and to consider the public interest test fully we need to extend the 20 working day response period. However, due to the delays that your request has been subject to, we now aim to let you have a full response by 30 June.

Deleted: Alice ... [1]
Deleted: xx November
Deleted: 2 December 20 ... [2]
Deleted:
Deleted: request regarding
Deleted: Release of
Deleted: a Value for Money ... [3]
Deleted: Information has ... [4]
Deleted: Mr Danny Kust ... [5]
Deleted: , 7 February 20 ... [6]
Deleted: "Drugs Value f ... [7]
Deleted: Following his ... [8]
Deleted: The report was ... [9]
Deleted: which was [10]
Deleted: on 28 November
Deleted: 26 June
Deleted: 2008. The ap ... [11]
Deleted: , following the ... [12]
Deleted: .
Deleted: section 36(2) ... [13]
Deleted: Because of th ... [14]
Deleted: in order to c ... [15]
Deleted: <#>prejudice ... [16]
Deleted: <#>agree to t ... [17]
Deleted: <#>note the
Deleted: <#>approve the draft
Deleted: <#>letter to M ... [18]
Deleted: <#>n
Deleted: <#>Novembe ... [19]
Deleted: <#>¶
Deleted: <#>note the u ... [20]
Deleted: ¶ ... [21]
Deleted: <#>.
Deleted: <#>). At this ... [22]
Deleted: . ¶ ... [23]
Formatted ... [24]
Deleted: You are now ... [25]
Deleted: 2
Deleted: <#>;
Deleted: . Urgent – A ... [26]
Deleted: by 20 Novem ... [27]
Deleted: overnight to a ... [28]
Deleted: <#>potential
Deleted: <#> be
Deleted: <#>
Formatted ... [29]
Formatted ... [30]
Deleted: The 2008 dru ... [31]
Deleted: ¶ ... [32]
Formatted ... [33]
Deleted: 7
Deleted: 9. .
Deleted: Mr Kushlick i ... [34]
Deleted: The Informati ... [35]
Deleted: ¶ ... [36]
Deleted: ¶ ... [37]

[If you have any questions about the handling of your information request then please do not hesitate to contact me.](#)

[Yours sincerely,](#)

[Cyrille Marcel](#)

Deleted: FOI contact name?¶

Formatted: Widow/Orphan control, Adjust space between Latin and Asian text, Adjust space between Asian text and numbers

Formatted: Highlight

Deleted: Dear Mr Kushlick,¶
¶

I am writing further to receipt of the letter, of 27 August 2009, from the Information Commissioner's Office in which we were asked to re-examine the disclosure status of the report you requested in your first request on 7 February 2008. I understand that Mr Ben Tomes has been in contact with you about the Home Office response to the request for the document to be release to be reconsidered with a view to disclosure of the report. I have been in touch with Mr Tomes on a number of occasions since 27 August and had hoped to provide you with a reso[... [47]

Formatted: Not Highlight

Deleted: Alice Snelling [...] [48]

Formatted [...] [49]

Deleted: ¶ [...] [50]

Formatted: Highlight

Formatted [...] [51]

Deleted: <sp>Annex A¶ [...] [52]

Formatted: Font: Not Bold

Formatted [...] [53]

Formatted [...] [54]

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted [...] [55]

Formatted: Font: Bold

Formatted [...] [56]

Formatted [...] [57]

Formatted [...] [58]

Formatted [...] [59]

Formatted [...] [60]

Formatted [...] [61]

Formatted [...] [62]

Formatted [...] [63]

Formatted [...] [64]

Formatted: Font: 12 pt

Formatted [...] [65]

Formatted [...] [66]

Deleted: Annex B¶ [...] [67]

Page 1: [1] Deleted	MARCELC	10/05/2010 15:54:00
Alice Snelling Information Access Team Information Management Service Tel: 020 7035 4791	cc.	Home Secretary Meg Hillier David Normington Stephen Rimmer (CPG) Mandie Campbell (DAPD) David Oliver (DSU) Simon Eglington (DSU) Dominic Flint (DSU) Helen Kilpatrick (FCG) Fiona Spencer (SSD) Richard Thompson (IMS) Special Advisors Toby Nation (Press Office) Nadia Ramsey (Press Office)

