

Higher Education Finances Report

7 January 2014 & 27 January 2014

Part 1 of response

Dear Mr Andrews

Further to my email of 29 November 2013, I am now in a position to respond to your request for information of 26 November 2013, which you subsequently clarified on 5 December 2013. Your clarified request was:

- A. *All working drafts of the WAO report on Higher Education Finances which incorporated comment from the A-G*
- B. *All minutes and notes of internal meetings relating to the Higher Education Finances study and report*
- C. *All notes of discussions between the Auditor General and the Project manager Matthew Mortlock and correspondence between them relating to the Higher Education Finances study and report*

With regard to part A of your request, we hold a draft report that meets the description of your request, but I am withholding it for the following reasons:

- Disclosure of the information would prejudice the audit functions of the Auditor General for Wales. The disclosure of draft audit reports would discourage co-operation with auditors and would prejudice the effectiveness of the audit process, including the robustness of the report clearance process (and prior to that the internal development of a draft report). The information therefore falls within the exemption provided by section 33 of the Freedom of Information Act 2000 (FOIA). There is public interest in wider public knowledge of the workings of public sector auditors. However, the public interest in maintaining effective public audit by avoiding loss of co-operation, the risk of preliminary findings being given the same currency as fully tested conclusions, or other prejudice to the process of producing a final report that would arise on disclosure, is greater than the public interest that lies in disclosure. Such co-operation is necessary for maintaining efficient and effective audit processes. I have therefore decided that the balance of the public interest is such that the exemption provided by section 33 should be maintained.
- The section 36 exemption (prejudice to the effective conduct of public affairs) provided by the FOIA is also applicable because draft reports are provided to allow the free and frank exchange of views for the purposes of deliberation in order to enable facts to be fairly presented. Disclosure of such information would inhibit the free and frank exchange of views for the purposes of deliberation. There is public interest in disseminating knowledge of the workings of public sector auditors, including the process of ensuring reports are not only factually accurate but also fair and balanced. However, the public interest in maintaining effective public audit and inspection, by avoiding the prejudice to such processes that would arise on disclosure, is greater than the public interest that lies in disclosure. The Auditor General for Wales has therefore decided that the balance of the public interest is such that the exemption should be maintained.

With regard to part B of your request, please find attached the following documents:

1. Email from Matthew Mortlock to Ian Clarke and Hywel Pullen on 24 August 2012 at 15:02;
2. Document entitled "Agreed actions following Issues Analysis meeting on 14 August 2012";
3. Section 3 of the minutes of the Performance Directors' Committee Meeting on 7 February 2013;
4. Email from Matthew Mortlock to Hywel Pullen on 3 May 2013 at 15:06.

Item 4 has been redacted because the information falls within the personal information exemption provided by section 40(2) of the FOIA, which is an absolute exemption. The exemption applies because disclosure would breach the data protection principles of the Data Protection Act 1998.

We hold further information that meets the description of part B of your request but I am withholding it for the following reasons:

- Disclosure of the information would be likely to prejudice the audit functions of the Auditor General for Wales. The disclosure of such information would prejudice the effectiveness of the audit process. The information therefore falls within the exemption provided by section 33 of the FOIA. There is public interest in wider public knowledge of the workings of public sector auditors. However, the public interest in maintaining effective public audit by avoiding prejudice to the audit process that would arise on disclosure (such as inhibiting preliminary audit deliberations or discussion of emerging audit findings) is greater than the public interest that lies in disclosure. I have therefore decided that the balance of the public interest is such that the exemption provided by section 33 should be maintained.
- The section 36 exemption applies because the information was provided to allow the free and frank exchange of views for the purposes of deliberation. Disclosure of such information would inhibit the free and frank exchange of views for the purposes of deliberation. There is public interest in disseminating knowledge of the workings of public sector auditors. However, the public interest in maintaining effective public audit and inspection, by avoiding the prejudice to such processes that would arise on disclosure, is greater than the public interest that lies in disclosure. The Auditor General for Wales has therefore decided that the balance of the public interest is such that the exemption should be maintained.

With regard to part C of your request, we hold information that meets this description. Elements of this information fall within the personal information exemption provided by section 40(2) of the FOIA, which is an absolute exemption. The exemption applies because disclosure would breach the data protection principles of the Data Protection Act 1998 and such information is therefore withheld. The remainder of the information that meets the description of part C of your request all falls within the exemptions provided by section 33 of the FOIA (audit functions) and section 36 of the FOIA (prejudice to effective conduct of public affairs) of the FOIA. Elements of the information fall within the exemption provided by section 43 (commercial interests) exemption of the FOIA. With regard to the information that falls within the section 33 and section 43 exemptions, I need further time in order to consider the balance of the public interest in order to determine whether the exemptions should be maintained, and the Auditor General needs further time to consider the balance of the public interest in respect of the section 36 exemption. I shall write to you again once those considerations in respect of part C of your request have been concluded, which I expect shall be by 4 February 2014.

If you wish to complain about my handling of your request, please email or write to me.

