

[REDACTED]

11 April 2024

Dear [REDACTED],

Freedom of Information request: FOI2024/00082

Thank you for your Freedom of Information request received on the 5 February in which you requested the following:

Your request:

Please answer this FOI on the basis of the UKRI 2022 independent report that you can find here: <https://www.gov.uk/government/publications/independent-review-of-uk-research-and-innovation-ukri/independent-review-of-uk-research-and-innovation-ukri-final-report-and-recommendations>

The FOI timing encompasses the seven (7) months prior to the publication of the report and the five (5) months after this date. Kindly provide me with the following electronic communications between the following people, but only if those communications are related to the aforementioned report:

- *First: The UKRI CEO and the UKRI Chair of the Board,*
- *Second: The UKRI CEO and Sir David Grant,*
- *Third: The UKRI CEO and the Minister for Science, Research and Innovation,*
- *Fourth: Same as Second and Third, except that substitute "CEO" by "Chair of the Board".*

I should add that if communications feature the inclusion of other parties not explicitly declared in the previous points, the e-mails shall still be considered within scope. Please consider that electronic communications can mean e-mails, but the search ought to include attachments, agendas, memos, MS Teams or Slack, etc.

Our response:

I can confirm that UK Research and Innovation (UKRI) holds some information relevant to your request. Please see the information below and attached.

Searches were conducted of the mailboxes of Professor Dame Ottoline Leyser, and accounts relating to the offices of the CEO and Chair of UKRI to identify relevant correspondence relating to the review in combination with the email addresses of Sir David Grant, Sir Andrew Mackenzie and Minister Freeman, the Minister for Science, Research and Innovation at the time. It should be noted that in his capacity as Chair of UKRI, Sir Andrew Mackenzie does not have a personal UKRI email address, and searches were therefore limited to the Chair's office accounts.

These searches were conducted between the dates of 20 December 2021 and 20 December 2022.

A review of the results identified communications involving Professor Leyser and Sir Andrew relating to the review. During this period there were no emails sent from the offices of the CEO or Chair of UKRI that were in scope of your request. Some messages sent by individuals other than the CEO or Chair were identified, but this was not considered to be within scope. There were no communications identified between Professor Leyser or Sir Andrew and the Minister for Science, Research and Innovation between these dates.

The communications identified as being in scope have been provided in the attached document “*FOI2024_00082 Annex 1*”. This includes a letter sent to Sir David Grant on 27 July 2022, thanking him for his work leading to the Independent Review of UKRI.

The emails provided in Annex 1 have been presented in chronological order, with a view to providing insight into the process of how the final review document was arrived at, and the level of collaboration and cooperation between Professor Leyser, Sir Andrew and Sir David in its creation.

Elements of the information contained within the communications in Annex 1 are considered to fall under the following Freedom of Information Act (FOIA) exemptions:

- Section 36(2)(b)(i) – is engaged to protect the safe space for the free and frank provision of advice.
- Section 36(2)(b)(ii) – is engaged to protect the safe space for the free and frank exchange of views for the purposes of deliberation.
- Section 40(2) – is engaged where it relates to personal data of those other than the UKRI CEO, Chair or Sir David Grant.
- Section 41(1) – is engaged where it relates to information provided in confidence to UKRI by a third party with the expectation of confidentiality, in this case the views and opinions of Sir David Grant.

Further details of these exemptions are provided below.

Section 36 – Prejudice to effective conduct of public affairs

For sections 36(2)(b)(i) and 36(2)(b)(ii), the opinion of UKRI’s Chief Executive Officer, as UKRI’s Qualified Person, was sought on engaging this exemption. As this is a qualified exemption, we were then required to consider the public interest both in favour of, and against, releasing the information.

We recognise that as the request includes communications sent by the CEO, it would be necessary for them, as the Qualified Person under the FOIA to provide an opinion on information that they themselves had direct involvement with. However, we would note that the Qualified Person’s opinion is sought in the broader context of the effective functioning of UKRI as an organisation.