Date:

Page 1: [2] Deleted	MARCELC	10/05/2010 15:54:00
		2 December 2009

Alan Campbell

FOI

Page 1: [3] Deleted	MARCELC	10/05/2010 15:54:00
a Value for Money report commissioned by the Home Office Drug Strategy Unit (DSU) into the development of the 2008 Drug Strategy: press enquiry		

Issue

1. On 7 February 2008,

Page 1: [4] Deleted	MARCELC	10/05/2010 15:54:00
Information has previously been requested by		

Page 1: [5] Deleted	MARCELC	10/05/2010 15:54:00
Mr Danny Kushlick requested access to the		

Page 1: [6] Deleted	MARCELC	10/05/2010 15:54:00
, 7 February 2008, on the		

Page 1: [7] Deleted	MARCELC	10/05/2010 15:54:00
"Drugs Value for Money Review: July 2007 Report", a report commissioned by the Home Office to inform the 2008 Drug Strategy.		

Page 1: [8] Deleted	MARCELC	10/05/2010 15:54:00
Following his complaint to the Information Commissioner's Office about the non disclosure of the value for money (VfM) report this has now been re-examined with a view to disclosure. The cross departmental Drug Strategy Group agreed to disclosure of the VfM report following their meeting on 15 October 2009		

Page 1: [9] Deleted	MARCELC	10/05/2010 15:54:00
The report was withheld under section 35(1)(a) (formulation of government policy) of the FOI Act. Following an internal review, a different exemption 36(2)(c) (prejudicial to the effective conduct of public affairs) was applied,		

Page 1: [10] Deleted	MARCELC	10/05/2010 15:54:00
which was . der following an initial review,		

Page 1: [11] Deleted	MARCELC	10/05/2010 15:54:00
-----------------------------	----------------	----------------------------

2008. The applicant has subsequently made an appeal to the Information Commissioner's Office – this appeal is on going.

Following discussions with the Drug Strategy Unit, it was agreed that the report should continue to be withheld under the same exemption. However, due to the passage of time it was also agreed that the sensitivities, and therefore the reasons for applying the exemption at s.36(2)(c), had changed.

Page 1: [12] Deleted	MARCELC	10/05/2010 15:54:00
, following the exemption provided by		
Page 1: [13] Deleted	MARCELC	10/05/2010 15:54:00
section 36(2)(c). The report has continued to be withheld under the same exemption. Due to the passage of time since the exemption was first approved, in December 2008,		
Page 1: [14] Deleted	MARCELC	10/05/2010 15:54:00
Because of this, your approval should have been sought to approve the new application of the exemption.		
Page 1: [15] Deleted	MARCELC	10/05/2010 15:54:00
in order to continue to maintain the exemption your approval should have been sought before the letter to Mr Kushlick, dated 20 November, was sent explaining why the report continued to be withheld.		
Page 1: [16] Deleted	MARCELC	10/05/2010 15:54:00
prejudice to the effective conduct of public affairs;		
Page 1: [17] Deleted	MARCELC	10/05/2010 15:54:00
agree to the release of the report at, or following, publication of the NAO report;		
Page 1: [18] Deleted	MARCELC	10/05/2010 15:54:00
letter to Mr Kushlick (dated 20		
Page 1: [19] Deleted	MARCELC	10/05/2010 15:54:00
November 2009), attached at Annex A . This letter refers to the continued application of the exemption due to new sensitivities.		
note the Economist are intending to run a story mentioning this tomorrow and that the press line has been given to them.		
Page 1: [20] Deleted	MARCELC	10/05/2010 15:54:00
note the use of the exemption provided by section 23 for removal of references to the Serious Organised Crime Agency in the VfM report; and		
note the potential issues that may be raised as a result of the report's release at Annex D .		
Page 1: [21] Deleted	MARCELC	10/05/2010 15:54:00

Summary

Mr Kushlick first requested a copy of analyses undertaken in 2007 on the cost effectiveness of drug strategy initiatives in February 2008. The *"Drugs Value for Money Review: July 2007 Report"* was withheld under section 35(1)(a) of the Act, in that its release would be prejudicial to the development of the Drug Strategy. The exemption was approved by Meg Hillier in Forward Look 312. An internal review was requested and this upheld the decision. At that stage the exemption used was altered to s36(2)(c) since the Drug Strategy 2008 was in the early stages of implementation and it was felt that disclosure of the report would prejudice the effective conduct of public affairs.

