

Notes on the disclosure of documents relating to the abolition of the Audit Commission

A list of documents currently disclosed on this site is shown at the end. However, some of the information included in these documents is exempt from the right of access under the FOI Act by reason of sections 35(1)(a), 35(1)(b), 35(1)(d), 36(2)(c), and 43(2).

Section 35(1)(a) provides that:

- (1) *Information held by a government department or by the Welsh Assembly Government is exempt information if it relates to—*
 - (a) *the formulation or development of government policy,*

For the text in documents 6 (at points B, E, G, I and J), 7 (at points C and D), 8 (at point G), 9 (at point H) and 12 (at points F and I), the Department considered that there is a public interest in policy making being open, leading to increased trust and engagement between citizens and government. The decision to disband the Audit Commission is obviously a matter of public importance and public debate as to the options is valuable. However, as Government policy is still developing on the issues this text relates to and we believe there is a legitimate public interest in not releasing information on points of policy which have not yet been decided. Releasing information which is incomplete or which is misleading could adversely affect the development of the final policy. Overall, we consider that the public interest in ensuring that policy can be formulated effectively outweighs the public interest in disclosing the details redacted.

Section 35(1)(b) provides that:

- (1) *Information held by a government department or by the Welsh Assembly Government is exempt information if it relates to—*
 - (b) *Ministerial communications,*

For the redacted text in documents 2 (at point C, D and F), 4 (at point B) 9 (at point A), 10 (at point B and C) and 11 (at points C and G) we considered that there is a public interest in policy making being open, leading to increased trust and engagement between citizens and government. The decision to disband the Audit Commission is obviously a matter of public importance and public debate as to the options is valuable.

However, the overall Government intention to disband the Audit Commission has been made public, and the redacted information relates to discussions in Cabinet about this decision. Some of this text also relates to discussions in Cabinet, or with Ministers regarding the different options for moving forward. While we acknowledge the considerable public interest in knowing this information, maintaining the convention of collective responsibility is fundamental to the continued effectiveness of Cabinet government, as Ministers should be able to discuss the different options and their pros and

cons in private, but maintain a united front once the final decision is made. Revealing the information could encourage the exploitation of differences of opinion for political or personal purposes and result in greater constraints on Ministers in putting forward their views, to the detriment of properly discussed and informed decision-making. On balance, we consider that the public interest in maintaining the convention of collective responsibility outweighs the public interest in disclosure of the information redacted.

We are also not releasing any ministerial correspondence, or emails which set out particular Ministers' views, which falls under your request as we believe it is also exempt under s35(1)(b) for the same reasons as above.

Section 35(1)(d) provides that:

- (1) Information held by a government department or by the Welsh Assembly Government is exempt information if it relates to—*
- (d) the operation of any Ministerial private office.*

For the redacted text in documents 3 (at point E) and 13 (at point D), we considered the public interest in ensuring the Private Offices operate efficiently. However, the Private Office is an important aspect of the space around Ministers which needs to be protected so that good decision making is not threatened.

Section 36(2)(c) provides that:

- (2) Information to which this sections is applies is exempt information if, in the reasonable opinion of a qualified person, disclosure of the information under this Act -*
- (c) would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.*

The text in documents 2 (at point C), 5, 6 (at point C, D, F, H and K), 7 (at point A and B), 8 (at points A - F and H and I), 9 (at points B - D and F and G) and 10 (at points D - G) concerns the advice or views of Ministers and officials on policy that has yet to be decided. While it was announced that the Government intends to disband the Audit Commission, the detailed policy on how this will be achieved and what the new framework for local audit will look like, are still be worked up. The qualified person in this instance was a Minister in the Department, who took the view that the exemption was engaged.

We considered that open policy making may lead to increased trust and engagement between citizens and Government and can result in better policy formation. However, Ministers and officials need space in which to develop their thinking and explore options in communications and discussion with other Ministers and officials. We also considered that the premature disclosure of policy thinking may end up closing off better options because of

adverse public reaction. On balance, we took the view that this information regarding possible future policy was not in the public interest

Section 43(2) provides that

(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

For the text in document 6 (at point A) covered by this exemption, there is a public interest in the disclosure of commercial information to ensure that there is transparency in the accountability of public funds, and that departments' commercial activities are conducted in an open and honest way. However, as we intend to put the Audit Commission's audit practice into private ownership, there is a legitimate public interest in preserving the value of this asset. Releasing incomplete, or unverified financial information would be detrimental at this stage, and releasing information about what price the department might expect would adversely affect its bargaining power during negotiations for the transfer of ownership. Overall, we consider that the public interest in preserving the value of the Audit Commission audit practice outweighs the public interest in disclosure of the figures redacted.

At some places in other documents, the names of junior officials have been redacted.

Document Number	Summary	
1	Email between officials regarding Trade Unions	Officials names under senior civil service have been removed
2	Email between officials regarding audit reform	A, B - names removed C - s36(2)(c)
3	Advice to Secretary of State regarding the Future of Local Audit	A, B - names removed C, D and F - s35(1)(b) E - s35(1)(d)
4	Advice to Secretary of State regarding future of local audit	A and C - names removed B - s35(1)(b)
5	Note on Mutualisation	s36(2)(c)
6	Paper on HMT queries	A - s43(2) B, E, G, I, J - s35(1)(a) C, D, F, H, K - s35(2)(c)
7	Advice to Secretary of State regarding future of Audit Commission	A, B - s36(2)(c) C, D - S35(1)(a)
8	Note on the future of local audit	A - F, H, I - s36(2)(c) G - s35(1)(a)
9	Note on the future of local audit	A - s35(1)(b) B - D, F, G - (s36(2)(c) H - s35(1)(a)
10	Email between officials in DCLG and HMT	A, H - names removed B, C - s35(1)(b)

		D - F, G - s36(2)(c)
11	Email stream between officials on the Audit Commission	A, B, D, E, F, H, I - names removed C, G - s35(1)(b)
12	Advice to Secretary of State on the Audit Commission	A - E, G, H - s35(1)(b) F, I - s35(1)(a) J, K - names removed
13	Email between officials on pension liabilities	A, B, C - names removed D - s35(1)(d)
14	Interview with Daily Telegraph	
15	Email between officials on non re-appointment	
16	Email between officials on statutory responsibilities	
17	Proposed timeline for disbanding the Audit Commission	
18	Letter from Secretary of State to Clive Betts MP sent on 13 th August on the announcement	
19	Letter from Secretary of State to John Denham MP sent on 13 th August on the announcement	
20	A Question and Answer brief	
21	Letter from Secretary of State to Margaret Hodge sent on 13 th August on the announcement	
22	Supplementary Q & A briefing	
23	Letter from Secretary of State to Margaret Hodge on 8 th September regarding an urgent question in the House of Commons	
24	Letter from Secretary of State to Dame Margaret Eaton on 13 th August on the announcement	
25	Supplementary Q&A briefing	
26	Press Notice on announcement	
27	Letter from Secretary of State to Michael O' Higgins on 13 th August 2010 on the announcement	
28	Project Armchair - draft narrative	