

Our reference RM/BH

1 June 2010

Mr B Morton
Sent via email

Direct line 0844 798 8802
Email r-mauler@audit-
commission.gov.uk

Dear Mr Morton

— **Your information request**

Thank you for your letter in which you asked for a review of your recent Freedom of Information (FOI) request.

I've now concluded my review, and have taken into account Shaun Kavanagh's original decision and your thoughts on where the public interest stands. Following my review I have decided that we can release some information, but not all.

Before I explain my reasoning, it may be helpful to set out the difference in the roles of the Commission and the appointed auditor in relation to the Public Interest Disclosure Act (PIDA).

The Commission is a 'prescribed person' under PIDA, which means that local authorities can make disclosures to us. We, the Commission, log those disclosures and then pass the information to the appointed auditor for him to action under his statutory responsibilities, as set out in the Code of Audit Practice. The Code governs the way that auditors carry out the parts of their job that are covered by the Audit Commission Act 1998.

Under the Code, appointed auditors act independently. They must make their professional judgements separately from the Commission and any Commission staff, and independently of the organisation being audited. This means that no-one, including the Chairman, Chief Executive or a Board member at the Audit Commission, can influence an appointed auditor's professional skill and judgement.

Although our initial response dealt with your request as a whole, I have decided to deal with each part separately.

In your request, you asked:

What was the nature and substance of this whistle blowing disclosure?

We originally declined to provide you with this information, and although there are real concerns about the sensitivity of PIDA disclosures, I feel that it would be in the public interest to provide an edited summary.

The disclosure was about the tender process for formal contracts.

Further information would be exempt under section 33 of the Freedom of Information Act. This is because releasing further information would, in our view, prejudice the functions of the Commission. We believe this for the same reasons that were set out in our original response.

You asked:

What was amended in the Annual Governance Statement as a result?

In our previous response, we said that we didn't hold this information and this is still the case. As I explained earlier in this letter, when carrying out work under their statutory power, auditors do so independently of the Commission. We do not hold any drafts.

Auditors are exempt from the Freedom of Information Act and so only information held by, or on behalf of, the Commission can be considered.

You asked;

What actions have you or any other bodies taken as a result of this disclosure (that you are aware of?)

We, the Commission, logged and passed the disclosure to the auditor for his consideration. It is my understanding that the auditor has considered the matter, but is yet to present his findings to the Council.

You asked for;

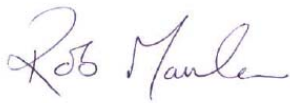
Any and all other information you have pertaining to the whistle blowing disclosure including (but not limited to) communication between yourselves and Waveney District Council, any internal discussion on the subject and any third-party discussions on the subject.

We, the Commission, hold four pieces of correspondence about the disclosure. One is fully exempt under section 33 of the Freedom of Information Act for the same reasons that I have set out above. I have decided that we can release the other three, however these have been redacted under section 33 and section 40(3)(a)(i) as they contain personal information. To release such information would be likely to breach the first data protection principal, namely that the disclosure would be unfair and unlawful.

I hope that our reconsideration of the disclosure of the information satisfies your request. However if you remain unhappy, you can approach the Information Commissioner. Details of how to do this are contained in our leaflet *Access to Information, Complaints and Appeals*. Please click on the link below to access a copy.

<http://www.audit-commission.gov.uk/legal/freedomofinformation/Pages/informationcomplaintsprocedure.aspx>

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Rob Mauler', with a stylized, cursive script.

Rob Mauler
Public Enquiries Manager