The provisions of s36 of the Act require that the decision to exempt information from disclosure must be made "in the reasonable opinion of a qualified person". In the case of the Home Office this means the decision must be approved by a Minister of the Crown. Vernon

Coaker acted as the qualified person and agreed to the use of s36(2)(c) on 2 December 2008 having received advice in the attached submission dated 26 November 2008, attached at **Annex B**.

Mr. Kushlick made a complaint to the ICO on 27 August 2009 that the VfM report should be disclosed given the passage of time since his first request in June 2008 which had been withheld under s35(1)(a)

Page 1: [22] Deleted	MARCELC	10/05/2010 15:54:00
----------------------	---------	---------------------

). At this time we agreed that the exemption provided by s36(2)(c) was still valid.

The report was due to be provided to Mr Kushlick at the same time as the National Audit Office report *Tackling Problem Drug Use* which was due to be published before the end of 2009. Mr Kushlick has now heard that the NAO report will not be published before March 2010 and has contacted the press and the Information Commissioner's Office. We have now been asked which Minister approved the continued use of the exemption provided by s36(2)(c).

Page 1: [23] Deleted	MARCELC	10/05/2010 15:54:00
----------------------	---------	---------------------

Alice Snelling
Information Access Consultant

-----Page Break-----

Annex A

Page 1: [24] Formatted	BastowT	02/12/2009 16:53:00
------------------------	---------	---------------------

Font: Bold

Page 1: [25] Deleted	MARCELC	10/05/2010 15:54:00
----------------------	---------	---------------------

You are now being asked to retrospectively approve the maintenance of the exemption.

Timing

2

Page 1: [26] Deleted	MARCELC	10/05/2010 15:54:00
----------------------	---------	---------------------

. Urgent – A reply is requested

Page 1: [27] Deleted	MARCELC	10/05/2010 15:54:00
----------------------	---------	---------------------

by 20 November to comply with ICO deadlines for providing a response to Mr. Kushlick

Page 1: [28] Deleted	MARCELC	10/05/2010 15:54:00
----------------------	---------	---------------------

overnight to allow us to acknowledge that the exemption has been maintained in response to press enquiries.

Recommendation

That you:

note and agree the continued use of the exemption provided by section 36(2)(c) to withhold the report on the basis that the publication of the report would be likely to

Page 1: [29] Formatted	snelling	02/12/2009 17:14:00
------------------------	----------	---------------------

Font: 11 pt, Font color: Auto

Page 1: [30] Formatted	snelling	02/12/2009 16:00:00
------------------------	----------	---------------------

Font color: Black

Page 1: [30] Formatted	snelling	02/12/2009 16:06:00
------------------------	----------	---------------------

Font color: Black

Page 1: [31] Deleted	MARCELC	10/05/2010 15:54:00
<p>The 2008 drug strategy "<i>Drugs: protecting families and communities</i>" has now been in existence for over 18 months and the Drug Strategy Group, the senior-level officials group responsible for overseeing the implementation of the Drug Strategy, has agreed that the VfM report can be disclosed. However, the National Audit Office report <i>Tackling Problem Drug Use</i> is due to be published within the next few months, although there is as yet no agreed date. This report will include a more detailed assessment of the costs and effectiveness of measures within the drug strategy and systems to achieve their delivery. It is felt that the 2007 report, which focuses on the previous drug strategy, should be released following publication of the NAO report, to provide context and to reduce the risk of misinterpretation of the report's findings. We are therefore seeking to maintain the exemption provided under s36(2) until the NAO report is published, when we will disclose the redacted 2007 Drugs Value for Money report.</p>		

Page 1: [32] Deleted	MARCELC	10/05/2010 15:54:00
-----------------------------	----------------	----------------------------

Mention of the Serious Organised Crime Agency in the VfM report will be redacted under s23. The full un-redacted version of the VfM report is attached separately at **Annex C**.

