



Foreign &
Commonwealth
Office

20 August 2015

Europe Directorate
Foreign and Commonwealth Office
King Charles Street
London SW1A 2AH

Website: <https://www.gov.uk>

Dear

FREEDOM OF INFORMATION ACT 2000 REQUEST REF: 0113 -15

Thank you for your email of 6 February asking for information under the Freedom of Information Act (FOIA) 2000. You asked for:

1. *Communications, between July 2003 and July 2004, between the British Embassy in Lisbon and the FCO about the potential appointment of Jose Manuel Barroso, at that time Prime Minister of Portugal, as President of the European Commission;*
2. *Communications, between July 2003 and July 2004, between the UK Representation to the EU and the FCO, about the potential appointment of Jose Manuel Barroso as President of the European Commission;*
3. *Correspondence, between July 2003 and July 2004, between the FCO and the Prime Minister's European and Foreign Affairs Advisers in Number 10 about the potential appointment of then-Prime Minister Barroso as EC President.*

I can confirm that the Foreign and Commonwealth Office (FCO) does hold information relevant to your request.

Please find attached the information that the FCO can release to you. Some of the information has been withheld using section 27 – international relations. Section 27 is a qualified exemption and is subject to a public interest test.

Section 27(1)(a) of the FOIA recognises the need to protect information that would be likely to prejudice relations between the United Kingdom and other states if it was disclosed. In this case, the release of the information you request could damage our relations with the Republic of Portugal.

The application of Section 27(1)(a) requires us to consider the public interest test arguments in favour of releasing and withholding the information. We acknowledge that releasing

information on this issue would increase public knowledge about the UK Government's views on the appointment of José Manuel Durão Barroso.

However, Section 27(1)(a) recognises that the effective conduct of international relations depends upon maintaining trust and confidence between governments. If the United Kingdom does not maintain this trust and confidence, its ability to protect and promote UK interests through international relations will be hampered, which will not be in the public interest.

The disclosure of some of the information we hold could potentially damage the bilateral relationship between the UK and the Republic of Portugal. This would reduce the UK government's ability to protect and promote UK interests through its relations with the government of Portugal, which would not be in the public interest. For these reasons we consider that the public interest in maintaining this exemption outweighs the public interest in disclosing it.

Section 27(2) of the Freedom of Information Act recognises the need to protect information provided in confidence to the UK Government by another government. In this case, the information being withheld relates to confidential discussions held between the UK Government officials and representatives of the government of Portugal or representatives of the European Union (EU)

The application of section 27(2) requires us to consider the public interest test arguments in favour of releasing and withholding the information. We acknowledge that it is in the public interest to show that the UK Government dealt correctly with the Portuguese government and the EU in relation to Mr Durão Barroso's appointment. However disclosure of the information that was given to us in confidence would damage our relationships with the individuals concerned: they would be more guarded and less co-operative in their dealings with us.

It is for these reasons that we considered that the public interest in maintaining exemption under section 27(2) outweighs the public interest in disclosure of the information.

Some of the information you have requested, is personal data relating to third parties, the disclosure of which would contravene one of the data protection principles. In such circumstances sections 40(2) and (3) of the Freedom of Information Act apply. In this case, our view is that disclosure would breach the first data protection principle. This states that personal data should be processed fairly and lawfully. It is the fairness aspect of this principle, which, in our view, would be breached by disclosure. In such circumstances, s.40 confers an absolute exemption on disclosure. There is, therefore, no public interest test to apply.

Some information has been withheld under section Section 35 (1) (a) and (b) as it relates to the formulation of government policy and communications between Ministers. Disclosure would weaken Ministers' ability to discuss controversial and sensitive topics free from premature public scrutiny.

There is public interest in protecting policy-making processes and ensuring this process remains able to deliver effective government. This is considered against the public interest in making publicly available information about policy-making processes. We consider that the balance of the public interest lies in favour of withholding certain information in relation to your request because it relates to ministerial correspondence and the operation of private offices, which are necessary to develop and deliver government policy.

In addition, good government depends on good decision making and needs to be based on the best advice available and a full consideration of all the options. The advice should be broad based and there may be a deterrent effect on external experts or stakeholders who might be reluctant to provide advice because it might be disclosed. A further consideration was that the impartiality of the civil service might be undermined if advice was routinely made public as there is a risk that officials could come under political pressure not to challenge ideas in the formulation of policy, thus leading to poor decision making.

Once an FOI request is answered, it is considered to be in the public domain. To promote transparency, we may now publish the response and any material released on gov.uk in the [FOI releases](#) section. All personal information in the letter will be removed before publishing.

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Yours sincerely,

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