



National Audit Office

The UK's independent public spending watchdog

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Reference FOI-1604

Date 15 May 2023

THE INSOLVENCY SERVICES AND THE INSOLVENCY SERVICES INVESTMENT ACCOUNTS

Thank you for your request of 18 April 2023 in relation to the published accounts of the Insolvency Services and the Insolvency Services Investment Accounts. We can confirm that we hold information in scope of your request. Your specific request is set out at **Annex A** for your reference where we also provide our full response. While we hold some information in scope of your request, we consider it to be exempt from disclosure under section 33 (public audit functions) of the FOIA.

Annex B explains the exemption and how it applies to your request, and our consideration of the Public Interest Test in relation to s.33. I am sorry we are not able to share the information with you and I hope you find this response helpful.

The Insolvency Service is the owner of the information you have requested and while we will respond to information requests and associated queries, we believe The Insolvency Service is much better placed to do so therefore you may wish to contact them accordingly. **Annex C** sets out the steps you can take if you are not satisfied with the way we have handled your request under the FOIA.

Yours sincerely,

NAO FOI Team



Annex A

Request for information

“The published accounts of the Insolvency Services and the Insolvency Services Investment Accounts for the 12 months ending 31 March 2022 (fn. 1) state that “dividends recognised as unclaimed in the year” were £13.962m (page 20, note 6).

In relation to the £13.962m figure can the NAO provide the following additional information:

- 1. .What were the ten (10) largest individual payments of unclaimed dividends made into the account in year ending March 2022 and the names of insolvent estates each payment related to*
- 2. .What information is in the possession of the NAO relating to the amount of unclaimed dividends as a result of their audit of the Insolvency Services Account for the year ending 2022”*

NAO response

In relation to the £13,962k ‘Dividends recognised as unclaimed in the year’, these are amounts previously recognised as payments out, but which have not been claimed for a period of time. The payment is therefore reversed (which is recorded in the Account as a receipt). An example would be a cheque paid out, which hadn’t been banked within 6 months.

We have searched our records and can confirm that we hold information falling within the scope of your request – but consider this information exempt from disclosure. The following exemption applies: section 33.

Annex B

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

Section 33 Freedom of Information Act 2000 – Public Audit

Section 33 of the FOIA provides that:

- (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).*

Reasons why we have applied the Section 33 exemption:

We have applied the Section 33 exemption to information we hold in scope of your request and which we are withholding from release, namely information related to the audit of The Insolvency Services Account (‘the ISA’). These documents were provided to us by The Insolvency Service for the purposes of our audit.

We consider the release of the information would prejudice the effective performance of our public audit functions going forward and therefore the Section 33 exemption applies. The audit process is enhanced significantly by audited bodies or third-party entities responding promptly to information requests and/or volunteering information to support a constructive, timely and effective audit. The disclosure by us of information beyond that required for audit reporting purposes would impair the provision of audit information in the future – it would reduce, if not cut off, critical information flows. It would incentivise The Insolvency Service and other audited bodies to take a minimalist approach to NAO information requests or, in the case of bodies whose engagement is optional, serve to discourage such information sharing altogether.

Audited bodies regularly challenge the extent of the NAO’s access rights and seek to place conditions around meeting information requests. Such issues consume time and resources as we work them through. The

disclosure of this sensitive information would encourage The Insolvency Service and other audited bodies to approach our audit work in this way going forwards.

An effective, efficient audit is supported through an open and constructive approach between the NAO and the audited body. As such it is critically important that we have a safe space to gather information and knowledge and can engage in a free and frank way with audited bodies. The release of this information would remove this safe space - precipitating a backdrop of increased challenge and procedure around requests for audit information. This would require the NAO to formally assert our statutory access rights more frequently and potentially seek to enforce them, leading to significant delay, escalation of issues and increased audit costs.

Section 17(3) of the Budget Responsibility and National Audit Act 2011 places a duty on the C&AG to “aim to carry out functions effectively and cost effectively”. Given the above factors, we consider that our disclosure of the information requested would be at odds with this statutory requirement – it would serve to undermine the effectiveness and increase the cost of the C&AG’s public audit functions.

For the reasons set out above, we consider it appropriate to apply the public audit exemption available under Section 33(2) of the 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. We consider that disclosure of sensitive audit evidence supplied to the NAO by departments and other public bodies in pursuit of our statutory functions and beyond that published in our reports would impair the audit process for the reasons set out above. Bodies and officials would be reluctant to engage with us, which would delay and diminish the audit process.

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.

Given the negative impact that would result from disclosure, we consider it appropriate to maintain the Section 33 public audit exemption in this instance.

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