



# HM TREASURY

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21 January 2011

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Ref: 10/1214

Re: Freedom of Information Act 2000: Bradford & Bingley Independent Valuer

Thank you for your enquiry dated 23 December. I am treating your request under the Freedom of Information Act 2000.

You asked for information covering –

- *all the relevant documents that meet Clokey's official statement in his Assessment Notice and his statement above*
- *all information contained in documents provided by HMT to the valuer that support the statements made by the valuer.*

By 'Clokey's Official statement in his assessment notice' I have assumed you mean the summary that Bradford & Bingley shares had no value. If this is not the case I would be grateful if you could provide us with the statement to which you refer as the Notice itself – to which you have directed us – is 24 pages.

By 'statement above' I have assumed you refer to the statement Mr Clokey made in the FAQ section of his website: *'Bradford & Bingley and the Tripartite authorities (HMT, BoE and FSA) tried to find buyers for the business, but did not succeed.'*

So far as your request requires us to interpret the thinking of the Independent Valuer, this is not in our power, nor within the scope of the Act. As you are aware Peter Clokey was the independent valuer of Bradford & Bingley shares. The terms of the Bradford & Bingley plc Compensation Scheme Order 2008 state that it was for the independent valuer alone to assess the evidence he requested and assess the value of B&B shares just prior to the company being taken into public ownership. Any conclusions made by the valuer are his alone.

At the request of the valuer, a number of parties, including HM Treasury, sent information he wished to use in the course of the valuation. This information was confidential and consisted of policy formulation discussions and deliberations of the government. As the valuer made an independent assessment, HM Treasury is not able to speculate about what information or documents the valuer used to support any statements he may have made in his Assessment Notice or at any other time.

Subject to the above qualification, I can confirm that after a search of our records, HM Treasury holds some of the information falling within the scope of your request. However specific exemptions, outlined below, apply to this information.



The information concerned engages the exemptions at sections 35(1)(A) and 43(2) of the Freedom of Information Act. Section 35 exempts information related to policy formulation and development. Section 43 exempts information where disclosure stands to prejudice commercial interests.

Those exemptions are not absolute. The Act requires us to make a formal assessment in the light of all the circumstances, as to whether the public interest in maintaining the exemption outweighs the public interest in disclosure; if it does not, the information will be disclosed in spite of the exemption.

We recognise the importance of transparency to promote public engagement and confidence in government decisions as well as ensuring proper accountability. We recognise this interest is heightened where members of the public have a general or particular financial stake in government action. However these public interest factors are intended to be addressed in the present context by the appointment of an independent valuer, by Parliamentary scrutiny and by audit safeguards.

However, there are also powerful public interest test arguments, which engage section 35, for not releasing the information. Ministers and Officials need space in which plans can be changed as a situation develops. Disclosure of information used stands to inhibit future consideration of policy options. Policy development is an iterative process which requires officials to propose, test and refine through the life cycle of the policy development, this process could be weakened if information was released to the public as it would or would be likely to lead to poorer decision-making.

It is in the public interest for the Treasury to maintain its relationship with key external stakeholders and policy partners. If information were disclosed it could deter such parties from working with or providing advice to HM Treasury in the future if they feel that their input might be made public.

In relation to section 43, disclosure of the references to companies within advice to Ministers or other policy discussions stands to damage the commercial interests of the companies concerned, in particular where that information is then accessible to a competitor.

We conclude, accordingly, that the public interest lies in maintaining the exemptions.

If you have any queries about this letter, please contact me. It will be helpful to us if you remember to quote the reference number above in any future communications.



Paul Morran  
Information Rights Unit

#### Your right to complain under the Freedom of Information Act 2000

If you are not happy with this reply, you may request a review in writing to HM Treasury, Information Rights Unit, 2/S2, 1 Horse Guards Road, London SW1A 2HQ.  
Email [FOI.responses@hmtreasury.gov.uk](mailto:FOI.responses@hmtreasury.gov.uk)

Any review request must be made within 2 months of the date of this letter.

It would assist our review if you set out which aspects of the reply concern you and why you are dissatisfied.

If you are not content with the outcome your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by the Treasury. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

