

[REDACTED]
[REDACTED]
[REDACTED]

Your Ref KSL/LK-077859.0011 /
KSL/LK-077859.0018

Our Ref 84662/85615

22 January 2008

Dear [REDACTED]

YOUR REQUEST OF 20 DECEMBER 2007 FOR INFORMATION REGARDING THE DECISION TO LIST CERTAIN SPORTING EVENTS UNDER PART IV OF THE BROADCASTING ACT 1996

I am writing with regard to your requests, submitted on 20 December 2007 and 10 January 2008, for information under the Freedom of Information Act 2000 (the "Act").

I can confirm that we have identified and are releasing information falling within the scope of your requests to see "(i) all records showing how the decision was reached to list certain sports events within Category A and Category B of the Broadcasting Act 1996; (ii) all records relating to the national consultation used to reach the decision referred to in (i) above; (iii) all records showing how the UK media landscape was taken into account in reaching the decision referred to in (i) above; (iv) all records showing the steps taken and evidence used to prepare the report produced by the Advisory Group chaired by Lord Gordon of Strathblane; and (v) any other documents relating to the decision to list certain sports events within Category A and Category B of the Broadcasting Act 1996 (Case Ref: 84662) and "copies of the hard copy documents provided in relation to the Freedom of Information Act requests referred to under the following case numbers: Case no. 28165 relating to Test Match cricket and Case nos. 6160, 11101, 13565, 14209, 15294 relating to listed football events (Case Ref: 85615)"

You will see that we have amalgamated your two requests. This is because we understand them to essentially cover the same documentation, namely the information relating to the decision to list certain sporting events under Part 4 of the Broadcasting Act 1996. The information you requested in your letter of 20 December has been assessed and, in the main, previously released as part of the FOI cases covered in your letter of 10 January.

We are therefore providing you with the information you have requested save for the exceptions outlined below. As noted in your letter of 10 January 2007, much of this information has already been released under previous FOI requests and as such, many of the relevant documents already appear in the public domain on the DCMS website. However, as requested, we now provide hardcopies of those documents. We also now provide copies of those relevant documents previously released that, for technical reasons, do not appear on our website.



You will see that we have redacted details from a number of the documents provided. These redactions are made pursuant to the Act to protect certain types of information as detailed in the following paragraphs. This includes the values of contracts, on the grounds of the exemption contained in section 41 of the Act – Information provided in confidence. We have assessed the interests in disclosing and redacting the information and on balance believe the information should be redacted. This is because there is a need to ensure that we continue to receive information from third parties on the understanding that such information would be treated in confidence. To disclose confidential information regarding the values of contracts would be likely to lead to less candid information being shared in the future.

We are also providing you with a summary of a letter from Lord MacLaurin, the then Chairman of the England and Wales Cricket Board, to Chris Smith, the then Secretary of State for Culture, Media and Sport dated 23 June 1998, rather than the letter itself, as we are of the view that the letter falls under the exemption contained in section 43 – Commercial Interests – and should not be released in its entirety. To do so would be likely to harm the commercial interests of the organisation in question as it could impact on their commercial revenue and the summary provided details the information in relation to your request.

We have also not included the names of officials identified in the enclosed information as it is our understanding, based on the terms of your request that you are interested in the specific substance of the responses from third parties to the consultation rather than the specific officials involved. Please contact us if this is an incorrect understanding of the information you seek.

Finally, the Department considers there to be further information which may be exempt from disclosure under section 35(1)(a) – Formulation and development of Government Policy – and 35(1)(b) – Ministerial Communications – of the Act. As such, we are required, under the Act, to consider whether the balance of the public interest lies in our providing you with the information or in maintaining the exemption and withholding the information. I estimate that it will take us between 20 and 30 additional working days to reach a decision on the question and we will write to you again by 4 March 2008.

If you have any queries about this letter, please contact Fiona Cameron (Press Office) on 020 7211 6266 or in writing to the above address or by email to fiona.cameron@culture.gsi.gov.uk. Please remember to quote the reference number above in any future communications.

