



# HM TREASURY

1 Horse Guards Road  
London  
SW1A 2HQ

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Julian Todd

Information Rights Unit

By email:  
request-29365-f4f8f001@whatdotheyknow.com

Tel: 0207 270 4558  
Fax: 0207 270 4861

[www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk)  
[FOI.responses@hmtreasury.gsi.gov.uk](mailto:FOI.responses@hmtreasury.gsi.gov.uk)

Ref: 10/160

Re: Freedom of Information Act 2000: COINS database

We wrote to you on 22 March, explaining that we needed to take more time to balance the public interest as between maintaining the exemptions that apply to the data held on the COINS database or else disclosing the information in spite of the exemptions. We have now completed those considerations and conclude that it is not in the public interest for the information to be disclosed.

2. The full range of exemptions engaged emerged as follows –

- data submitted by or on behalf of the Security Services - exempt under section 23(1)
- select data relating to the defence services that is likely to prejudice the capability, effectiveness or security of any relevant forces - exempt under section 26(1)(b)
- data gathered to develop Whole of Government Accounts policy (WGA) - exempt under section 35(1)(a)
- current and future year data, which is subject to Government and Parliamentary revision - exempt under section 35(1)(a).
- data identifiers that are likely to engage intellectual property rights; and current /future year figures which are commercially sensitive to government, for example data on trading funds or public funded entities such as the BBC - in both respects we consider these data exempt under section 43(1) and 43(2).
- other data are exempt under section 36(2)(c).

3. Of these, the section 23 exemption is absolute and does not require us to carry out a public interest balancing test. The section 26 exemption requires us to balance the public interest as between disclosure and protection. We have argued that the public interest in disclosure here stems from a general presumption in favour of transparency rather than a substantive interest in the content of the information. Whilst the likelihood of harm from disclosure may be relatively remote, because the prejudice relates to the effectiveness and security of armed forces, we judge that the public interest in maintaining the exemption clearly outweighs the public interest in disclosure. Our concern here is that budgeted military expenditure at a fairly detailed level could in some situations enable judgements to be made about the prospective level and type of engagement in specific theatres.

4. The exemption provided for under section 35(1)(a) is a class-based one and information that relates to the formulation or development of government policy falls within its scope. We consider that the WGA information engages this exemption because there is a discrete policy program for the WGA which has not concluded. We also consider that section 35(1)(a) is engaged in relation to



current and future years financial information, as these figures are subject to policy decisions and revisions via approved transfers and, or, claims on the reserve, which remains a policy process that requires both ministerial and Parliamentary approval. Again, this is an exemption that requires us to balance the public interest as between disclosure and protection.

5. Factors we have considered that favour release include:

- a general public interest in transparency and in informing the public about government deliberations;
- assisting public understanding of the issue as preparation for government's publicly stated intention to produce pan-government, commercial-style accounts; and
- the Government placing on public record its preparatory work in developing the policy of cross-departmental accounting.

6. Factors favouring non-disclosure that we have considered include:

- in relation to WGA data, the Government has committed to publish IFRS-based WGA 2009-10 and is focussed on ensuring that such accounts can be produced;
- in relation to the current and plan years data that has been excluded, there are settled arrangements for Ministers and Parliament to sanction changes to the control totals; we consider that to disclose internal data that is subject to such formal Parliamentary arrangements would undercut Parliamentary authority, against the public interest.

7. Given the settled arrangements and commitments that exist for publication of the data in other forms, we judge the public interest in disclosure is token, rather than substantive; accordingly we consider the balance of public interest lies in protecting the policy space. It may be helpful to indicate that we do not consider this is information that engages section 35(2) or 35(4). This is not statistical or factual information used to provide an informed background to policy formulation or development. Rather this information is part and parcel of the policy development.

8. The exemptions at section 43 require us to perform the public interest balancing test. In favour of disclosure, we recognise the public interest in accountability is particularly marked where public spending and commercial relations are concerned. However, in favour of maintaining the exemption we note that it cannot be in the public interest to give contractors grounds for litigation against the government. More generally, where public bodies are operating commercially, it would be against the public interest to interfere with their commercial communication strategy with disclosures of such a nature.

9. Information not exempted under sections 23, 26, 35 and 43 was judged to engage section 36 of the Act. This judgement took into account that the Government publishes authoritative information on public spending, which is validated and respected as an accurate source, and that the real value of release in this case was negligible. In addition, the likelihood of harm from disclosure, arising from misinterpretation of the 23 million lines of raw and unvalidated data and/or a high volume of follow-up requests and enquiries, was sufficient to be classed as prejudicial to the effective conduct of public affairs as it would or would be likely to cause considerable disruption to the work of the Treasury that would reasonably be assessed as amounting to a prejudice to the Treasury's ability to offer an effective public service. The qualified person recognised that additional context could be provided to seek to mitigate the risk of misinterpretation but concluded that it was unlikely to reduce the risk of multiple inquires low enough not to disrupt the Treasury, or indeed any public authority listed in the COINS data set.

10. Section 36 (2) (c) is a qualified exemption and the public interest was fully assessed and found on balance to be in favour of maintaining the exemption rather than release. We assessed the public interest factors as:



In favour of release:

- The general public interest in transparency, which the Government is advancing through "Smarter Government" <http://www.number10.gov.uk/Page22897>
- the fact the data relates to public spending, which is an area in which the Information Commissioner has indicated a strong public interest in greater openness

*Against* release – i.e. maintaining the exemption:

- the impenetrability of the information to a lay user
- its raw, unvalidated, state as compared to published data
- the very large amount of publicly available (and accurate) spending data provided by HM Treasury
- the potentially significant cost and difficulty of rebutting misunderstandings: in particular, being able to identify how a commentator has arrived at a figure, given the large volume of data provided and the unformatted copy they will have to have been working from
- the Smarter Government proposal to provide more detailed spending data in an easily accessible form.

11. If you have any queries about this letter, please contact me. It will be helpful to us if you remember to quote the reference number above in any future communications.



Paul Morran  
Information Rights Unit

Your right to complain under the Freedom of Information Act 2000

If you are not happy with this reply, you may request a review by writing to HM Treasury, Information Rights Unit, 2/S2, 1 Horse Guards Road, London SW1A 2HQ.

Email [FOI.responses@hmtreasury.gsi.gov.uk](mailto:FOI.responses@hmtreasury.gsi.gov.uk)

Any review request must be made within 2 months of the date of this letter.

It would assist our review if you set out which aspects of the reply concern you and why you are dissatisfied.

If you are not content with the outcome your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by the Treasury. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.



