

Reference: 01602065

Information Requests
information.requests@ofcom.org.uk

20 June 2023

Freedom of Information request: Right to know request

Thank you for your request for information concerning Paul Dacre's application for Chairman of Ofcom. Your request was received on 20 April 2023 and we have considered it under the Freedom of Information Act 2000 (the "FOI Act").

Your request

please provide me with:

** All correspondence, memos or notes, including meetings and phone calls, relating to the application of Paul Dacre to be chairman of Ofcom, whether from, by or to officials, special advisers and ministers*

** And all notes or diary entries for meetings between officials, special advisers or ministers relating to the above application.*

Our response

By way of background, it is worth clarifying that the appointment of the Ofcom Chair is run independently of Ofcom by the Department for Digital, Culture, Media and Sport. The vacancy for the role of Ofcom Chair was officially announced on the [HM Government Appointments](#) website on 12 February 2021 and the process is regulated by the [Commissioner of Public Appointments](#). It was reported in May 2021 that the appointment process would be relaunched. Prior to this, it was reported that Paul Dacre was a candidate for the role.

Please note that we have taken your request for information relating to "officials, special advisers and ministers" as referring to Government officials, special advisers and ministers.

I can confirm that we hold one email chain relating to Paul Dacre's application, which concerns the administration of the recruitment process. We consider that some of 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 General Data Protection Regulation and the Data Protection Act 2018. Section 40 is an absolute exemption under the FOI Act and does not require a public interest test. We also consider that the remaining information in these emails is exempt from disclosure under

section 36(2)(b) 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 of this letter, the qualified person for Ofcom – Chief Operating Officer and Group Director Corporate – has confirmed that this exemption applies.

We also hold an internal email between our Communications team and members of the Senior Management Team, forwarding a copy of a news article which references Paul Dacre's application for the Ofcom Chair role. While these reports are part of that team's usual function in keeping the Senior Management Team up to date on external commentary connected with Ofcom, the content of the email itself does not include information within the scope of your request. The news article in question may be found here: [Enemy of the establishment: Paul Dacre and the No 10 plan to make him Ofcom boss](#) (The Times).

You may also find it useful to refer to other FOI Act requests we have received relating to Paul Dacre and the appointment of the Ofcom Chair, which are available via our website and the National Archives:

- [Chairman-role.pdf](#) (webarchive.nationalarchives.gov.uk, 2 November 2020);
- [Paul-Dacre-correspondence.pdf](#) (ofcom.org.uk, 30 July 2021);
- [Policies-for-interview-panel-for-Ofcom-chair.pdf](#) (ofcom.org.uk, 6 December 2021);
- [Sir-Paul-Dacre-for-Ofcom-Chair.pdf](#) (ofcom.org.uk, 9 December 2021).

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

Information Requests

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. Further information about this, and the internal review process can be found on the Information Commissioner's Office [here](#). Alternatively, 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.

Signed:

Melissa Tatton

Chief Operating Officer and Group Director Corporate

Date: 20 June 2023

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 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 and views in relation to issues concerning its governance, such as discussion of the process for appointing the new Ofcom Chair, may lead to greater awareness of, and trust in, how Ofcom operates as a regulator and how it performs its duties. 	<ul style="list-style-type: none"> • In order to run the organisation effectively, Ofcom’s Chief Executive and wider management team need to be able to be informed of and internally discuss any issues relevant to Ofcom and its governance, including the Government’s appointment of a new Ofcom Chair and the wider discussion of the process and candidates. The correspondence with Ofcom’s Communications team ensures that Ofcom’s Chief Executive and the Senior Management Team is appropriately supported, prepared for, and kept abreast of these issues. • The threat of disclosure of this internal correspondence would substantively inhibit the Chief Executive and wider Senior Management Team’s ability to perform their role effectively in future.
Reasons why public interest favours withholding information	
<ul style="list-style-type: none"> • We consider that the public interest in disclosure of information relating to the process for appointing the Ofcom Chair is outweighed by the need for Ofcom’s Chief Executive and Senior Management Team to be supported and kept informed of these issues. Disclosure would likely inhibit the ability of the Chief Executive and Senior Management Team to run Ofcom effectively. 	