

Reference: IR802

Date issued: 17 December 2021

Correspondence between WAO, WG and DBW

I am writing in response to your request for information dated 18 November 2021 (in response to an email from Audit Wales dated 10 November 2021 – subject: Correspondence relating to the Development Bank of Wales (DBW)) in which you requested the following:

“can you please provide me with all correspondence between your office and (i) Welsh Government and (ii) DBW in regard to the above matters, under an FOI request? I am particularly interested in the response to WG from Giles Thorley you referred to dated July 21”.

For ease of reference, I have reproduced your questions below under references (i)-(iii) in bold and set out our corresponding responses.

(i) all correspondence between your office and Welsh Government...in regard to the above matters

Please note that limited correspondence with Welsh Government was conducted through a Microsoft Teams channel, but this is no longer held as it has been deleted in line with our retention policy.

We hold some information within scope, but I am of the view this information is exempt from disclosure. This is on the basis of the exemption in section 33(2) of the Freedom of Information Act 2000, which applies where disclosure of information would, or would be likely to prejudice audit functions. While the Auditor General has certain statutory access rights, the efficiency and effectiveness of audit work, including the planning and informing of such work, relies on the co-operation of audited bodies. Audit Wales requires a working relationship and must engage with audited bodies to provide an effective audit process, and disclosure of such engagement could discourage co-operation by audited bodies.

In this instance, disclosure of this information could make it less likely that audited bodies and third parties will co-operate or volunteer information to help inform audit work. There is also a general risk that disclosure could

set a precedent which would prejudice Audit Wales' ability to engage in frank discussions with the bodies that it audits. There is public interest in wider public knowledge of the workings of public sector auditors. However, the public interest in maintaining efficient and effective public audit, and avoiding the potential harm to relationships that would arise on disclosure, is greater than the public interest that lies in disclosure. I have therefore decided that the balance of the public interest is such that the exemption provided by section 33(2) should be maintained.

(ii) all correspondence between your office... and DBW in regard to the above matters

We do not hold any information falling within the scope of this part of your request. If you are interested in correspondence that DBW has with organisations, you may wish to contact them directly (if you have not already done so).

(iii) Response to the Welsh Government from Giles Thorley dated July 2021.

As with my response to part (i), I am of the view that disclosure of this information would be likely to prejudice the audit functions of the Auditor General for Wales. This is because disclosure of information could discourage communication or co-operation with auditors in future, and therefore would be likely to prejudice audit functions. I have applied the public interest test and consider the balance lies in maintaining the exemption, on the basis that arguments in favour of disclosure such as transparency and furthering public participation, do not outweigh the factors in favour of applying the exemption under section 33(2) of the Freedom of Information Act 2000.

Further, I am of the view that section 41(1) of the Freedom of Information Act 2000 is engaged in respect of this information forwarded to us by Welsh Government, which originated from Development Bank Wales. As the confidential information originated from another body, and has been sent to us by Welsh Government for a defined purpose and on a confidential basis, it is possible that more than one body would be able to claim for a breach of confidence. This is an absolute exemption, meaning the public interest test is not required.

If you are dissatisfied with the handling of your request, you can request an internal review. Requests for internal reviews should be addressed to Martin Peters, Head of Law and Ethics, by email to infoofficer@audit.wales or by post to Audit Wales, 24 Cathedral Road, Cardiff, CF11 9LJ.

I must also refer you to section 50 of the Freedom of Information Act under which you may apply to the Information Commissioner for a decision on whether or not your request has been dealt with in accordance with the Act. The Information Commissioner's contact details are:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF
email : casework@ico.gsi.gov.uk
Tel: 01625 545745
Fax: 01625 524510

You should note, however, that the Information Commissioner will not ordinarily investigate a complaint until the internal review process has been exhausted. Further guidance may be found on the Information Commissioner's website: <https://ico.org.uk/>

If you have any queries regarding my response, please contact me.

Yours sincerely,

Information Officer