

## MOD FOI/EIR Compliance Notes

### FOI Exemptions

#### CN29: Section 33 (Information held by audit organisations)

##### *Document history*

<i>Version No</i>	<i>Reference</i>	<i>Date Issued</i>	<i>Review Date</i>
1	CIO-3-19-1-3	September 2012	September 2013

##### *What this is about:*

This note provides an overview on exemption section 33 of the Freedom of Information (FOI) Act – information held by public sector organisations that audit other such organisations and which, if disclosed, would prevent it carrying out that function. It provides an outline of MOD compliance points to consider when engaging section 33 and other exemptions to consider.

##### *Detail:*

- This section applies to public authorities which have functions in relation to (a) the audit of the accounts of other public authorities, or (b) the examination of the economy, efficiency and effectiveness with which other public authorities use their resources in discharging their functions.
- This exemption can only be used by a limited number of public authorities which perform the roles listed above (of which the MOD is not one) therefore we **cannot** use this for exemption.

##### *MOD compliance points:*

- Information relating to public auditing may be held by the MOD as a result of being subject to an audit, for example correspondence with the National Audit Office. However this cannot be withheld using section 33.

##### *Other exemptions to consider:*

- Public audit information may be withheld, for example if it would prejudice commercial interests (**section 43**), breach parliamentary privilege (**section 34**), prejudice the effective conduct of public affairs (**section 36**) or relate to the formulation or development of policy (**section 35**). However in these cases the appropriate exemption should be applied rather than section 33.

Further information – see the ICO's detailed guidance:

[http://www.ico.gov.uk/for\\_organisations/guidance\\_index/freedom\\_of\\_information\\_and\\_environmental\\_information.aspx](http://www.ico.gov.uk/for_organisations/guidance_index/freedom_of_information_and_environmental_information.aspx)