Dear Mr Benjamin

Freedom of Information Act 2000 (FOIA)

Thank you for your email of 13 February 2018 asking HMRC to carry out an internal review of our response to your information request.

Your request

On 19 December 2017 you asked for the following information:

Please provide a full, unredacted copy of the Mapeley Steps PFI contract including the financial model, and various options for HMRC use of the STEPS offices, post 2021 contract termination.’

Our response

We responded on 13 November 2017 confirming that HMRC holds the information requested but some of the information is exempt from disclosure under sections 31(1) (a)&(d), 40(2) and 43(2) of the FOIA.

Internal review

In your email of 13 February 2018, you stated:

I am writing to request an internal review of HM Revenue and Customs's handling of my FOI request 'Copy of Mapeley Steps (Strategic Transfer of Estate to the Private Sector) PFI Contract'.

HMRC have rejected sections of the application, citing the Data Protection Act for 'personal data' section 40 (2), the prevention or detection of crime, Sections 31(1) (a) & (d) of the FOIA and Commercial Sensitivity, Section 43(2) of FOIA.
The purpose of an internal review is to consider whether your request was handled correctly under the terms of the FOIA.

We received your request on 19 December 2017 and responded by email on 22 January 2018. This was within the statutory deadline in compliance with section 10(1) of the FOIA. The response also set out HMRC’s review procedure and your right to complain to the Information Commissioner’s Office, as required by section 17(7) of the FOIA.

Our Response

I am writing in response to your request of 13 February 2018 for an internal review of HM Revenue and Customs’ (HMRC) response of 22 January 2017 to your original request for the following information:

Please provide a full, unredacted copy of the Mapeley Steps PFI contract including the financial model, and various options for HMRC use of the STEPS offices, post 2021 contract termination.

In reviewing HMRC’s initial response to your request, I have examined the information already available on the National Archives website. I think it is important to note that nothing has been withheld from the STEPS contract itself, and that redactions from the supporting Schedules have been kept to a minimum, a full list of these having been attached to our original response.

I have now completed my review in consideration of your original request, HMRC’s response and the matters raised in your request for a review. HMRC applied exemptions from disclosure within the FOIA in withholding information and I have reviewed the application of each of the exemption in turn below.

There is minimal personal data within the information you have requested. Details of senior government officials involved in the STEPS contract have not been withheld, with the redactions under section 40(2) instead relating to site specific contacts and details of employees impacted by TUPE regulations. These individuals would quite reasonably expect that their personal data would be treated as confidential and I am content that the absolute exemption within FOIA has been correctly applied to these categories of personal data.

In relation to the application of section 31(1) (a) and (d) of the FOIA, I have reviewed the information withheld under this exemption, and this is limited to security standards and requirements currently in place to secure HMRC offices nationally and the individual locations of investigative and operationally critical locations still in use. Release of this information is likely to compromise HMRC’s current ability to protect its staff, maintain customer support and tax collection operations, and to conduct investigations from secure facilities. I consider that the public interest remains in HMRC having confidence in the security of its people, sites and operations and so this information should continue to be withheld.

The decision to withhold commercially sensitive information under section 43(2) was made following consultation with Mapeley, HMRC’s STEPS Private Finance Initiative (PFI) estate partner. Although the commercial pricing and funding information withheld is from 2000/1, its disclosure could still have a negative impact on Mapeley’s dealings in the commercial property market. This is particularly the case where charges made under the contract have not kept pace with a dynamic property market and so costs incurred by HMRC do not match current market terms.

Information on the mechanism for HMRC use of STEPS offices post 2021 is included within the main body of the contract and outlined in clause 32. HMRC’s considerations and negotiations for offices it may wish to remain in following contract expiry are still ongoing and commercially sensitive. Disclosure at this stage would impact on HMRC’s ability to secure the best possible terms for the public purse.
The public interest in the overarching commerciality and value for money of the STEPS contract has substantially been met by the public scrutiny of the National Audit Office (NAO) and Public Accounts Committee. NAO has reviewed the contract on two occasions, and specific reference to the financial aspects of the deal and details of the transfer can be found in the NAO's 2004 report PFI: The STEPS Deal.

Having reviewed the commercial information withheld and the concerns with disclosure, I am content that it is in the public interest to continue to withhold this information and that section 43(2) has been correctly applied.

During the course of my review of information available on the National Archives website, I have identified that three STEPS contract Schedules are not available on this site. These are:

Schedule 6: The Properties
Schedule 7: Plans of Surplus Properties
Schedule 10 List of Sites

I understand that it was not possible to prepare these Schedules for web publication and so to provide you with access to them I can arrange for hard copies to be sent to you upon supply of a postal address. Alternatively, the Schedules can be made available for you to view at our offices at Canary Wharf, London or Castle Meadow, Nottingham.

I hope you find the explanation of my conclusions clear. However, if you are not content with the outcome of the review you may apply to the Information Commissioner for a decision. She can be contacted at The Information Commissioner’s Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF or at www.ico.org.uk.

Appeal process
If you are not content with the outcome of an internal review, you can complain to the Information Commissioner’s Office. Their contact details are available at their website: www.ico.org.uk.

Yours sincerely

Harjit Garcha

Freedom of Information Team