Consideration

Page 1: [33] Formatted	snelling	02/12/2009 16:06:00
-------------------------------	-----------------	----------------------------

Font color: Black

Page 1: [34] Deleted	MARCELC	10/05/2010 15:54:00
<p>Mr Kushlick is the Director of the Transform Drug Policy Foundation and is a familiar applicant under FoIA legislation. The Foundation favours replacing drug prohibition legislation with other forms of Government control and regulation. Mr Kushlick is a familiar correspondent.</p>		

Page 1: [35] Deleted	MARCELC	10/05/2010 15:54:00
-----------------------------	----------------	----------------------------

The Information Commissioner's Office is likely to be critical of the Home Office in dealing with the maintenance of the exemption in this order. However, they are likely to maintain approval for our use of section 36(2)(c).

10. A procedural error has led to this situation and the Information Access Team will ensure that this is not repeated.

Page 1: [36] Deleted	MARCELC	10/05/2010 15:54:00
-----------------------------	----------------	----------------------------

The cross-Government senior official Drug Strategy Group were asked to re-examine the VfM report at their 15 October 2009 meeting with a view to releasing the report following a steer from the Information Access Team. All Departments and Agencies have given their agreement for the release of the report. SOCA has requested that references to them are redacted. SOCA is listed as a Section 23 body under the Freedom of Information Act and therefore consistently seeks to apply the S23 exemption. S23 is an absolute exemption and exists to prevent information about the 3 intelligence agencies and SOCA being disclosed through FOI requests. References to SOCA will be removed from the document before it is released.

The National Audit Office report, which examines the frontline delivery of services and reviews delivery frameworks and systems, is due to be published within the next few months. Disclosure of the Drugs VfM 2007 report at a separate time has the potential for confusion.

Page 1: [37] Deleted	MARCELC	10/05/2010 15:54:00
-----------------------------	----------------	----------------------------

Presentational Issues

Page 1: [38] Deleted	MARCELC	10/05/2010 15:54:00
Transform's website is currently comparing the costs and benefits of current drug prohibitionist policy and drug control compared to legal regulation. They are likely to pick up areas of the report which highlight the difficulty in assessing VfM and that evaluation of programmes and initiatives are patchy. Withholding release of the report until the publication of the more detailed and current NAO study will help to avoid a focus on the gaps in the evidence base and evaluation of VfM identified by the earlier analysis.		
Page 1: [39] Deleted	MARCELC	10/05/2010 15:54:00
Press Office have approved the response. "There was an administrative error in the processing of this FOI and letter was sent out prematurely. Renewed ministerial authorisation is being sought."		
Page 1: [40] Formatted	snelling	02/12/2009 16:59:00
Font: Bold		
Page 1: [40] Formatted	snelling	02/12/2009 16:59:00
Font: 10 pt, Font color: Auto		
Page 1: [40] Formatted	snelling	02/12/2009 16:59:00
Font: Not Bold, Font color: Auto		
Page 1: [41] Deleted	MARCELC	10/05/2010 15:54:00

Page 1: [42] Deleted	MARCELC	10/05/2010 15:54:00
----------------------	---------	---------------------

Handling

11. This announcement carries a medium level of controversy. Transform are critical of the Government's drug policy and are likely to pick out elements of the report and use these to demonstrate a perceived failure of the drug strategy. Transform are likely to be publicly critical, which could attract media criticism. Press office therefore recommends publishing the report on the Home Office website to tie in with the date that the report will go to Danny Kushlick.
12. Once published, Press Office reactive lines to take will explain which elements of the report have incorporated into the drug strategy and will rebut criticisms of any elements that are not included. Press office will work with other Government department press offices to highlight examples of cost effectiveness of the strategy.
13. Key issues that may be raised by Mr Kushlick, or by Transform, are set out at **Annex D**, with brief précis of the Government's position on these issues. Should you agree with the recommendations of this submission, Drug Strategy Unit (DSU) and Press Office will develop lines to take, and DSU will co-ordinate the briefing and handling lines from across Departments and agencies before the release of the VfM report.

