

Reference: 01378009

Zach Westbrook
Information Rights Advisor
information.requests@ofcom.org.uk

11 January 2022

Freedom of Information request: Right to know request

Thank you for your request for information concerning the Digital Regulation Cooperation Forum ('DRCF'). Your request was received on 11 November 2021 and we have considered it under the Freedom of Information Act 2000 (the 'FOI Act'). We wrote to you on 9 December 2021 to say we needed more time to consider your request because the information requested was being considered under one of the FOI Act exemptions to which a public interest test applies. We have now concluded our consideration.

Your request

You asked for:

1. *Minutes from internal Ofcom meetings that took place after 1 June 2021 regarding the Digital Regulation Cooperation Forum.*
2. *Minutes from external meetings with other members of the Digital Regulation Cooperation Forum, specifically regarding the work of the DRCF, since 1 June 2021.*
3. *Internal correspondence regarding the appointment of Gill Whitehead to chief executive of the DRCF, since 1 September 2021.*
4. *The DRCF's budget, with any commercially sensitive information redacted.*

Our response

We have responded to each of your questions in turn below:

1. *Minutes from internal Ofcom meetings that took place after 1 June 2021 regarding the Digital Regulation Cooperation Forum.*
2. *Minutes from external meetings with other members of the Digital Regulation Cooperation Forum, specifically regarding the work of the DRCF, since 1 June 2021.*

We have conducted searches for information that Ofcom holds within the scope of these questions. Please note that the DRCF is comprised of various project areas outlined in the published [DRCF Workplan 2021/2022](#), however, these workstreams do not hold minuted meetings either internally within Ofcom or between other members of the DRCF.

We do not hold minutes of any internal meetings regarding the DRCF within the scope of item 1) of your request.

We do hold minutes of external meetings within the scope of item 2) of your request, and these fall into the following categories:

- The CEOs of the members of the DRCF hold quarterly, minuted meetings. We hold minutes of the DRCF CEO meetings held on 16 July and 5 October.
- The directors of the DRCF hold regular minuted meetings with DCMS. We hold minutes of meetings held on 27 July, 22 September and 16 November.

We are unable to disclose the content of these minutes as we consider this information is exempt under section 36 of the FOI Act. Section 36 is a qualified exemption, which means that Ofcom is required to consider whether or not the public interest in disclosing the information you have requested outweighs the public interest in withholding the information. In this case, we consider that the public interest favours withholding the information for the reasons set out in **Annex B** to this letter. In **Annex A** to this letter, the qualified person for Ofcom – the Chief Operating Officer and Group Director Corporate – has confirmed that this exemption applies.

3. Internal correspondence regarding the appointment of Gill Whitehead to chief executive of the DRCF, since 1 September 2021.

We hold internal emails regarding the appointment of Gill Whitehead concerning the administration of the recruitment process, including such matters as: the arrangement of interviews, the assessment of interviews, the details of offers and personal matters relating to the onboarding process

We consider that this information is exempt from disclosure under Section 40(2) of the FOI Act, which provides that personal information about persons other than the requester is exempt where its disclosure would contravene any of the data protection principles in the UK General Data Protection Regulation and the Data Protection Act 2018. Section 40 is an absolute exemption under the Act and does not require a public interest test.

4. The DRCF's budget, with any commercially sensitive information redacted.

We do not hold this information. The DRCF is resourced from the individual members. It is a voluntary forum and therefore is not allocated an overarching budget.

I hope this information is helpful. If you have any further queries, then please send them to information.requests@ofcom.org.uk quoting the reference number above in any future communications.

Yours sincerely

Zach Westbrook

If you are unhappy with the response you have received in relation to your request for information and/or consider that your request was refused without a reason valid under the law, you may ask for an internal review. If you ask us for an internal review of our decision, it will be subject to an independent review within Ofcom.

The following outcomes are possible:

- the original decision is upheld; or
- the original decision is reversed or modified.