I must also refer you to section 50 of the Freedom of Information Act under which you may apply to the Information Commissioner for a decision on whether or not your request has been dealt with in accordance with the Act. The Information Commissioner's contact details are:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF
email : casework@ico.gsi.gov.uk

Tel: 01625 545745
Fax: 01625 524510

You should note, however, that the Information Commissioner would normally expect you to have exhausted our internal complaints procedures before dealing with such an application. Further guidance may be found on the Information Commissioner's website <http://www.informationcommissioner.gov.uk>.

If you have any queries, please do not hesitate to contact me.

Yours sincerely

Ian Phillips

Part 2 of response

Dear Mr Andrews

Further to my email of 7 January 2014, the Auditor General and I have concluded the public interest tests in relation to the information that we hold that falls within part C of your request which was:

All notes of discussions between the Auditor General and the Project manager Matthew Mortlock and correspondence between them relating to the Higher Education Finances study and report

Please find attached the following items (the numbering follows on from my email of 7 January 2014):

5. Email from Matthew Mortlock to Huw Thomas on 22 May 2013 at 09:43 (please note that the attachment to the email, and the rest of the email, have not been provided as they do not relate to the Higher Education Finances study or report and so are outside the scope of your request);
6. Email from Matthew Mortlock to Huw Thomas on 26 September 2013 at 10:02 plus attachment;
7. Email from Huw Thomas to Matthew Mortlock on 26 September 2013 at 10:25;
8. Email from Matthew Mortlock to Huw Thomas on 09 October 2013 at 16:45 (please note that the attachment is outside the scope of your request and is otherwise in the public domain);
9. Email from Matthew Mortlock to Huw Thomas on 05 November 2013 at 08:31 (I am withholding the attachments for the reasons set out at (i) and (ii) below);

10. Email from Matthew Mortlock to Huw Thomas on 12 November 2013 at 11:46;
11. Email from Matthew Mortlock to Huw Thomas et al on 20 November 2013 at 09:36 plus attachment;
12. Email from Huw Thomas to Matthew Mortlock on 20 November 2013 at 17:47, email from Matthew Mortlock on 20 November 2013 at 17:35;
13. Email from Matthew Mortlock to Huw Thomas on 20 November 2013 at 18:20;
14. Email from Huw Thomas to Matthew Mortlock and Rachel Moss on 21 November 2013 at 11:49;
15. Email from Huw Thomas to Matthew Mortlock on 21 November 2013 at 11:04, email from Matthew Mortlock to Huw Thomas on 21 November at 10:06;
16. Email from Huw Thomas to Matthew Mortlock on 21 November at 15:27.

Items 10, 11 and 13 have been redacted for the reasons set out at (i) and (ii) below.

Items 7,12,13,15 and 16 have been redacted because the information falls within the personal information exemption provided by section 40(2) of the Freedom of Information Act (FOIA), which is an absolute exemption. The exemption applies because disclosure would breach the data protection principles of the Data Protection Act 1998.

We also hold further information that meets the description of part C of your request, but this is not attached for the following reasons:

- (i) Disclosure of the information would prejudice the audit functions of the Auditor General for Wales. The disclosure of such information would discourage co-operation with auditors and would prejudice the effectiveness of the audit process, in particular the internal development of a draft report and the robustness of the report clearance process. The information therefore falls within the exemption provided by section 33 of the FOIA. There is public interest in wider public knowledge of the workings of public sector auditors. However, the public interest in maintaining effective public audit by avoiding loss of co-operation, the risk of preliminary findings being given the same currency as fully tested conclusions, prejudice to the report clearance process, or other prejudice to the audit process that would arise on disclosure (such as inhibiting preliminary audit deliberations or discussions of emerging audit findings), is greater than the public interest that lies in disclosure. I have therefore decided that the balance of the public interest is such that the exemption provided by section 33 should be maintained.
- (ii) The section 36 exemption (prejudice to the effective conduct of public affairs) provided by the FOIA is also applicable, specifically sub-section (2)(b)(ii), because the information was provided to allow the free and frank exchange of views for the purposes of deliberation. Disclosure of such information would inhibit the free and frank exchange of views for the purposes of deliberation. There is public interest in disseminating knowledge of the workings of public sector auditors. However, the public interest in maintaining effective public audit and inspection, by avoiding the prejudice to such processes that would arise on disclosure, is greater than the public interest that lies in disclosure. The Auditor General for Wales has therefore decided that the balance of the public interest is such that the exemption should be maintained.

As my email of 7 January 2014 set out, elements of the information that meets the description of part C of your request engage the section 43 (commercial interests) exemption provided by the FOIA. This information consists of PwC's fees for their work on the study. This information does not

seem to be substantively the focus of your request, and is therefore not included in my response. However, if you do seek this information please let me know and I will consult with PwC and consider whether such information can be disclosed.

If you wish to complain about my handling of your request, please email or write to me.

I must also refer you to section 50 of the Freedom of Information Act under which you may apply to the Information Commissioner for a decision on whether or not your request has been dealt with in accordance with the Act. The Information Commissioner's contact details are:

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If you have any queries, please do not hesitate to contact me.

Yours sincerely

Ian Phillips