Clearance

14. This submission has been cleared by David Oliver, Head of Drug Strategy Unit.

Page 1: [43] Formatted	snelling	02/12/2009 16:25:00
Font: Bold		
Page 1: [44] Deleted	MARCELC	10/05/2010 16:31:00



Information Access Team
Information Management Service
Financial & Commercial Group
2 Marsham Street, London SW1P 4DF
Switchboard 020 7035 4848

E-mail: Info.Access@homeoffice.gsi.gov.uk Website: www.homeoffice.gov.uk

Page 1: [45] Formatted	MARCELC	10/05/2010 16:06:00
-------------------------------	----------------	----------------------------

Font: (Default) Arial, 11 pt

Page 1: [46] Formatted	MARCELC	10/05/2010 16:06:00
-------------------------------	----------------	----------------------------

Font: (Default) Arial, 11 pt

Page 2: [47] Deleted	MARCELC	10/05/2010 15:55:00
-----------------------------	----------------	----------------------------

Dear Mr Kushlick,

I am writing further to receipt of the letter, of 27 August 2009, from the Information Commissioner's Office in which we were asked to re-examine the disclosure status of the report you requested in your first request on 7 February 2008. I understand that Mr Ben Tomes has been in contact with you about the Home Office response to the request for the document to be release to be reconsidered with a view to disclosure of the report. I have been in touch with Mr Tomes on a number of occasions since 27 August and had hoped to provide you with a resolution to your request today.

While we are content that our use of the exemption provided under section 36(2)(c) – prejudice to the effective conduct of public affairs – to withhold information was correct at the time of the internal review in November 2008, we have now re-examined the report "*Drugs Value for Money Review, July 2007 Report - Christine Godfrey, York University*" with regard to the role it played in the development and implementation of the 2008 drug strategy "*Drugs: protecting families and communities*".

In light of the passage of time since the development of the 2008 drug strategy, which was informed in part by the Christine Godfrey report, we now consider that the majority of the report may be disclosed. However, as the National Audit Office is due, towards the end of December, to publish a report into delivery of the current drug strategy, which will include an assessment of the costs and benefits of the various interventions and the means of their delivery, we are maintaining the exemption provided by section 36(2)(c) to withhold the report on the basis that the publication of the report would be likely to be prejudice to the effective conduct of public affairs until the publication of the National Audit Office study. The Home Office believes that publication of the earlier analysis, which relates to the previous drug strategy, risks misinterpretation of the findings of the National Audit Office report and, as such, would be likely to prejudice the effective conduct of public affairs.

After careful consideration we have decided that some of the information contained within the report is exempt from disclosure by virtue of section 23(1) of the Freedom of Information Act. This provides that information supplied by, or relating to, the bodies dealing with security matters, is exempt from release. Section 23 is an absolute exemption, and as such no further consideration is required.

I have copied this letter and the report to Mr Tomes at the Information Commissioner's Office.

Yours sincerely,



Page 2: [48] Deleted	MARCELC	10/05/2010 16:05:00
Alice Snelling		
Information Access Team		

-----Page Break-----

Page 2: [49] Formatted	MARCELC	10/05/2010 16:06:00
Font: (Default) Arial		
Page 2: [50] Deleted	Patel	10/06/2010 13:54:00

Page 2: [51] Formatted	snelling	02/12/2009 16:25:00
Font: (Default) Times New Roman, 12 pt		
Page 2: [52] Deleted	MARCELC	10/05/2010 15:54:00
Annex A		



Information Access Team
Information Management Service
Financial & Commercial Group
2 Marsham Street, London SW1P 4DF
Switchboard 020 7035 4848
E-mail: Info.Access@homeoffice.gsi.gov.uk Website: www.homeoffice.gov.uk

Mr Danny Kushlick
Director
Transform Drug Policy Foundation
Easton Business Centre
Felix Road,
Bristol
BS5 0HE Our Ref: 8908
Date: xx November 2009

Dear Mr Kushlick,

I am writing further to receipt of the letter, of 27 August 2009, from the Information Commissioner's Office in which we were asked to re-examine the disclosure status of the report you requested in your first request on 7 February 2008.

