



Pubs Code
Adjudicator

Office of the Pubs Code Adjudicator
Lower Ground
Victoria Square House
Victoria Square
Birmingham
B2 4AJ

Email: office@pubscod adjudicator.gov.uk

Reference: [REDACTED]

17 February 2020

Sent via email only

Dear [REDACTED]

Thank you for your email of 20 January 2020 requesting an internal review of the decision in relation to your Freedom of Information request dated 9 December 2019.

Your initial request was as follows:

“We wish to see a copy of the Structural Review undertaken by [REDACTED].”

I have undertaken an internal review of the original response to your request, considering afresh the information within the scope of your request and whether any relevant exemptions apply to that information.

As previously set out, the Freedom of Information Act 2000 (the Act) entitles you to:

- know whether the information you have requested is held by the Pubs Code Adjudicator (PCA); and
- be provided with that information, subject to any exemptions in the Act which may apply.

I confirm that the PCA does hold information in relation to your request.

In relation to the information that falls within the scope of your request I, Mr Newby the qualified person for the purposes of section 36 of the Act, have reviewed the information requested and reconsidered the reasonable opinion given previously and continue to consider that the information falls within sections 36(2)(b)(i)(ii) and (c) of the Act. This is because it is information the disclosure of which would or would be likely to inhibit the free and frank provision of advice, or the free and frank exchange of views for the purposes of deliberation, or would prejudice or would be otherwise likely to prejudice, the effective conduct of public affairs.



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The PCA Office is currently in the process of assessing changes implemented following the review and considering further its people strategy regarding its operations and staffing. The PCA Office requires space to be able to explore the implications of the matters raised in the report before any final decisions are made as to implementation going forward. The PCA Office needs to be able to seek and obtain advice that can have an effect on its resources and staffing structure in future without concern that considerations will enter the public domain before decisions as to application have been made. I am satisfied that there is at least a significant risk that this would damage the quality of advice and deliberation and therefore impair the quality of decision making.

I have considered again whether in all the circumstances the public interest in maintaining the exemptions outweighs the public interest in disclosing the information. In this case I consider that the public interest lies in favour of maintaining the exemptions and withholding the information.

I have taken into account the further points raised in your email dated 20 January 2020. These are in relation to the public good in transparency and being able to hold public authorities to account. I understand that you consider such scrutiny could come from both outside and inside the PCA Office if the Structural Review report were made public.

Transparency as to the operations of the PCA Office as a public authority is legitimately in the public interest. However, on balance my view is that this is outweighed at the present time by the public interest in not disclosing the report. It is important that deliberation on and advice received both internally and from civil servants in government departments is not inhibited. I consider that this is especially the case as the PCA Office is a relatively new organisation in the process of finding the staffing structure that is the most appropriate for it, with its needs and requirements still evolving.

Your email of 20 January 2020 raises an assertion that disclosure could assist in ensuring that the Structural Review is being “complied with”. It may assist you to know that the report contains information and recommendations to assist the PCA in decision-making as to staffing, but does not dictate compulsory outcomes or required actions. As detailed above and in the initial response to your request (dated 9 January 2020) consideration of and decisions around application of the review are still ongoing. It is important that the PCA Management Board has a safe space to be able to fully explore all aspects of the matters raised in the report and to seek and obtain advice without concern that this will enter the public domain before decisions as to the application have been made. Disclosure may inhibit the PCA Management Board from seeking advice, and may inhibit persons advising. It also may hinder them expressing themselves openly, honestly and completely, or exploring options, when providing advice or giving their views as part of the process of deliberation. This risks reducing the quality of the decision making process and therefore of the final outcome.

In addition, I also consider that there are public interest considerations in not disclosing the report on the basis that it relates to the staffing and operations of a very small team, before decisions have been made as to the implementation of aspects of the report. There is a risk that this could de-stabilise or negatively affect the confidence of PCA staff within that small team.

I therefore consider that the information held relating to your request is exempt under sections 36(2)(b)(i)(ii) and (c) and that the public interest continues to favour withholding it.



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If you are not content with the outcome of the 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,

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