Timing

If you wish to exercise your right to an internal review **you should contact us within two months of the date of this letter**. There is no statutory deadline for responding to internal reviews and it will depend upon the complexity of the case. However, we aim to conclude all such reviews within 20 working days, and up to 40 working days in exceptional cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact information.requests@ofcom.org.uk

If you are not content with the outcome of the internal review, 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

Annex A

Freedom of Information: Right to know request

Section 36 exemption

Some of the information you requested is being withheld as it falls under the exemption in section 36 of the Freedom of Information Act 2000 (the Act).

I am a "qualified person" as referred to section 36(2) of the Act and duly authorised by a Minister of the Crown for the purposes of that section. In my reasonable opinion, disclosure of the information requested would prejudice the effective conduct of public affairs.

In applying this exemption, I have had to balance the public interest in withholding the information against the public interest in disclosing the information.

I have set out in Annex B the exemption in full, as well as the factors I considered when deciding where the public interest lay in relation to the information concerned. If you have any queries about this letter, please contact information.requests@ofcom.org.uk.

Melissa Tatton

Chief Operating Officer and Group Director Corporate

Date: 11 January 2022

Annex B

Section 36: Prejudice to effective conduct of public affairs

Section 36 exempts information whose disclosure would, or would be likely to, have any of the following effects:

- inhibit the free and frank provision of advice,
- inhibit the free and frank exchange of views for the purposes of deliberation, or
- otherwise prejudice the effective conduct of public affairs.

Key points:

- Section 36 can only be used if, in the reasonable view of a "qualified person", disclosure of the requested information would have one of the specified effects.
- In this case, it is considered that disclosure would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.
- The application of section 36 is subject to a public interest balance.

Factors for disclosure	Factors for withholding
<ul style="list-style-type: none"> • The general desirability that Ofcom’s activities as the UK’s communications regulator are transparent. • Transparency of Ofcom’s engagement with external stakeholders, such other regulators, on policy issues such as those relevant to the DRCF. This may lead to greater awareness of how Ofcom works as a regulator and how it performs its duties. 	<ul style="list-style-type: none"> • The information requested relates to the recorded minutes of meetings between the CEOs of the regulatory bodies that form the DRCF, including Ofcom, the Competition and Markets Authority (CMA), the Financial Conduct Authority (FCA) and Information Commissioner’s Office (ICO). The minutes contain a record of discussions relating to: (i) the initial phases of policy development and regulatory coordination in respect of the current workstreams within the DRCF plan of work; and (ii) other matters relating to the operation and governance of the DRCF such as communications, the development of skills and capabilities, and general organisation of the DRCF’s coordination role. • There is a need for Ofcom’s Chief Executive to have a safe space to engage with the chief executives of the CMA, FCA and ICO within the context of the DRCF and in the preliminary phases of its work. This type of engagement allows the regulators to continue coordination within the DRCF and ensure that the DRCF is able to deliver on the objectives of the its workplan and ensure that decisions can be made in the most effective way and by the most appropriate regulatory body, noting that the DRCF itself is not a decision making body. The threat of

	<p>disclosure of this information would likely erode that safe space and dissuade the building of relationships and exchange of information between the regulators. It would also likely inhibit the ability of Ofcom to develop policy in a collaborative way in the future.</p> <ul style="list-style-type: none"> • The information requested also relates to discussions between representatives of the DRCF regulatory bodies and DCMS officials in relation to DRCF coordination and work plan updates, as well as plans for collaboration with DCMS. There is a need for members of the DRCF to engage with DCMS officials in a safe space without threat of disclosure of these communications. The disclosure of these minutes would substantively inhibit the effectiveness of these meetings in future.
<p>Reasons why public interest favours withholding information</p>	
<ul style="list-style-type: none"> • We consider that the public interest in withholding disclosure outweighs the public interest in disclosure. Ofcom needs to freely engage with the other member regulators of the DRCF so as to meet the DRCF’s objectives and ensure that regulatory decisions can be made in the most effective way. Disclosure of the meeting minutes described above would directly impact on the effectiveness of regulatory coordination and coherent policy development that the DRCF was formed to achieve. 	