

## **Freedom of Information: Right to know request**

Thank you for your request for information for BEREK documents BoR (16) and BoR (16) 164 and Ofcom documents prepared specifically to respond to the BEREK documents. This has been considered under the Freedom of Information Act 2000 ('the FoIA').

In relation to your request for the BEREK documents, I can confirm that section 21 FoIA applies to the information and that the information you have requested is therefore exempt from disclosure. The purpose of the exemption in section 21 is to ensure that there is no right of access to information via FoIA if it is available to the applicant by another route. According to the ICO guidance (available at this link <https://ico.org.uk/media/fororganisations/documents/1203/information-reasonably-accessible-to-the-applicant-by-othermeans-sec21.pdf>), where information is available to the applicant via another access regime, that would be information exempt from disclosure under section 21. I note from the BEREK website that the BEREK Office examines requests for information on the basis of the Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to the European Parliament, Council and Commission documents, and the specific provisions regarding public access to documents of BEREK and the BEREK Office set out in the BEREK transparency rules.

Turning to your request for "any Ofcom documents which were prepared specifically to respond to either of the two BEREK documents referred to above or to aid BEREK in their drafting of them", I can confirm that we hold information responsive to this question but we are unable to disclose the documents concerned.

This is because we consider the information contained in the documents to be exempt from disclosure pursuant to section 36 of the FoIA for the reasons set out in Annex B. In the letter in Annex A, Steve Gettings, as a qualified person, has set out the factors he considered 2 of 5 when deciding where the public interest lay in relation to the information concerned. Other exemptions may also apply.

### 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 undertaking 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:

Steve Gettings  
The Secretary to the Corporation  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information

Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA

Switchboard: +44 (0)20 7981 3000  
or +44 (0)300 123 3000

[www.ofcom.org.uk](http://www.ofcom.org.uk)

Commissioner for a decision. The Information Commissioner can be contacted at:

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