While we are content that our use of the exemption provided under section 36(2)(c) – prejudice to the effective conduct of public affairs – to withhold information was correct at the time of the internal review in November 2008, we have now re-examined the report “*Drugs Value for Money Review, July 2007 Report - Christine Godfrey, York University*” with regard to the role it played in the development and implementation of the 2008 drug strategy “*Drugs: protecting families and communities*”.

In light of the passage of time since the development of the 2008 drug strategy, which was informed in part by the Christine Godfrey report, we now consider that the majority of the report may be disclosed. However, as the National Audit Office is due to publish a report into delivery of the current drug strategy, which will include an assessment of the costs and benefits of the various interventions and the means of their delivery, we are maintaining the exemption provided by section 36(2)(c) and will withhold release of the requested report until the publication of the National Audit Office study. The Home Office believes that publication of the earlier analysis, which relates to the previous drug strategy, risks misinterpretation of the findings of the National Audit Office report and, as such, is prejudicial to the effective conduct of public affairs.

After careful consideration we have decided that some of the information is exempt from disclosure by virtue of section 23(1) of the Freedom of Information Act. This provides that information supplied by, or relating to, the bodies dealing with security matters, is exempt from release. Section 23 is an absolute exemption, and as such no further consideration is required.

I have copied this letter and the report to Mr Ben Tomes at the Information Commissioner’s Office.

Yours sincerely,



Alice Snelling
Information Access Team

-----Page Break-----

Page 2: [53] Formatted	snelling	02/12/2009 16:25:00
Font: (Default) Times New Roman, 12 pt, Not Bold		
Page 2: [54] Formatted	snelling	02/12/2009 16:25:00
Font: (Default) Times New Roman, 12 pt		
Page 2: [55] Formatted	snelling	02/12/2009 16:25:00
Font: Times New Roman		
Page 2: [56] Formatted	snelling	02/12/2009 16:25:00
Font: Times New Roman		
Page 2: [57] Formatted	snelling	02/12/2009 16:25:00
Font: (Default) Times New Roman, 12 pt		
Page 2: [58] Formatted	snelling	02/12/2009 16:25:00
Font: (Default) Times New Roman, 12 pt		

Page 2: [59] Formatted	snelling	02/12/2009 16:25:00
Font: (Default) Times New Roman, 12 pt, Not Bold		
Page 2: [60] Formatted	snelling	02/12/2009 16:25:00
Font: (Default) Times New Roman, 12 pt		
Page 2: [61] Formatted	snelling	02/12/2009 16:25:00
Font: (Default) Times New Roman, 12 pt, Not Bold		
Page 2: [62] Formatted	snelling	02/12/2009 16:25:00
Font: (Default) Times New Roman, 12 pt		
Page 2: [63] Formatted	snelling	02/12/2009 16:25:00
Font: (Default) Times New Roman, 12 pt, Not Bold		
Page 2: [64] Formatted	snelling	02/12/2009 16:25:00
Font: (Default) Times New Roman, 12 pt		
Page 2: [65] Formatted	snelling	02/12/2009 16:25:00
Font: (Default) Times New Roman, 12 pt		
Page 2: [66] Formatted	snelling	02/12/2009 16:25:00
Font: (Default) Times New Roman, 12 pt, Not Bold		
Page 2: [67] Deleted	MARCELC	10/05/2010 15:54:00
Annex B		

From:

Ian Lister
Information Rights Team
Information Management Service (IMS)
Shared Resources Directorate
Finance & Commercial Group

Tel: 020 7035 6065

26th November 2008

Vernon Coaker

Cc: Meg Hillier
Matthew Batten (PS Office)
Ben Gibson (PO)
Vanessa Nicholls (CDSD)
Mandie Campbell (DDAD)
David Oliver (DSU)
Owen Rowland (DSU)
Dominic Flint (DSU)
Robert Street (DSU)
Simon Eglington (DSU)
Fiona Spencer (SSD)
Richard Thompson (IMS)
Jane Sigley (IMS)
Mark Jarvis (IMS)
Special Advisors
Press Office

Internal Review of a Freedom of Information request for the release of a Value for Money report commissioned by the Home Office Drug Strategy Unit (DSU) in the development of the 2008 Drug Strategy

Issue

This Internal Review was requested by Mr Danny Kushlick on the 26th June 2008 under the provisions of the Freedom of Information Act (the Act). Mr Kushlick asked us to review our decision to withhold the information he requested in full.

Timing

Urgent - the deadline for this review has been extended and we are committed to sending a full response no later than the 28th November 2008.

Recommendation

To approve the draft letter to Mr Kushlick, attached at Annex 1, and approve the use of section 36 of the Act in light of our decisions in this Internal Review.

Summary

7th February 2008 – request received from Mr Kushlick requesting a copy of analyses undertaken in 2007 on the cost effectiveness of drug strategy initiatives.

7th May – Meg Hillier approves Forward Look 312 to withhold the information in full under section 35 of the Act

15th May – Response letter sent to Mr Kushlick explaining our decision and providing rationale.

26th June – Mr Kushlick contacts the Home Office to request a Internal Review of this decision

Considerations

Mr Kushlick is the Director of the [Transform Drug Policy Foundation](#) and is a familiar applicant under FoIA legislation. He regularly corresponds with the DSU on matters of drug policy. The Foundation favours replacing drug prohibition legislation with “effective government control and regulation”.

Mr Kushlick asked the Home Office to conduct an Internal Review of its earlier FoIA response. The Drug Strategy Unit decided the information requested was, at the time, exempt information under the provisions of s35(1)(a) in that its release would be prejudicial to the development of the 2008 Home Office Drug Strategy.

The information requested by Mr Kushlick is held by the Home Office under the title of the *Drugs Value for Money Review – July 2007 Report* (2007 VfM report) – attached at ANNEX 2

In light of the applicant’s request for an Internal Review, the original decisions to withhold the information request under these exemption provisions were re-examined by the Information Rights Team. It has been concluded that the original decision to apply these provisions of the Act was correct.

However, given that the 2008 Drug Strategy is now live and has been published, the provisions of s35 are less favourable to withholding information that was used to support policy development that is either factual or statistical in nature. As such, this information is no longer exempt under s35 of the Act.

The 2008 Drug Strategy is still in the early stages of being implemented and it is felt that, at this time, the information contained in the 2007 VfM report would be prejudicial to the overall implementation of all of the strategies’ objectives. As such, I consider that this information is exempt information under the provisions of s36(2)(c) of the Act; that disclosure would prejudice the effective conduct of public affairs.

The decision to exempt information from disclosure under the provisions of s36 of the Act must be made “*in the reasonable opinion of a qualified person*”. In the case of the Home Office, this means this decision must be approved by a Minister of the Crown.

A detailed analysis of the Public Interest, harm and prejudice considerations can be found in the draft response letter to this Internal Review but it is important to stress that there are many considerations that favour the disclosure of the requested information. However, the most prominent argument favouring withholding this information at this time revolves around the timing of this Internal Review.

It is acknowledged by both the Information Rights Team and the Drug Strategy Unit that some of the information in the 2007 VfM report is suitable for disclosure into the public domain. It is felt that, at this time, the release of this information would be prejudicial to the successful implementation of some areas of our Drugs Strategy.

This would not serve the best interests of the public as a whole. We may be in a position to disclose some of this information, after discussions with other Government departments, in several months time.

Presentation Issues

The high profile nature of the applicant and the controversial subject matter means that we will be liaising with the Press Office when sending out the response to this Internal Review.

Level of Controversy

There is the distinct possibility that Mr Kushlick will appeal this decision to the Information Commissioner, as is his right under the Act. If Mr Kushlick does decide to challenge our decision, I believe that we can evidence our position and the potential harm and prejudice to a sufficient degree for our decision to be upheld.

It should be noted however that this is unlikely. Given that there is at present an 18 month backlog with the Information Commissioner's Office, by the time that this case is being considered by the ICO it is very likely that the information requested would have been disclosable under this Act or even proactively released following DSU's consultations with other Government Departments.

Respectfully submitted for your consideration and approval.

