



Date:  
20 April 2018

Reference:  
FOI 3923

Dear Ms. Skillerton

## **FREEDOM OF INFORMATION ACT REQUEST**

I refer to your Freedom of Information request in relation to your questions set out below:

Q1. I would be most grateful if you would provide all papers relating to board meetings of Arch including minutes and agendas from May 4<sup>th</sup> until present.

### **Right of Access**

Section 1(1) of the Act provides any person making a request for information to a public authority is entitled.

*(a) to be informed in writing by the public authority whether it holds information of the description specified in the request (which Section 1(6) of the Act designates as the "duty to confirm or deny"), and*

*(b) if that is the case, to have that information communicated to him.*

The right is to obtain access to the information itself and not to the document or record which contains it.

The Act creates a general right of access to information held by public authorities' subject to various exemptions.

### **Duty to confirm or deny**

The public interest test requires Arch to confirm that we hold Board papers including agenda's and minutes for the months of June, July, August and September 2017 and for January and February 2018. No Board Meeting was held in October and we do not hold the minutes for the meetings held in November and December.



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at Work Award  
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In response to Q1 please find response below:

A1. We have appended redacted minutes for the Board meetings held by Arch for the months June, July, August and September 2017 and for January and February 2018. We have not included the papers as Arch takes the view that the information relating to your request is exempt under the following provisions detailed below:

### **Exemptions**

The Freedom of Information Act sets out various exemptions to the right of access.

In the present case Arch takes the view that the information is exempt under section 43 on the basis that it is commercially sensitive. In this case the Authority relies on section 43(2).

***Freedom of Information Act 2000 Section 43(2): Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).***

### **Public Interest Test Considerations**

Section 43 is a qualified exemption which means that the information falling within the exemption still has to be released unless the public interest in disclosure is outweighed by the public interest in maintaining the exemption.

The reasons why the public interest favours withholding the information (OR declining to confirm or deny that it is held) are that the information contained within the Board Papers are of a commercially sensitive nature and disclosure may result in the following: -

- Reduction in the ability of the company to negotiate or compete in a commercial environment.
- Unwarranted reputational damage to the company, which may in turn damage its commercial interests through loss of trade.
- Lessen any competitive advantage held by the company and / or have a significant impact upon the ability of the company to operate in the relevant marketplace.
- Detrimental impact on the company's negotiations on other contracts and / or procurements.

### **Advice and Assistance**

Arch recognises its statutory duty to provide advice and assistance under Section 16 of the Act. Subject to the provisions of the Freedom of Information Act, Arch is seeking to be transparent and open in its response.

### **Notice of Refusal**

With the exception of the limited information disclosed herewith, please treat this as a section 43(2) Exemption.

## **Complaints**

If you are unhappy with the way your request for information has been handled, you can request an internal review by writing within 2 months from the date of this response to the Director of Finance at the following: -

Arch Corporate Holdings Ltd  
Wansbeck Workspace  
Rotary Parkway  
Ashington  
Northumberland  
NE63 8QZ

Tel: 01670 528400

Email: [enquiries@Arch-Group.co.uk](mailto:enquiries@Arch-Group.co.uk)

## **Information Commissioner**

If you remain dissatisfied with the handling of your request, you have a right by Section 50 of the Act to apply to the Information Commissioner for a decision as to whether your request has been dealt with in accordance with the requirements of the Act at:

The Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Tel: 01625 545 745

Email: [enquiries@ico.gsi.gov.uk](mailto:enquiries@ico.gsi.gov.uk)

There is no charge for making an appeal.

Yours sincerely

FOI Coordinator - ARCH  
Arch Corporate Holdings Ltd

Wansbeck Workspace  
Rotary Parkway  
Ashington  
Northumberland  
NE63 8QZ

Tel: 01670 528432

Email: [FOI@arch-group.co.uk](mailto:FOI@arch-group.co.uk)