



HM Treasury

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21 September 2020

Dear Mr Miller

Refs: IR2020/31421  
FOI2020/30198

## Freedom of Information Act 2000 Internal Review: Exit payment cap impact assessment

Thank you for your email dated 22 August 2020, requesting an internal review of our response dated 14 August 2020 to your information request made under the Freedom of Information Act 2000 (the FOI Act), under our reference: FOI2020/30198.

We have now completed our internal review and this letter informs you of its conclusions.

### Background

On 31 July 2020, you made the following request under the FOI Act:

*"a) the updated equality impact assessment. The document of 21 July states that it has been updated. It is unacceptable that it should be published only when the regulations come into force as stated in the document ("An updated assessment has been conducted based on the final regulations amended in line with this consultation response. This updated impact assessment will be published with the final guidance alongside the regulations coming into force".)*

*b) the updated and revised guidance and Treasury directions. Again it is not acceptable that these should be published only after the regulations come into force. For example, ALACE and other bodies need to see how it can be asserted that "These documents will take into account the detailed responses provided by stakeholders as part of the consultation process" and whether those changes in fact adequately deal with points raised in the responses;*

*c) details of proposals for amendments to public sector pension schemes including in particular (if not already covered in the revised guidance mentioned at (b) above) details of how pension strain or its equivalent will be calculated for members in each of those schemes. This information is necessary in order to understand whether the Government's proposals involve broadly comparable treatment across the public sector."*

On 14 August 2020 we provided our response. We confirmed that we held information within the scope of your request. We confirmed that section 22 – information for future publication of the FOI Act – was engaged in relation to parts (a) and (b) of your request. We explained our public interest considerations including that it is normal practice to publish such supporting documents once the regulations have been approved by Parliament and included a link to the GOV.UK site where the information will be published in due course. We said that draft guidance and directions were published in 2019, at the consultation stage, and could also be located at the GOV.UK site. We said an impact assessment was conducted and published in 2016 and shared the GOV.UK link to it. We went on to explain our public interest considerations for section 22.

We explained in relation to part (c) of your request, that the Ministry of Housing, Communities and Local Government, rather than the Treasury, hold the policy responsibility for specific reforms to the Local Government Pension Scheme and shared a link to their contact details on GOV.UK. We also explained that section 35(1)(a) – development of Government policy – was engaged for this part of your request, setting out our public interest considerations. We concluded that the exemption was engaged.

On 22 August 2020, you requested an internal review of part (a) of our response, as follows:

*“Thank you for your email and attachment.*

*Your letter did not refer to any right of appeal or review of your decision and therefore I have taken it that, from your perspective, none exists. I have therefore raised the matter of release of the equality impact assessment directly with the Information Commissioner's Office.*

*If I have misunderstood the position and the Treasury does offer a right of appeal about the decision in respect of item (a), then I wish to make an appeal which is that the balance of public interest has been wrongly assessed. The regulations have been tabled in Parliament. Neither House can amend them: the choice is either to approve or to reject the regulations. Thus the updated equality impact assessment is not going to change if the regulations are approved. The balance of public interest lies, in ALACE's view, with ensuring that the thousands of public sector workers (including ALACE members) who are affected by the regulations can see how the Treasury has assessed and addressed any equality impact issues; and likewise with ensuring that this information is also available to Parliamentarians so that they can decide how they will vote on the regulations.”*

## **The Review**

I have considered the response we provided to you and whether our handling was compliant with our obligations under the FOI Act.

On your first point, the Treasury's complaints procedure was set out clearly on page 4 of our letter, immediately after our copyright notice. It set out your rights in detail.

On your request for the Treasury to review part (a) of our response, on balance, we have decided to release the document, which is attached. Whilst HM Treasury still intends to publish the impact assessment alongside the regulations coming into force, and therefore the section 22 exemption remains valid, we understand there is public interest in transparency.

It must be iterated that this document has been drafted based on the regulations laid before Parliament on 21 July. If any changes are required as a result of Parliamentary procedure or if Parliament does not approve the regulations, then the impact assessment released now will not reflect the version published at a later date. The data that the impact assessment is based on may also be updated ahead of publication to ensure the most recent data available has been used.

The responses HM Treasury received during the consultation period have informed the regulations laid before Parliament, as outlined in the published consultation response available here:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/902087/Public\\_sector\\_exit\\_payments\\_Consultation\\_response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/902087/Public_sector_exit_payments_Consultation_response.pdf)

They have then in turn informed this impact assessment based on the regulations.

### **Conclusion**

I hope that by setting out the basis of the review, its findings and conclusions above, you will be assured that the Treasury has, on your behalf, carried out a thorough and considered review of the request you made and the responses that the Treasury gave under the FOI Act.

If you are not content with the outcome of this internal review you have the right to apply directly to the Information Commissioner for a decision. The Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow SK9 5AF.

Yours sincerely

Head of Information Rights