Freedom of Information Request FOI 2022-0058 | Reciprocal Health Agreement with Guernsey

Question:

1. Since 28th June 2019, what correspondence has been received by the Northern Ireland Executive from, or on behalf of, the States of Guernsey or from other Ministerial Departments or the Devolved Administrations, About the establishment of a Reciprocal Health Agreement between Guernsey and each or all of the four National Health Service organisations within the United Kingdom?

2. What action has been taken in response to such correspondence, including meetings, virtual or in person, held between representatives of the Northern Ireland Executive and representatives from, or from any other organisations acting on behalf of, the States of Guernsey, about the establishment of such Reciprocal Health Agreements, and what replies have been sent?

3. What have been the main issues considered and what concerns, if any, does the Northern Ireland Executive consider remain to be determined before a Reciprocal Health Agreement can be established with the States of Guernsey?

4. By when does the Northern Ireland Executive expect that a Reciprocal Health Agreement with the States of Guernsey will be established?

Response:

The Department can confirm that it holds some of the information requested.

However, we have concluded that the information requested under parts 1, 2 and 3 of your request is exempt from disclosure under the following section of the FOIA:

- Section 35(1)(a) Information held by a government department is exempt information if it relates to— (a) the formulation or development of government policy.

An explanation of our application of this exemption and the public interest test is set out at the Annex 1 to this letter.

Regarding part 4, we do not hold any such recorded information.

Date response issued: 13/04/22
Reference Number: FOI 2022-0058

PUBLIC INTEREST TEST -– FOI 2022-0058 - Reciprocal Health Agreement with Guernsey **Annexe A**

Engagement of Exemptions

When considering the release of information captured by a request we are required to consider the potential effects of disclosure of the information to the wider World. This is because information released in response to a FoI request is released to the World, not just to the person submitting the request. As such we need to take into account how any other individual may use, or misuse, the information if it is placed into the wider public domain. So whilst the request may have a legitimate, and benign, interest in accessing the requested information, we could conclude that the risk that the information could be misused by others is more compelling and thus the information should be withheld.

S35(1)(a) formulation of government policy

Section 35(1)(a) covers any information relating to the formulation or development of government policy. The information requested is information generated to inform the formulation of policies with regards to the establishment of a Reciprocal Health Agreement between Guernsey and each or all of the four National Health Service organisations within the United Kingdom. This policy is still being developed between the Devolved Administrations, the UK Government and the State of Guernsey and disclosure at this stage may adversely affect the progression of this policy.

As this is very much a 'live' issue, we are of the view that the S35(1)(a) exemption is engaged by the information captured by this request

The use of section 35(1)(a) is subject to a public interest test.

<u>Public Interest Test conducted 07 April 2022</u>

Public interest arguments in favour of release

- We understand that the development of a reciprocal health agreement between Guernsey and the UK is a great interest to both the residents of Guernsey and residents of the UK who visit Guernsey.

Public interest arguments in favour of withholding

- We take the view that the section 35(1(a) is intended to ensure that the possibility of public exposure does not deter from full, candid and proper deliberation of policy formulation and development, including the exploration of all options.

- The withheld information relates to correspondence, associated papers and actions taken to date regarding the development of a 'Reciprocal Health Agreement' with Guernsey. As part of the formulation of this 'Agreement', we are heavily reliant on Government officials being able to provide advice and exchange views in an open and frank way, exploring various options as part of the normal working process.

- The Devolved Administrations, the UK Government and their officials need to be able to think through and discuss all the implications of different options, be able to undertake rigorous and candid assessments in the knowledge that if different outcomes or conclusions are finally agreed, these assessments will not have more far reaching implications than appropriate. This should include the ability to receive information on a confidential basis or the candour of the engagement will certainly be

weakened. Releasing the information that the Department holds at this time may lead to significantly less considered and a less effective policy in this important area.

- In addition, the disclosure of the information requested would have a prejudicial effect on engagement between the Devolved Administrations and the UK Government as it would remove the secure environment which allows Ministers and officials to gather information and discuss. Removing the secure environment in which officials are able to express views openly could result in advice being less robust as it would be likely to result in a reduction in the frankness and candour of those involved in the process if they believed discussions and other information would be made public.

Decision:

Having considered all of the above factors, it has been decided that the balance of public interest falls in favour of withholding the information sought and maintaining the exemption than in disclosure of the information at this time.

We take the view that, on balance, this public interest has been satisfied and the information requested has been withheld under section 35(1)(a) of the Act for the reasons set out above.