

**Freedom of Information Worked
Example
- Internal Audit information**



Introduction

1. This worked example provides a framework for dealing with requests for Internal Audit (IA) information.
2. There is no blanket approach for all Internal Audit requests and Internal Audit processes will differ from Department to Department. In addition all Departments will have uniquely sensitive information which might fall within the scope of a range of different exemptions.
3. Requests must therefore be approached on a case by case basis, however the worked example will provide some general guidelines for handling requests relating to IA information including the exemptions that are likely to apply and the public interest arguments.
4. Whilst the specific objectives of Internal Audits will vary there is commonality: - To ensure effective operations and procedures are put in place for a particular area or project with a view to address any weaknesses.

The Scenario

5. Mr Jones puts in the following request to the Department of Public Affairs:

- **For the years 2001 / 02; 2002/03; 2003/04 the completed Internal Audit Report into the Procurement Unit that was presented to the Department of Public Affairs Chief Accounting Officer and also for all other completed audits.**

6. The Department of Public Affairs' audit process is designed to provide assessments of the overall adequacy and effectiveness of the **Procurement Units'** risk management, control and governance processes. To meet this overarching objective a number of reports are prepared in a wide range of business areas. Whilst the specific objectives for each Internal Audit will vary the fundamental aims are invariably to ensure efficient and effective operations and procedures are in place in a particular area or project and to that end the process is designed to expose any weaknesses such that they can be addressed.
7. The Reporting cycle runs broadly from April to April.

General Considerations

8. There are two key questions to consider for this and all Internal Audit requests: -
 - a) Is it appropriate to disclose Internal Audit reports or would disclosure undermine or otherwise prejudice the Internal Audit Process?

- b) What exemptions might apply to the detailed information contained within an Internal Audit report – For example is the Internal Audit being conducted on a procurement project? A particular area of policy?
9. This worked example will focus on question a) – the possible impact on the Audit process of disclosing Internal Audit Information.

Exemptions

10. Whilst the FOI Act recognises certain “audit functions” as potentially exempt, under s33, this exemption does not apply to Internal Audit information and only applies to Departments who have relevant functions in relation to other public authorities.
11. The only applicable exemptions in relation to the Internal Audit process is therefore s36 (2) (c) – Prejudice to Effective conduct of public affairs. In addition s36 (2) (b) (i) and s36 (2) (b) (ii) which provide respectively that information is exempt if disclosure would inhibit the free and frank provision of advice and the free and frank exchange of views for the purposes of deliberation, may also apply.

Section 36

12. Under s36 information can be withheld if, in the reasonable opinion of a qualified person, it would or would be likely to prejudice the effective conduct of public affairs. This exemption will only apply if in the reasonable opinion of a qualified person that certain forms of adverse effect would or would be likely to follow from disclosure.
13. In this scenario and in respect to Internal Audit information generally, Departments will need to consider whether disclosure under s36 would prejudice the Internal Audit process, following which the public interest for and against disclosure must be considered. Any prejudice to the internal audit process would be prejudicial to the effective conduct of public affairs as internal audits play an important role in ensuring efficient and effective operations and procedures are in place in a particular area or project.

Determining the prejudice

14. As noted The Department of Public Affairs’ audit process is designed to provide assessments of the overall adequacy and effectiveness of the Procurement Unit’s risk management, control and governance processes. To meet this overarching objective a number of reports are prepared in a wide range of business areas. Whilst the specific objectives for each Internal Audit will vary, the fundamental aims are invariably to ensure efficient and effective operations and procedures are in place in a particular area or project and to that end the process is designed to expose any weaknesses such that they can be addressed.
15. In order for Internal Audit to be effective in achieving its objectives, both for Departments as a whole and the individual business areas, the Internal Audit process should not be undermined. The effectiveness of the process is reliant on a number of elements, in particular:
 - a) The willingness of senior managers to fully engage and support the process (i.e. there should be no disincentive to undertaking an internal

audit in a particular area).

- b) Timeliness of the process. Early completion of the internal process is beneficial so that problems can be addressed at the earliest opportunity and recommendations implemented promptly (see public interest arguments below). Additionally a longer process would have resource implications potentially reducing the number of Internal Audits taking place.
- c) All those involved in the process must contribute fully. To this end assessments both *to* (through interviewees / discussions / notes etc) and *by* the Internal Auditors need to be unrestrained, frank, and candid, if they are to be effective.

16. The premature disclosure of Internal Audit information is likely to have an inhibiting effect on the three elements discussed above, in particular the frankness and candour of the assessments of all those involved, and as a result there would be detriment to the ability to maintain the integrity and effectiveness of the Department of Public Affairs Internal Audit process. Therefore premature disclosure of Internal Audit information would be likely to be prejudicial to the conduct of public affairs and the exemptions at section 36(2)(b) (i) & (ii) and 36(2)(c) are likely to be engaged (subject to the reasonable opinion of the qualified person). Discussion below explains why this prejudice would be contrary to the public interest.

