

Mr Andrew Berkeley

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16 March 2021

Dear Mr Berkeley

Refs: IR2020/06120  
FOI2021/02623

## Freedom of Information Act 2000 Internal Review

Thank you for your email dated 16 February 2021, requesting an internal review of our response dated 16 February 2021 to your information request made under the Freedom of Information Act 2000 (the FOI Act), under our reference: FOI2021/02623.

We have now completed our internal review and this letter informs you of its conclusions. The review was conducted by officials not involved with your original request.

### Background

On 25 January 2021, you made the following request under the FOI Act:

*"It is well known that HMT holds the Ways and Means account, commonly referred to as an overdraft facility, with the Bank of England. This liability is held on the National Loans Fund and is therefore clearly within the purview of HMT.*

*It appears that there are not one, but two, Ways and Means accounts, however. For example, the Debt Management Office Annual Review 2008-09 (<https://dmo.gov.uk/media/17019/gar1920.pdf>), when referring to the possibility of using the Ways and Means account to accommodate late end-of-day swings, states "This account deals with overnight balances and is distinct from the Ways and Means facility referred to on page 14 (which is currently frozen at £0.37 billion)."*

*Moreover, the DMO Annual Review 2019-20 (<https://dmo.gov.uk/media/17019/gar1920.pdf>) uses the name "the government Ways and Means (II) account at the Bank of England" in the context. Note the use of the qualifier "(II)".*

*I therefore have the following questions:*

- 1. When was the Ways and Means (II) account established?*
- 2. Why was the Ways and Means (II) account established?*

*3. What is the difference between the Ways and Means (II) account and the 'original' Ways and Means (I?) account in terms of its scope of use, functions, and terms of reference?*

*4. Does the Ways and Means (II) account form part of the Ways and Means liability that is described on the National Loans Fund balance sheet, or is it a liability of the DMA ? If the answer is neither, please indicate which Exchequer entity holds the liability for the account.*

*5. Does the Ways and Means (II) account sit as an asset on the balance sheet of the Issue or Banking department of the Bank of England?*

*6. Is the Ways and Means (II) account covered by the exemptions that the Ways and Means account had/has from prohibitions on central bank lending to governments as expressed in previous European treaties and now expressed in UK law (e.g. <https://www.legislation.gov.uk/ukxi/2019...>)*

On 16 February 2021 we provided our response. We confirmed that we held information and explained the following:

With regards to your first, second, third and fifth questions, answers to these questions could be found in the public domain. Under section 21 of the FOI Act, public authorities are not obliged to re-issue information. However, we did provide you with relevant links and noted which questions they were answering.

For your fourth question, we confirmed that the Ways and Means (II) accounts sits as a liability on the Debt Management Account (DMA).

With regards to your fifth question, the link provided information on the Ways and Means account on the Bank of England's (the Bank's) balance sheet. This showed that the Ways and Means advance to the National Loans Fund appears as an asset on the Bank's balance sheet of the Issue Department.

In relation to question 6, section 42(1) of the FOI Act was applied as it exempts information from being released if a claim to legal professional privilege could be maintained in legal proceeding. Section 42 is a qualified exemption and we set out our public interest arguments in our response. On balance, we concluded that the public interest favoured withholding this information.

On 16 February, you requested an internal review as follows:

*"I am writing to request an internal review of Her Majesty's Treasury's handling of my FOI request 'Why are there two Ways and Means accounts'.*

*In the response provided it is claimed that several of my questions are already in the public domain. It nevertheless links to several articles, implying they include such public domain information. In relation to my questions 1, 2, 3 and 5 no such answers are provided in the linked articles, which I was already familiar with.*

*For example, in question 4 it was confirmed that the Ways and Means (II) account is a liability of the DMA. However, for question 5 a link to the Bank of England's*

*Annual Report and Accounts was made with a citation of page 156. This citation refers to the "Ways and Means advance to the National Loans Fund" and therefore is therefore explicitly not an answer to whether the Ways and Means (II) [advance to the DMA] is on the Issue Department's balance sheet. Similarly, the questions of when and why the Ways and Means (II) account was established is not answered by the links provided and not in the public domain as far as I can tell.*

*Of the 4 other links provided, only 1 references the Ways and Means (II) account. The others appear to be referencing the Ways and Means account on the National Loans Fund or at least some more general notion of the Ways and Means facilities. They do not address the questions asked."*

## **The Review**

I have considered the response we provided to you and whether our handling was compliant with our obligations under the FOI Act.

You have stated the requested information cannot be found at links provided in our response to your initial request. I have since reviewed this information and am satisfied that in relation to your first, second and third questions the links provided were sufficient and provided contextual answers to your questions.

On your first two questions, this information is provided in the links given initially. The link states that, historically, the Ways and Means account played a daily role in the government's cash management, executed by the Bank. However, when the Debt Management Office (DMO) took on responsibility for the government's cash management in 2000, the need for daily use of the Ways and Means fell away, but the facility (Ways and Means II) has been used on a number of occasions since then.

Regarding your third question, the links provided sufficient information. The 1999-2000 Debt Management Report (pg. 9) states that daily changes in the government's net cash position will be reflected in the DMO's holdings of short term cash instruments when the DMO has responsibility for the government's cash management. Previously, this role was met by the Ways and Means overdraft with the Bank. The 2009-10 DMO Annual Review (pg. 65) then goes on to state that the Ways and Means (II) account at the Bank offsets any negative end-of-day balances in the DMA. It also mentions that Ways and Means (II) is distinct from the Ways and Means account referred to in the earlier chapter.

In response to your fifth question, I have reviewed the information provided in the original link and have since found an additional source which adds further contextual information. Please find this information in the link below (pg.46):

<https://www.dmo.gov.uk/media/15622/gar1718.pdf>

With regards to question 6, we confirmed that we held information and relied on section 42 to uphold it. We note that you have not directly reported dissatisfaction with this response, but we have reviewed this again and are satisfied that we have withheld the information correctly.

## **Conclusion**

I hope that by setting out the basis of the review, its findings and conclusions above, you will be assured that the Treasury has, on your behalf, carried out a thorough and considered review of the request you made and the responses that the Treasury gave under the FOI Act.

If you are not content with the outcome of this internal review you have the right to apply directly to the Information Commissioner for a decision. The Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow SK9 5AF.

Yours sincerely

Head of Information Rights Unit