

# University of Oxford

University Offices, Wellington Square, Oxford OX1 2JD



20 April 2011

<b>Reply to request for information under Freedom of Information Act</b>	
Your Ref:	E-mail dated 30 November 2010
Address:	WhatDoTheyKnow.com
Request	<p>Your Dr David Frame of the Smith School of Enterprise and the Environment has been appointed a Lead Author (LA) for Chapter 1 of the Intergovernmental Panel on Climate Change (IPCC) Working Group One (WGI) for the Fifth Assessment Report (AR5). The First meeting of WGI LAs was held at Kunming (China) between 8 and 11 November 2010.</p> <ol style="list-style-type: none"><li>1. Please give me copies of any agreements entered into by the University with the IPCC itself or Working Group One or any other party limiting the disclosure of information regarding the assessment of climate change by the IPCC or WGI.</li><li>2. Please give me copies of any correspondence received by Dr Frame from the IPCC, Working Group One or any source purporting to impose restrictions upon the disclosure of any information relating to the IPCC AR5.</li><li>3. Please send me copies of any other correspondence to or from Dr Frame not covered in 1 or 2 above which is in relation to the IPCC AR5.</li><li>4. Please let me know what plans the University has to comply with EIR r.4 in relation to the IPCC AR5.</li></ol>

In Professor McKendrick's letter to you of 16 March 2011, sent in response to your request for an internal review of the University's response to your request of 30 November 2010, he indicated that we had received from Dr Frame a large number of e-mails that we had not previously seen and that we would need to review in relation to your request, particularly parts 2 and 3 above. We have now completed our examination of this material and write to inform you of the outcome.

We have found no further information that falls within the scope of part 2 of your request. We have identified information falling within the scope of part 3, and our views on its disclosability are set out below.

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## **1 Information to be disclosed**

Attached at **Annex A** is a PDF of the information that is, subject to the redactions explained in the following paragraphs, not exempt from disclosure under the Freedom of Information Act (FOIA) and/or not an exception to disclosure under the Environmental Information Regulations (EIR).

We have redacted information that is the personal data of third parties, consisting of e-mail addresses and other information that would allow individuals to be identified. This information is covered by the exemption in Section 40(2) of the FOIA or the exception in Regulation 13(1), which allow a public authority to refuse to disclose the personal data of a third party where it would contravene data protection principles. We believe that in this case, disclosure would breach the requirement of the first data protection principle that personal data shall be processed fairly and lawfully. There are two reasons for this.

Firstly, we do not have the consent of the individuals concerned to disclose their personal data, and they would not reasonably expect us to do so without such consent, where the information is not already in the public domain.

Secondly, the first data protection principle requires that any disclosure must satisfy one of the conditions set out in Schedule 2 to the Data Protection Act. There are six conditions altogether: we do not consider that any of them would be satisfied in respect of the disclosure.

We have redacted the e-mail from the IPCC's WG I dated 23 November 2010 under EIR Regulation 12(5)(f)(iii), since the WG I has not given consent to its disclosure, and, in its view, which we regard as reasonable, disclosure would have an adverse effect on its interests.

## **2 Information that is wholly exempt from disclosure under FOIA or wholly an exception to disclosure under EIR**

### ***(a) Development of content of AR5***

There are three e-mails and attachments relating to the development of the content of AR5 that we will not disclose. For the reasons given in our reply of 10 January 2011 – a further copy is at **Annex B** for ease of reference – we believe that the following exemptions/exceptions apply to this information: Sections 27(1)(b) and 27(2)<sup>1</sup> of FOIA and/or Regulations 12(4)(d), 12(5)(a) and 12(5)(f)(iii).

<sup>1</sup> Read in conjunction with Section 27(3)

**(b) Communication arrangements between members of drafting teams**

There is one e-mail relating to the resources provided by the IPCC's WG I to Lead Authors and other participants to facilitate efficient communication during the drafting process e.g. mailing lists and arrangements for the exchange of draft documents. We will not disclose this information. For the reasons given in our reply of 10 January 2011, we believe that the following exemptions/exceptions apply to this information: Sections 27(1)(b), 27(2)1 and 40(2) of FOIA and/or Regulations 12(3)<sup>2</sup>, 12(5)(a) and 12(5)(f)(iii).

**(c) Development of guidance note on treatment of uncertainties**

There are around 60 e-mails that discuss draft versions of the guidance note on the treatment of uncertainties. We consider that these documents are subject to the following exemptions/exceptions:

*FOIA*

Section 27(1)(b)	Information likely to prejudice relations between the United Kingdom and an international organisation
Section 27(2) <sup>3</sup>	Confidential information obtained from an international organisation

*EIR*

Regulation 12(4)(d)	The request relates to an unfinished document
Regulation 12(5)(a)	Disclosure would have an adverse effect on relations with an international organisation
Regulation 12(5)(f)(iii)	Disclosure would adversely affect the interests of the person who provided the information, where that person has not consented to its disclosure.

