



National Audit Office

The UK's independent public spending
watchdog

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Reference FOI-1633

Date 25 July 2023

CABINET OFFICE LEGAL SERVICES

Thank you for your request for information of 5th July 2023 to the National Audit Office. You asked that we provide the results of our review of Cabinet Office legal expenditure relating to the Privileges Committee inquiry into whether the former Prime Minister, the Rt Hon Boris Johnson MP, misled Parliament. We have handled your request under the terms of the Freedom of Information Act 2000 (FOIA). Your specific request is at **Annex A** for your reference.

We can confirm that we hold information in scope of your request. However, we are withholding the information under Section 22 (information intended for future publication) of the FOIA. **Annex B** provides details of this exemption, how it applies to your request, and our consideration of the public interest test.

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 FOIA.

I hope you find this response helpful.

Yours sincerely,

NAO FOI Team



Annex A

Request for information:

"I have exchanged a number of emails with...the NAO regarding an NAO investigation into whether paying former PM Boris Johnson's legal bill for defending him against charges of misleading parliament was an appropriate use of public money...

I believe it is in the public interest for the results of this investigation to be made public now, whilst Parliament is sitting and able to discuss its findings, rather than at an imprecise date in the future ('the summer').

I am making a formal request under FOI for this material to be released to me now."

Annex B

Details of the exemption we have applied to your request:

Section 22 - Freedom of Information Act 2000 - Information intended for future publication.

(1) Information is exempt information if—

(a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),

(b) the information was already held with a view to such publication at the time when the request for information was made, and

(c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).

(2) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would involve the disclosure of any information (whether or not already recorded) which falls within subsection (1).

Reason why we have applied this exemption:

We have applied this exemption to the information you have requested because it is due to be published in the Comptroller and Auditor General's (C&AG) audit report on the Cabinet Office's 2022-23 accounts. We are currently auditing the Cabinet Office's 2022-23 accounts and this will be completed as soon as possible.

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

We recognise that there is a public interest in information held about public expenditure. And where appropriate, information should be released into the public domain as soon as possible.

However, this must be balanced against the strong public interest in permitting public bodies to manage the publication of their information in a managed and coordinated manner without disrupting established public accountability arrangements.

The audited Annual Report and Accounts of each government department, which are presented to Parliament each year, are a fundamental part of the parliamentary accountability cycle. It would not be in the public interest for this process to be undermined by the release of information before the C&AG's audit report on the Cabinet Office's accounts has been presented to Parliament.

On balance, the National Audit Office considers that the public interest is met best through the planned publication of this information and therefore we consider the public interest in this case lies in withholding the information.

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@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 primary way of escalating your concerns to the Information Commissioner is at: <https://ico.org.uk/foicomplaints>

Alternatively, you can contact the ICO at <https://ico.org.uk/> or Information Commissioner's Office Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF.