



National Audit Office

The UK's independent public spending watchdog

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Reference FOI-1530

Date 30 June 2022

IPSA BANK STATEMENTS

Thank you for your request of 2 June 2022 – you requested the four monthly bank statements the NAO holds from the IPSA for 2017 and 2018, with personal data to be redacted.

Your request is being handled under the terms of the Freedom of Information Act 2000 (FOIA).

The specific information you requested is set out at Annex A, where we also provide our full response. While we hold information in scope of your request, we consider it to be exempt from disclosure under Section 33 (public audit functions) and Section 40 (personal data) of the FOIA. Annex B explains these exemptions and how they apply to your request, and our consideration of the Public Interest Test in relation to the S.33 exemption

We are sorry that we are unable to help you on this occasion. Annex C sets out the steps you may wish to take if you are not satisfied with the way we have handled your request for information under the FOIA.

Yours sincerely

NAO FOI team

Annex A

Request for IPSA's bank statements

(Your request in italics, NAO response in plain text)

Email of 2 June 2022

May I please make a brand new request to ask for the four specific bank statements you now say you have from the IPSA from 2017 & 2018 with personal data to be redacted so that Section 40 does not apply? Redacting personal data from such a limited amount of information could not in any circumstances exceed any costs and hours limits in the FOIA 2000 as this is not much work.

I do not understand why Section 33 applies in these circumstances for this information. So a specific explanation on why IPSA cannot or would not lawfully take part in further NAO audits if you released these bank statements, redacted for personal data, under freedom of information laws, would be most helpful to justify any application of this section you may seek to impose.

It should also be of course noted that even after Internal Review the IPSA rejected my request for this information in a separate FOIA 2000 request made to them. This is currently subject to an ICO appeal and is in the ICO's work queue. ICO Case Reference: IC-156455-F4F1.

Email of 6 June 2022

Further to this new request from 2nd June resulting from your response to FOI-1525. I feel that it may ultimately be necessary to apply for an internal review in the event you were to cite the same reasoning with regards to the public interest test and the FOIA 2000 Section 33 exemption.

I know this request is similar to the two others I have made to you to date; but I did not know that you specifically had just 4 separate monthly bank statements from The IPSA for the 2017/18. So now I am requesting everything within them which is not personal data.

You have provided no explanation or rational reasoning and evidence as to what specific lawful consequences could possibly manifest that would prejudice the effective audit functions of the NAO if this narrow and specific information subject was disclosed minus personal data.

Indeed access to the accounts and specific financial transactions of all public organisations is one of the foremost ways that the FOIA 2000 facilitates ordinary members of the public to have confidence that tax payer money is being used solely in the public interest. The public interest is not served if the general public are expected to blindly place their trust in the NAO alone as they are just as much part of the public sector as The IPSA are and as government departments and all public organisations and arms length bodies are.

The NAO's audit functions are compromised if ordinary members of the public are denied any information whatsoever that it holds which is not personal data. It is the job of the general public to scrutinize the NAO as auditor of other public bodies. And the joint role between the general public and the NAO to audit the spending of all tax payer money by public sector entities.

How can the public ever be able to trust the NAO themselves if they use fallacious excuses in order to suppress information from the public about how their tax money is spent by the State? This is not why the FOIA 2000 was placed on the statute in our constitution and if the Section 33 exemption was ever to be lawfully applicable in these specific circumstances then that would in practice result in the FOIA 2000 being impotent to the extent of there being no point in it even existing for the public interest in the first place.

Please also see the below link:

<https://www.theipsa.org.uk/news/ipsa-regulates-mps-but-who-monitors-ipsa>

This is from the IPSA's website where they state that they were literally created because of the FOIA 2000 and that they are committed to sending the NAO their full accounts all the time, as well as offering full transparency via the FOIA 2000 to the general public. They would be lying on their website if there was ever any negative impact on the NAO's working relationship with them in the future as a direct or indirect

consequence of any of your FOIA 2000 disclosures regarding information you hold related to them.

I would much prefer it if we can bring these matters to a swift and amicable resolution because this need not have to take up more of your time and ultimately be pursued via the ICO and then the Court system if necessary. If there are any alternative suggestions for public access to these bank statements information that you can suggest then please state.

NAO response

We hold information that would fall within the scope of your request.

As noted in our 1 June 2022 response to FOI-1525, and our 4 May 2022 response to FOI-1517, we hold four of IPSA's bank statements covering the months of March 2017, April 2017, March 2018, and April 2018.

These bank statements were obtained by the National Audit Office (NAO) solely for the purposes of the Comptroller and Auditor General's audit of the financial statements of the IPSA for the year ended 31 March 2017 and the year ended 31 March 2018, under the Parliamentary Standards Act 2009.

We consider the four bank statements we hold to be exempt from disclosure under Section 33 (public audit functions) and Section 40 (personal data) of the FOIA. We outline the reasons for why we have applied these exemptions within Annex B.

You have requested we state any alternative suggestions for public access to these bank statements information. Bank statements would not routinely be in the public domain, and we are not able to suggest any alternatives for the level of detail you are requesting.

The Information Commissioner's Office (ICO) requires public authorities to publish certain types of information proactively. The ICO website includes guidance and examples of the information that the ICO expects Government Departments and the Houses of Parliament to provide in order to meet commitments under a model publication scheme. This guidance can be accessed here:

- Government departments - <https://ico.org.uk/media/for-organisations/documents/definition-documents-2021/4018872/dd-government-departments-20211029.pdf>
- House of Commons - <https://ico.org.uk/media/for-organisations/documents/definition-documents-2021/4018878/dd-house-of-commons-20211029.pdf>

In response to your previous FOI request (FOI-1525), we outlined the areas where the IPSA does include further reporting on its transactions as part of its publication scheme:

- IPSA publishes details of all contracts worth £25,000 and any supplier with whom its total annual spend exceeds £25,000 (by each financial year). <https://www.theipsa.org.uk/publications/ipsas-operational-costs>
- IPSA publishes data on the staffing and business costs of Members of Parliament by financial year and this information can be accessed here: <https://www.theipsa.org.uk/mp-staffing-business-costs/annual-publications>

Annex B

This annex sets out the exemptions that we have applied to your request.

Section 33 Freedom of Information Act 2000 – Public Audit

Section 33 of the Freedom of Information Act 2000 (FOIA) provides that:

33.-(1) This section applies to any public authority which 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.

(2) Information held by a public authority to which this section applies is exempt information if its disclosure would, or would be likely to, prejudice the exercise of any of the authority's functions in relation to any of the matters referred to in subsection (1).

(3) The duty to confirm or deny does not arise in relation to a public authority to which this section applies if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice the exercise of any of the authority's functions in relation to any of the matters referred to in subsection (1).

Reasons why we have applied this exemption:

The National Audit Office (NAO) is a public body for the purposes of Section 33 and has received information sought by this request in the exercise of functions falling within Section 33(1).

We have applied the Section 33 exemption to information we hold in scope of your request and which we are withholding from release – namely the four IPSA bank statements. The financial year-end bank statements are used to support our financial audit of IPSA's annual accounts, which requires the bank statement showing the year-end balance to be held on the audit file. We also utilised the post-year end (April) bank statements for evidencing our testing of the completeness of income, expenditure, receivables and payables.

We have applied this exemption because we consider it is critically important to an effective audit process. It enables us to gather information and knowledge and engage in a free and frank way with audited bodies as we carry out our audits. Much of the information we obtain is volunteered to us by the bodies and people we engage with, and we consider our work would be less collaborative, more inhibited, and so less effective if people thought audit information would be released subsequently.

Neither the transparency requirements of the Cabinet Office or the model publication scheme issued by the Information Commissioner's office include requirements to publish bank statements or the level of general transactional information you have requested. You have also noted that the IPSA has denied your separate FOI request direct to IPSA for access to its bank statements.

We believe that were we to release this information, the IPSA would be reluctant to share bank statements or other transactional datasets with the NAO in electronic format going forwards. A refusal to provide information in electronic format to the NAO would not be in breach of IPSA's requirements for an audit under the Parliamentary Standards Act 2009. The IPSA would still be able to meet its statutory audit requirements by providing such information to the NAO in hard-copy format visible only on the IPSA's premises. Such an approach would however undermine the efficiency of the audit and our ability to conduct appropriate first and second stage reviews of audit work, as required under International Standards on Auditing (UK) and the NAO's audit methodology.

Furthermore, releasing the information would damage our working relationship with government. This would be likely to impact adversely on the conduct, cost and effectiveness of public audit. Therefore, we consider that disclosure of this information would be likely to prejudice the exercise of the NAO's functions as set out in the National Audit Act 1983. For this reason, we have applied the public audit exemption available under Section 33(2) of FOIA.

Reasons why the public interest in maintaining the exclusion outweighs the public interest in disclosing the information in this case:

The NAO is independent of government and scrutinises public spending on behalf of Parliament. Our work serves the public interest by helping Parliament hold government to account, providing transparency on matters of public interest and driving improvement in the use of public resources.

We recognise that there is a public interest in knowing that the use of public money is subject to appropriate levels of accountability and transparency, delivered through an effective audit function. However, we consider that disclosure of sensitive audit evidence supplied to the NAO by departments in pursuit of our statutory functions and beyond that published in our reports, would impair the audit process for the reasons set out above. Departments would be reluctant to engage with us which would delay and diminish the audit process.

In this instance the information was used to inform our financial audit of IPSA's annual accounts, which are published on IPSA's website: [Annual reports & accounts | IPSA \(theipsa.org.uk\)](https://www.theipsa.org.uk/annual-reports-accounts). In addition, IPSA publishes much of its financial information on its website: [Publications | IPSA \(theipsa.org.uk\)](https://www.theipsa.org.uk/publications).

The NAO's work puts information into the public domain and helps Parliament hold government to account. In our view, the balance of public interest rests with the NAO being able to deliver an effective and efficient public audit function and report our findings to the public.

Consequently, given the negative impact that would result from disclosure, we consider it appropriate to maintain the Section 33 public audit exemption.

Section 40, Freedom of Information Act 2000 – Personal information

Section 40, paragraphs 1-4, of the Freedom of Information Act 2000 (FOIA) provides that:

- (1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.*
- (2) Any information to which a request for information relates is also exempt information if—*
- (a) it constitutes personal data which does not fall within subsection (1), and*
 - (b) the first, second or third condition below is satisfied.*
- (3A) The first condition is that the disclosure of the information to a member of the public otherwise than under this Act—*
- (a) would contravene any of the data protection principles, or*
 - (b) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded.*
- (3B) The second condition is that the disclosure of the information to a member of the public otherwise than under this Act would contravene Article 21 of the GDPR (general processing: right to object to processing).*
- (4A) The third condition is that—*
- (a) on a request under Article 15(1) of the GDPR (general processing: right of access by the data subject) for access to personal data, the information would be withheld in reliance on provision made by or under section 15, 16 or 26 of, or Schedule 2, 3 or 4 to, the Data Protection Act 2018, or*
 - (b) on a request under section 45(1)(b) of that Act (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section.*

Reasons why we have applied this exemption

We are not obliged, under Section 40(2) of the FOIA to provide personal information that is the personal information of another person if releasing it would contravene any of the provisions of the Data Protection Act 2018.

In this instance we believe some of the information held in bank statements constitutes the personal data of other individuals, including that of other companies and organisations. Even if we were to redact identifying information, such as names, it may be possible to identify individuals, companies and organisations from other information that is published and in the public domain. We believe that to release any of the information contained in the bank statements would contravene the first data protection principle, which is that the processing of personal data must be lawful, fair and transparent. Processing in this context includes disclosure and therefore we consider section 40(2) is engaged.

This exemption is absolute and is not subject to the public interest test.

Annex C

Statement of Policy

Our policy is to respond to requests made under the Freedom of Information Act 2000 as helpfully and promptly as possible, having regard to the principles set out in the Act. I therefore hope you are happy with the way we have handled your request. If you are not, then you should take the following steps.

In the first instance, within 40 working days, write to the National Audit Office Freedom of Information (FOI) Team at FOI.requests@nao.org.uk or by post to:

FOI Team, Green 2, National Audit Office, 157-197 Buckingham Palace Road, London, SW1W 9SP

The Head of FOI will arrange a review, which will be conducted by a senior member of staff who was not involved in decisions relating to your original request. Once the review has been completed, we will write informing you of the outcome.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

<https://ico.org.uk/>

or

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