Outcome of consideration of Section 36 – Prejudice to the effective conduct of public affairs

As UKRI’s Qualified Person, Professor Leyser confirmed her opinion that sections 36(2)(b)(i) and 36(2)(b)(ii) of the FOIA would be engaged as disclosure would inhibit the free and frank provision of advice and exchange of views for the purposes of deliberation.

It is essential that free and frank exchange of information, advice and ideas can take place, particularly in the context of an external independent Review of UKRI. Disclosure of such exchanges could compromise the effectiveness of future reviews by constraining debate, and hence compromise the effectiveness of UKRI.

The Public Interest Test

As Section 36 is a qualified exemption, and a test was required to determine whether the public interest in maintaining the exemption outweighs public interest in disclosure. The public interest test was conducted by a senior manager, who was not directly involved in the discussions that were the subject of your request.

Public interest in favour of disclosure

- Disclosure of this information may increase transparency and public understanding about UKRI and the process by which reviews are undertaken, potentially increasing public trust.
- As individuals in the most senior positions in UKRI, there can be considered an additional public accountability placed upon both Professor Leyser and Sir Andrew.

Public interest in favour of withholding the information

- An effective and in-depth organisational review requires a safe space for officials to feed in their thoughts, views and advice. Disclosure of the information would inhibit UKRI's ability to provide input to future reviews as it would have a chilling effect on officials' willingness to openly and candidly exchange views and advice, which may lead to individuals restricting their communications in some media to views that are completely uncontroversial. This would result in a substantial weakening of the internal debate and advice, with potentially unintended impacts on employees, communities and stakeholders, materially reducing UKRI's ability to meet its objectives and have a significant effect on UKRI's ability to carry out its functions.
- The release of this information, which was part of a confidential process, may inhibit discussion around future reviews and the free and frank exchange of views and opinions that are required to conduct a thorough, competent, and well-considered review. This would undermine the safe space required to formulate and debate ideas and give and receive advice away from public scrutiny.
- The information that has been released provides a good window into the type of exchange that occurred during the review and hence captures the public interest benefits without the need to compromise free and frank exchange of views and information.

Overall, UKRI considers that on this occasion the public interest is best served by maintaining the Section 36 exemption, and therefore the relevant information has been withheld from disclosure.

Section 40 – Personal information

We are exempting the names of individuals, other than Professor Leyser, Sir Andrew and Sir David, and contact details under section 40(2) of the FOIA. Disclosing this information would contravene the first Data Protection Principle as defined under Section 86 of the Data Protection Act 2018 and Article 5 of UK General Data Protection Regulation (UK GDPR).

Section 40(2) is an absolute exemption and does not require a public interest test.

Section 41 – Information provided in confidence

We have determined that the views and opinions of Sir David, including draft versions of reports and all other attachments contained within the communications, falls under Section 41 of the FOIA, information provided in confidence.

To explain further, consideration was given to the amount of time that has passed since these documents were initially shared and it is our view that they remain 'in confidence' as Sir David was providing information to test his developing thinking, in order to get frank responses and advice with the expectation of confidentiality. The expectation of confidence around his views as they developed would still apply, with the result of his thinking being the public review document that has been published. If the information was released, we believe it would result in an actionable breach of confidentiality.

Section 41 is an absolute exemption and does not require a public interest test.

If you have any queries regarding our response or you are unhappy with the outcome of your request and wish to seek an internal review of the decision, please contact within the next 40 working days:

Head of Information Governance
Email: foi@ukri.org

Please quote the reference number above in any future communications.

If you are still not content with the outcome of the internal review, you may apply to refer the matter to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the review procedure provided by UKRI. The Information Commissioner can be contacted at: www.ico.org.uk.

If you wish to raise a complaint regarding the service you have received or the conduct of any UKRI staff in relation to your request, please see UKRI's complaints policy: <https://www.ukri.org/about-us/policies-and-standards/complaints-policy/>

Yours sincerely,


Information Governance
Information Rights Team
UK Research and Innovation
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