Ian Lister
Information Access Consultant
Information Rights Team

-----Page Break-----

Annex C

SEE PDF ATTACHMENT

-----Page Break-----

Annex D

Potential issues arising from release of report

The release of the report entails the risk of Transform, or other supporters of legalisation, using information from the report to criticise the Government's drug policy, or to support their call for legalisation of drugs and the introduction of a regulated system of supply. These risks should be considered in reaching a decision on whether to release the report, as recommended. Key potential issues that may be raised and brief précis of the Government's position on these are set out below. We will work with other Departments to prepare additional full handling lines in advance of the report's release, should these be required.

There is no agreed cross-Government overview of expenditure
Expenditure relating to drugs may be either labelled - i.e. that which is included in budgets or end-of-year reports, is drug-specific, and is proactive – or it may be reactive, in that it arises as a result of drug misuse, such as enforcement activity or health costs. In addition, expenditure on programmes which may influence levels of

drug misuse, or may mitigate its harms, but which do not have this as its sole objective, will affect the overall level of expenditure to varying degrees. This means that it is possible only to estimate the level of expenditure on drugs. The 2008 drug strategy contains, as an appendix, an agreed cross-Government overview of labelled expenditure, and an estimate of additional related expenditure for the period to 2010/11.

Evaluation of programmes and initiatives are patchy

It should be borne in mind that the report relates to the previous drug strategy. The current drug strategy is based on evidence of drug-related harms and the effectiveness of interventions to address those harms. This evidence is summarised as an appendix to the drug strategy.

This appendix contains an explicit aim of further developing the evidence base to inform the development and delivery of policy and, to this end, a cross-Government group has been established to agree research priorities and to use resources in the most efficient way to develop the evidence base.

There is a limited evidence base on the impact of supply reduction activity

Measurement of the impact of supply reduction interventions are inherently difficult, as operations extend beyond UK territory and across force boundaries. Moreover, it is difficult to establish any causative link between enforcement or supply reduction activity and any impact or outcomes, particularly as the police and other enforcement agencies increasingly work with other partners to address drug-related problems.

However, we are moving towards more systematic assessment of impact. For example, SOCA and ACPO are currently exploring how enforcement activity can more effectively be measured, and the NPIA are developing guidance for police forces to encourage analysis of impact of law enforcement activity (“Briefing paper: Using results analysis to assess the impact of law enforcement activity”). The production of this document was commissioned by the Association of Chief Police Officers (ACPO) Drugs Committee via the UK Drugs Nexus Group.

The UK is supporting the EU to develop a common approach, with the EU drug strategy calling for “a measurable improvement in the effectiveness, efficiency and knowledge base of law enforcement interventions and actions by the EU and its Member States targeting production, trafficking of drugs [and] the diversion of precursors.” Evaluation of the implementation of that objective is complicated by the lack of availability of standardised key indicators. Therefore, the EU Drugs Action Plan 2009-2012 calls for the development of key indicators for drug markets, drug-related crime and supply reduction. Work is focusing on developing potential indicators as well as instruments and monitoring tools to improve law enforcement authorities’ understanding of drugs markets, the analysis of drug crimes and law enforcement interventions and how to deal with them.

There is a lack of evidence relating to prevention activity and interventions with young people

Assessments of the effectiveness of education, advice and diversionary programmes are problematic, as it is difficult to isolate the impact of such programmes from other influences in a young person’s life. However, data relating to individual programmes

and interventions give an indication of what works in enhancing young people's protective factors against drug misuse. For example, audience research from the FRANK campaign shows that campaigns can achieve a significant shift in the audience's attitudes to specific drugs, or we can measure positive outcomes among participants in the Positive Futures programme. It is not possible, from these data, to reach a robust estimate of VfM, but it is nonetheless evident that such interventions and programmes deliver clear benefits.

Has any progress been made on the recommendations in the report?

The 2008 drug strategy commits the Government to extending the evidence base informing the development and delivery of policy, and a cross-Government group has been established to agree research priorities. An extensive programme of research and analysis is underway across Government. [Further details to be provided in handling lines]

Why were some sections of the report not released? Is this to hide the full extent of expenditure on supply reduction?

Section 23(1) of the Freedom of Information Act provides an exemption to the release of information relating to the conduct of bodies dealing with security matters. The Serious Organised Crime Agency has requested that information in the report that relates to their activity be exempted under this Section of the Act. We may not therefore release this information.