National Audit Office

The UK's independent public spending watchdog

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Reference FOI-1834
Date 30 June 2025

THE HOLOCAUST MEMORIAL AND LEARNING CENTRE

Thank you for your FOI request to the National Audit Office (NAO) dated 19 June. You asked for a copy of the NAO's letter dated 24 March 2025 that was referenced by the Parliamentary-Under Secretary of State, Lord Khan of Burnley, in the House of Lords on 11 June 2025 during a debate on the Holocaust Memorial Bill (Lords Chamber - Hansard - UK Parliament).

We have considered your request under the terms of the Freedom of Information Act 2000 (FOIA). A copy of the relevant NAO letter, a response from the Comptroller and Auditor General (C&AG) to Baroness Deech, is attached with this response. A small amount of information has been withheld in accordance with section 40(2) of the FOIA (personal information). Details of this exemption can be found in **Annex A**.

Our policy is to respond to requests as helpfully and promptly as possible. I hope this information is helpful and you are happy with the way we have handled your request. If you are not happy with this response, you can ask for an internal review within 40 working days by writing to the NAO FOI Team at FOI@nao.org.uk. 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.

Yours sincerely,

NAO FOI Team

Annex A

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 section 40(2):

We are not obliged, under section 40(2) of the FOIA to disclose personal information if releasing it would contravene the UK GDPR and Data Protection Act 2018. In this instance we believe releasing the Comptroller and Auditor General’s signature and direct email address would contravene the first data protection principle which requires the processing of personal data to be lawful, fair and transparent. We do not consider it necessary or fair to disclose this personal information.