The IPCC's WG I objects to the disclosure of those e-mails sent by its Technical Support Unit or Co-Chairs as part of the discussion of the draft guidance note. It considers that disclosure would make it difficult in future to preserve the confidential working space that allows those involved in the drafting process to express their views honestly and openly. In its view, therefore, disclosure would have an adverse effect on its ability to operate effectively in future. We consider this to be a reasonable point of view.

The final version of the guidance note is on the IPCC website<sup>4</sup>. We consider that all the e-mails concerned, whether sent by WG I or others, are covered by the exception in Regulation 12(4)(d) above, since they relate to an unfinished document that has been superseded by a later version.

<sup>1</sup> Read in conjunction with Section 27(3)

<sup>2</sup> Read in conjunction with Regulation 13

<sup>3</sup> Read in conjunction with Section 27(3)

<sup>4</sup> [https://www.ipcc-wg1.unibe.ch/guidancepaper/ar5\\_uncertainty-guidance-note.pdf](https://www.ipcc-wg1.unibe.ch/guidancepaper/ar5_uncertainty-guidance-note.pdf)

### **3 Public interest**

The exemptions in Sections 27(1) and (2) of the FOIA and the exceptions in Regulations 12(4) and (5) of the EIR are subject to a public interest test that requires the public authority to weigh the public interest in favour of disclosure, which is presumed under FOIA and EIR, against the public interest in withholding the information. In addition to applying the public interest test to the ‘new’ information referred to in paragraph 2(c) above, we have reviewed our application of the public interest test in relation to the categories of information referred to in paragraphs 2(a) and (b) above, which were first considered in our reply of 10 January 2011.

As regards the information under 2(a) above, relating to the development of the content of AR5, we recognise that there is a public interest that the results of the AR5 should be available for public scrutiny. However, we consider that this need will be best met through the future publication of final and complete information by the IPCC. The WG I report is scheduled to be finalised in September 2013, the Working Group II report in March 2014 and the Working Group III report in April 2014. The Synthesis Report will be finalised in September 2014. To release isolated pieces of information, before these reports have been completed, would be premature, and potentially misleading. There is a strong public interest that information relating to AR5 should not be published until the scientific deliberations involved have been completed, and the results checked and validated. Only then can the public have confidence in the value and legitimacy of the information.

Premature disclosure could also harm the quality of the drafting process by inhibiting the free and frank expression of opinion. The scientists involved in AR5 need to be able to develop and refine their views without the pressure of public discussion at each and every step of the process. Disclosure of the information requested, and any consequent publicity, would be likely to inhibit the frankness of their views and deliberations, and make them more cautious and less candid than they would otherwise be. It could also deter scientists from participating in this type of work in future, which they do on an unpaid and voluntary basis. This would not be in the public interest.

As regards the information under paragraph 2(b) above, relating to the resources available to enable Lead Authors and other participants to communicate with each other, we believe that the considerations set out above in relation to free and frank discussion also apply here, since the resources are intended to protect the private working space of the drafting teams, as well as to facilitate more efficient communication.

As regards the information under paragraph 2(c) above, most of the exemptions and exceptions applied relate to the views of the IPCC. It would not be in the public interest to harm the UK’s relationship with the IPCC, since it would be likely to impair the ability of UK experts to participate in work of this kind in future, namely, international collaborations on climate change, whether under the auspices of the IPCC or other international organisations. If UK experts were denied the opportunity to participate in international projects of this nature,

they might choose to seek employment in universities and research institutions outside the UK, where they could be assured of such opportunities. There is a wider public interest that UK experts should be able to contribute to international environmental projects, since it enhances the reputation of the UK and helps draw attention to UK expertise, with possible economic spin-offs.

Any reduction in the UK's future participation would diminish the breadth of scientific expertise available to the IPCC or other international organisations involved in climate change. In addition, the release of early drafts that have been superseded by the publication of a final version would be likely to have similar effects to those described in relation to the information under paragraph 2(a) above.

For these reasons, the University considers that the public interest in disclosure is outweighed by the public interest in maintaining the exemptions/exceptions.

***(d) Information already published***

We have also identified a number of e-mails that have already been disclosed to you in response to requests that you have submitted to other public authorities via the WhatDoTheyKnow website. A list is at **Annex C**.

**INTERNAL REVIEW**

If you are dissatisfied with this reply, you may ask the University to review it, by writing to the Registrar at the following address:

University Offices  
Wellington Square  
Oxford  
OX1 2JD

Alternatively, you may request a review by e-mailing [foi@admin.ox.ac.uk](mailto:foi@admin.ox.ac.uk).

**THE INFORMATION COMMISSIONER**

If, after the internal review, you are still dissatisfied, you have the right under FOIA/EIR to apply to the Information Commissioner for a decision as to whether your request have been dealt with in accordance with the Act. The Information Commissioner's address is:

Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
SK9 5AF

Tel: 0303 123113

Further information for submitting complaints to the Information Commissioner is available at <http://www.ico.gov.uk/complaints.aspx>

**FOI OXFORD**