



EXEMPTION NOTE

Section 33 Audit functions

This note is one of a series intended to provide practical guidance on the exemptions set out in the Isle of Man Freedom of Information Act 2015 (FOI).

Requests for information must be considered on a case by case basis and the Information Commissioner will review decisions on the facts of each case.

THE EXEMPTION

Section 33 states:

33 Audit functions

- (1) Information is qualified exempt information if —
 - (a) it is held by a public authority to which this section applies; and
 - (b) its disclosure would, or would be likely to, prejudice the exercise of any of the public authority's functions in relation to any of the matters referred to in subsection (2).
- (2) This section applies to a public authority that has functions in relation to —
 - (a) the audit of the accounts of other public authorities; or
 - (b) the examination of the economy, efficiency and effectiveness with which other public authorities use their resources in discharging their functions.

THE MAIN POINTS

1. This is a qualified exemption.
2. To apply the exemption determination of a prejudice test is required.
3. The exemption can only be applied by the PA to information it holds PA in relation to its statutory audit function of other PAs. It cannot be applied to information held by the PA in relation to other audits.
4. A PA seeking to apply this exemption in relation to its own audit functions must be able to evidence a statutory basis for those functions and that those functions include carrying out an audit or examination as described in subsection 2.
5. A PA may apply this exemption to the information sought, if disclosure would, or would be likely to, prejudice the exercise of the PA's functions in relation to the audit of the accounts of other PAs or the examination of the economy, efficiency and effectiveness with which other PAs use their resources in discharging their functions.
6. If the PA determines that the exemption can be applied to some, or all, of the information sought in a request, the PA must still go on to consider the public interest in the information and determine whether "the public interest in maintaining the exemption outweighs the public interest in disclosing the information".

The Information Commissioner has published guidance on the public interest and further advice is contained in Section 3 of the Code of Practice.

FURTHER RESOURCES

APPENDIX 1: IOM Commissioner Decisions & IOM Case law

APPENDIX 2: Other Commissioner Decisions & Case law

APPENDIX 1 IOM Commissioner Decisions & Case law

IOM Commissioner Decisions

None

IOM Case law

None



APPENDIX 2 Other Commissioner Decisions & Case law

Note

Neither the Commissioner nor the Court are obliged to follow decisions or case law from other jurisdictions.

UK Information Commissioner Decisions



Scottish Information Commissioner (SIC) Decisions

The SIC's decisions are available at: www.itspublicknowledge.info/decisions

Decision Number	Parties	Summary
126/2008	William Stewart and Audit Scotland	<p>The Accounts Commission is responsible for appointing auditors to carry out the audits of local authorities. The Commission either appoints officers from Audit Scotland or private firms to carry out these audits. Mr Stewart asked Audit Scotland for information obtained during the audit of North Lanarkshire Council's accounts. In this case, PricewaterhouseCoopers (PWC) had been appointed to carry out the audit. Audit Scotland told Mr Stewart it did not hold the information. While the SIC was satisfied that Audit Scotland did not physically have the information, the SIC considered whether PWC held the information its behalf. A public authority holds information for the purposes of the Act if it is held by another person on its behalf.) Audit Scotland provides guidance and support to the auditors it appoints and monitors their performance, but the auditors act independently in carrying out the audit. As such, the relationship between PWC and Audit Scotland was not one whereby PWC could be considered to hold information on behalf of Audit Scotland. The S found that Audit Scotland was entitled to tell Mr Stewart that it did not hold the information he had asked for.</p>

Case law

UK Tribunal decisions