Prejudice, public interest and the passage of time

17. It is of note that the passage of time will have a significant impact on the level of prejudice caused to the Internal Audit process by disclosure of the detailed assessments within the Internal Audit Reports and therefore to the public interest test.

18. In this scenario, the Department for Public Affairs Internal Audit process works on a yearly cycle. Each report takes approximately 10 weeks to produce (typically, 4 weeks fieldwork followed by 6 weeks drafting). The recommendations within the Internal Audit report are implemented in time periods varying from a few weeks to over a year.

19. In order to minimise any prejudice to the Internal Audit process, it would be reasonable to ensure that sufficient time has elapsed to allow Internal Audit report recommendations to be implemented (and their effects to be measured) prior to disclosure. Premature disclosure of the assessments (esp. of weaknesses (and proposed solutions)) without allowing time for these issues to be addressed would cause the prejudice to the process discussed above. A reasonable time period for a prejudice to the audit process caused by disclosure and the balance of the public interest test to favour non-disclosure might therefore cover the previous two years of the cycle in addition to the current cycle. This will however be dependent on the exact nature of the audit and the specific circumstances in which it has been conducted.

20. In this case (subject to the opinion of the qualified person) section 36(2)(b) would apply to the **2003/04** Procurement Unit's Internal Audit Reports.

The Public Interest Test

21. As for all requests where a qualified exemption is engaged the public interest arguments for and against disclosure will have to be considered. This section

examines some of the PI arguments in relation to Internal Audit information. There will also be more specific PI arguments to consider according to the business area / process / project / policy being audited.

22. In regard to the scenario in this worked example the public interest considerations are set out below. These arguments are likely to be similar for most Internal Audit information.

For Release

23. There is a strong public interest in disclosing information which ensures that there is transparency in the way in which government operates, and in particular in the effectiveness and efficiency with which government works (especially where related to the spending (or planned spending) of public money). Coupled with the current programme of Civil Service Reform with objectives to increase professional skills and the effectiveness of the civil service, there is a strong public interest in how effectively central government is delivering in key areas.
24. There is also a strong public interest in the accountability of departments in achieving objectives and delivering to set objectives and plans. The prospect of disclosure may serve to focus delivery due to the additional element of accountability outside central Government. The prospect of disclosure also heightens the need for demonstrable evidence and as such there is an argument that this would lead to fuller and franker submissions to the Internal Audit process. Though of course the counter to this is it may lead to greater frankness in relation to some issues, but less frankness elsewhere.
25. In summary PI for disclosure is: -

- **Transparency in the way Government operates – effectiveness and efficiency of delivery**
- **PI in accountability of Departments to deliver to set objectives**
- **PI in transparency in public expenditure i.e. both in the area being audited and the IA process itself**
- **Prospect of disclosure might focus delivery**
- **In some circumstances prospect of disclosure might lead to provision of franker evidence – IA must be demonstrably robust**

Against Release

26. There is a public interest in maintaining an efficient and effective Internal Audit process. Internal Audit is recognised as an essential way to ensure assessments are made of the overall adequacy and effectiveness of the Procurement Unit's risk management, control and governance processes. There is a strong public interest in ensuring this process is not undermined – to do so would prejudice the effectiveness with which the Department for Public Affairs achieves its objectives across all of its business to the detriment of the public interest.
27. A key element of the Department for Public Affairs Internal Audit process is the timeliness of the process. In order to ensure that the benefits of the process (in terms of improved operation and efficiency) are achieved as soon as possible (and also such that the process is as relevant as possible), there is a public interest in maintaining this timeliness. The prospect of premature disclosure would be likely to lead to increased iterations of draft reports, additional clearance

processes leading to a longer process and increased resource implications with potentially no added value. In order to maximise their effectiveness, the Internal Audit reports are produced quickly, so their recommendations remain relevant and can be quickly implemented.

28. In relation to the frankness and candour of those involved in the process, there is a strong public interest in public authorities being able to carry out and use frank assessments and maintain useful and candid assessments of progress and effectiveness, both whilst individual projects are being delivered and in assessing the general operation of business areas. This is in order to ensure successful delivery of departmental business (whether a specific project or a core business area) and to successfully manage any challenges to the operation of that area or delivery of a project.
29. In maintaining oversight of the effectiveness with which the process is being delivered, the process is enhanced when any contributions/assessments produced by, or submissions made to, the Internal Audit team are unrestrained, frank and candid. This is particularly important in relation to the discussions and interviewees with the staff in the business area being considered. There is a need to rigorously assess the merits and demerits of the effectiveness with which projects are being delivered and business areas are operating. The prospect of premature disclosure would be likely to undermine or restrain this work to the detriment of operation and delivery and therefore premature disclosure is not in the public interest.
30. In summary, PI against disclosure is: -

- **Reduced frankness and candour leading to less effective recommendations.**
- **Impact on timeliness – likely to be more iterations and additional clearance required.**
- **General PI in not undermining IA process which is an essential tool to ensure efficiency and effectiveness of projects.**
- **A less robust Audit will therefore be to the detriment of effective delivery / and implementation.**

