

Reference: 01575725

Information Requests
information.requests@ofcom.org.uk

23 March 2023

Freedom of Information: Right to know request

Thank you for your request for the information detailed below. We received this request on 23 February 2023 and which you clarified on 28 February. We have considered it under the Freedom of Information Act 2000 (the "FOI Act").

Your request

You asked:

Following your decision to reject Witney Radio's application for funding from the radio fund again, please accept this email as a request for detailed feedback on why the panel rejected the application when several stations have successfully applied time after time and are granted awards every time and fail to spend the funds on their proposed projects.

You sent a further email on 28 February:

As per my email of 23rd February 2023, this is a formal FOI request for detailed committee minutes as per Ofcom's obligations under the freedom of information act and communications act 2003 to be accountable in relation to detailed feedback on the panel's rejection of funding support for Witney Radio's application for the last round of the Community Radio Fund.

Our response

We consider the information you have requested is exempt from disclosure under section 36 of the FOI Act. In particular, sections 36(2)(b)(ii) and (c) of the FOI Act provide that information held by a public authority is exempt from disclosure if, in the reasonable opinion of a qualified person, disclosure of the information:

- Would, or would be likely to, inhibit the free and frank exchange of views for the purposes of deliberation, and
- Would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.

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, the Corporation Secretary for Ofcom, has confirmed that the exemption applies.

Please note that our webpage [Award of grants 2022-23: Round 2](#) provides general issues of note which arose from the Panel's meeting, which you may find useful.

I hope this information is helpful. If you have any queries, then please contact information.requests@ofcom.org.uk. Please remember to quote 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. The Information Commissioner can be contacted at:

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

Annex A

Section 36 exemption

The information we hold that falls within the scope of your request 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, or would be likely to, inhibit the free and frank exchange of views for the purposes of deliberation, and would otherwise, or would be likely otherwise to, 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: Corporation Secretary

Date: 22 March 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:
 - inhibit the free and frank exchange of views for the purposes of deliberation, and
 - otherwise prejudice the effective conduct of public affairs.
- The application of section 36 is subject to a public interest balancing test.

| Factors for disclosure | Factors for withholding |
|---|--|
| <ul style="list-style-type: none"> • Ofcom recognises that the information is matter of interest to the wider public. Releasing information relating to this matter could be said to allow for discussion in a public forum. • The general desirability that Ofcom’s activities as the UK’s communications regulator are transparent. | <ul style="list-style-type: none"> • In order to run the organisation effectively, colleagues in Ofcom need to be able to review applications, including the exchange of assessments, opinions, and recommendations with relevant colleagues within Ofcom, including decision makers, to enable timely and appropriate decisions to be made. To release this information to the public would potentially impair Ofcom’s ability to formulate and make decisions in the best interests of the public in the future. Verbal feedback to individual applicants about their application is available on request. • The threat of disclosure of these internal documents to the public would substantively inhibit the Team’s ability to perform their roles effectively in future. |

Reasons why the public interest favours withholding information

- We consider that, on balance, the public interest in withholding disclosure of this information outweighs the public interest in disclosure.
- Ofcom colleagues need to have the ability to review applications and freely communicate such assessments internally in order to perform their functions. Disclosure to the public would likely result in Ofcom colleagues being less open and thorough in their assessments of licence applications.