If you are unhappy with the way DCMS has handled your request you are entitled to ask for an internal review of its handling. You should contact the Head of Information Management Unit, 2-4 Cockspur Street, London SW1Y 5DH if you wish to complain.

If you are not content with the outcome of an 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

Yours sincerely,

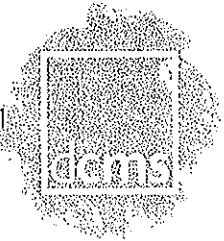

Broadcasting Policy Division



Your Ref KSL/LK-077859.0011
KS/LK-077859.0018

Our Ref 84662/85615

4 March 2008



department for
culture, media
and sport

Dear Madam,

Re: Your requests of 20 December 2007 and 10 January 2008: information regarding the decision to list certain sporting events under Part 4 of the Broadcasting Act 1996

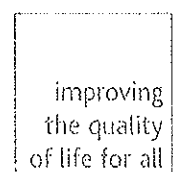
I refer to the above requests for information. My colleague, [REDACTED] wrote to you on 22 January 2008 providing the information you requested, subject to some exceptions. Our letter explained the reasons for withholding some of the information and informed you that the Department considered that there was also some information which may be exempt from disclosure under section 35(1)(a) or (b) (formulation of Government policy and Ministerial communications).

Our letter explained that we were considering whether the balance of the public interest lay in our disclosing that information or withholding it and that we required further time for that process. We have now concluded that the balance of the public interest lies in maintaining the exemption in section 35(1)(a) and (b) and therefore withholding the information. The reasons for this are as follows.

We acknowledge that in general there is public interest in the transparency of Government decisions, for the public to be able to engage in that process and to have trust in decisions reached. However, we do not consider that the release of this information would broaden public participation in decision-making. The decision came at the end of a lengthy and transparent process involving a high degree of public and stakeholder involvement in two consultation exercises – the first being concerned with the criteria for listing, the second with the events which it was proposed to list. We do not consider that disclosure of the information would aid accountability – Ministers are accountable to Parliament for the final decision taken and the decision was announced in Parliament in 1998.

We do however consider that disclosure would have an adverse impact in relation to both specific and more general public interest considerations.

Specifically, the withheld information contains information provided by third parties that, if made public, could make those or other third parties less willing to contribute fully to Government consultations in the future, damaging the policy formulation process, militating against the public interest. Further, matters relating to the listed events decision remain the subject of debate.



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More generally, we consider that disclosure would impinge upon the "private thinking space" that Government needs for effective policy development. We consider that the public interest is best served by a process of policy development within which the full range of options can be canvassed, explored and tested, and advice freely given by civil servants and discussed with Ministers. As regards information relating to Ministerial communications, it is important that Ministers be able to express themselves candidly when contributing to a Government decision. If information relating to such communications were routinely made public, they would be discouraged from making them, in writing at least. That could lead to less effective, and less transparent, decision-making. It is also fundamental to the system of collective Cabinet responsibility that Ministers be able to disagree in the course of taking decisions, but present publicly a single face that binds all Ministers when the decision has been made. That would be undermined if information relating to such correspondence was routinely disclosed.

Finally, as you may know, there is currently an appeal before the Information Tribunal in relation to a decision of the Information Commissioner ordering this very information to be disclosed. The Government is entitled to defend its legal position and it is in the public interest that it should be able to do so. The fact that to disclose this information now would render that appeal otiose is in itself a reason why disclosure is not in the public interest in relation to your request.

If you need any help or advice or have any questions about this letter, please contact Fiona Cameron (Communications) on 020 7211 6266 or fiona.cameron@culture.gsi.gov.uk. Alternatively, please write to her at the above address. Please quote the above reference number in any communications.

Details of what you can do if you are unhappy with our handling of your request are attached in the Annex to this letter.

Yours faithfully,

A large black rectangular redaction box covers the signature area, obscuring the name and any handwritten notes or dates that might have been present.