Balance

31. In this example the passage of time is key. It is likely, any submissions and assessments made to, or by, the Internal Audit team as part of the process would be constrained by the prospect of premature disclosure to the prejudice of the conduct of public affairs and the detriment of the public interest.
32. As discussed above it is premature disclosure that would cause the level of prejudice to the process and means that the Public interest against disclosure is particularly high at the point the audit has been conducted. A reasonable time period for prejudice to the audit process to be caused by disclosure in this example might be for the previous two years of the cycle in addition to the current cycle. As the prejudice to the audit process diminishes the Public Interest in disclosure clearly increases. It is important to note that the point at which the public interest in disclosure will be greater than the public interest in disclosure will vary and must be considered on a case by case basis.
33. In the balance of the public interest, the public interest in knowing how the

Internal Audit process is working effectively can be met in part by disclosure of the details of which Internal Audits have taken place and the scope and objectives of these reports.

34. However, the greater public interest remains in maintaining the integrity of the Internal Audit process, by ensuring the prospect of disclosure does not restrain the Internal Audit process. There is also the additional public interest in ensuring that the Internal Audit process is valued and fully supported by senior managers. Were there to be a prospect of premature disclosure of Internal Audit information senior managers may not encourage use of the Internal Audit process in areas where it was most needed – and may focus on areas known to be effective already, minimising its value. Ultimately this may lead to a failure to identify and address inefficiency or ineffectiveness in key business areas to the significant detriment of the public interest.

35. In summary: -

- **There is PI in knowing that the IA process is working effectively**

BUT

- **There is greater PI in maintaining integrity of the internal audit process and premature disclosure would: -**
 - **Restrain the IA process**
 - **Discourage senior managers from encouraging use of IA**
 - **Lead to a failure to address inefficiency and ineffectiveness**

Final Response to worked example scenario

36. In this fictional worked example scenario the conclusion from carrying out the prejudice and public interest test would point to the following recommendations

- **In relation to the Department for Public Affairs reports from 2003 / 04, this would fall into the scope of s36 (2) (b) and the public interest is in favour of non-disclosure.**
- **In relation to the Department for Public Affairs report from 2001/02 and 2002/03, whilst s36 (2) (b) may still apply the passage of time will have significantly reduced the prejudice and that for these reports, as a result of the passage of time the public interest would now favour disclosure. .**

Further general consideration for all IA requests

37. Depending on the area being audited, the application of section 36 may well be in combination with other exemptions. Each case will be unique, for example:

- **IA of a policy area may engage s35 (policy formulation)**
- **IA into performance of agencies with law enforcement duties may engage s30 or s31**
- **IA into implementation of an IT project, a new procurement plan or**

spending review information may engage s43

38. As with this example the passage of time will also be relevant as it will impact on the level of prejudice and therefore the public interest balance. Remember: -

- **It is important to allow time for IA assessments to be implemented**
- **Implementation time often varies**
- **Premature disclosure of assessments (particularly weaknesses) would be prejudicial**
- **Prejudice is reduced by withholding until a reasonable time has elapsed following implementation of recommendations – this “reasonable time” must be assessed on a case by case basis.**

36 Be aware of the wider context in which the IA report sits – for example has it led to a wider policy review.

39. Be aware of the impact disclosure might have on wider departmental risk processes

40. Consider releasing the scope and objectives of Internal Audits and other factual background information. Also consider what information can be made proactively available.

Annual Reports from Head of Internal Audit

41. As well as Internal Audit assignments, Heads of Internal Audit also prepare an annual report to the Accounting Officer. Heads of Audit will also provide interim reports to the Accounting Officer during the year covering the same themes as the annual report.

42. As these reports are part of the IA process s36 2 (c) will apply, alongside subject based exemptions depending on the content of the reports. In so much as the reports summarise recommendations and conclusions made across all individual audits carried out in a Department within an annual cycle, similar public interest considerations as discussed at paragraphs 22-29.

43. In addition the annual and interim reports include an evaluation of the adequacy and effectiveness of risk management as well as disclosing weaknesses, non-effectiveness, over control and poor value for money. Again s36 (2) (b) (i) & (ii) and s36 (2) (c) are applicable as disclosure would undermine the quality of reporting. There is a strong public interest in disclosing information which ensures that there is transparency in the way in which government operates, and in particular in the effectiveness and efficiency with which government works. However the prospect of disclosure, could reduce the frankness and candour of submissions to the Internal Audit Team and in turn the quality of report to the Accounting Officers. This will make it more difficult for the Accounting Officer and Audit Committee to judge the strength of the organisation’s risk management, control and governance and put in place effective remedial measures.

44. As with individual audit reports, the passage of time will be an important consideration with the public interest in non-disclosure of the annual and interim reports from the Head of Internal Audit diminishing over time (see paragraphs 30-32).

45. All requests for annual reports from the Head of Internal Audit to the Accounting Officer must be treated on a case-by-case basis.