

**Internal Review Request – Ref: FOI 25-024****11 August 2025**

Dear FOI Officer,

I write to request an internal review of your response dated **11/8/2025**, issued under **ref: FOI 25-024**, concerning my Freedom of Information request about Bounce Back Loan Scheme (BBLs) recipients.

Your response relies heavily on a blanket “neither confirm nor deny” (NCND) position spanning 30 points. I dispute both the validity and proportionality of this approach. My rebuttal is set out point-by-point below:

**Rebuttal of Points 1–30****1–3. FOIA Principles and Publication Scheme:**

You correctly state FOIA grants the right to know whether information is held. However, invocation of NCND must be strictly justified. General reliance on “world at large” disclosure and your publication scheme does not satisfy Section 43 or 40 requirements. The duty to confirm or deny must be assessed against the individual request’s context.

**4–5. Tribunal and ICO Precedent:**

Prior decisions (**UKFTT/GRC/2023/7** and **IC-240698-q0s8**) are fact-specific and cannot preclude disclosure here. FOIA mandates independent assessment based on the current request’s details, including any public-domain admissions or narrowing scope.

**6–9. Section 43(3) and Commercial Prejudice:**

Assertions of prejudice to Borrowers, Lenders, the Bank, and HMG are broad and speculative. FOIA requires a demonstrated, likely, and causal prejudice with specific evidence. No such demonstration was made. See ICO’s Section 43 guidance.

**10–14. Borrower and Lender Concerns:**

- BBLs loans were backed by a 100% government guarantee. Thus, the public risk justifies enhanced transparency.
- Disclosure of receipt (not loan terms) does not violate banking confidentiality.
- Many companies filed BBLs references in accounts or gave public statements. Reasonable expectations of confidentiality are already diluted.

### **15–18. Public Interest Test Factors:**

Your public interest balancing fails to account for the scale of public exposure, fraud risk, and taxpayer-backed liability. Confirm/deny disclosure especially for incorporated entities directly supports transparency and accountability without revealing proprietary details.

### **19–20. Reputational Harm and Legal Identity:**

You argue that disclosure may harm commercial interests or unfairly stigmatize entities. These are not exempting factors under FOIA unless specific and evidenced prejudice is shown. Legal distinctions between entities and officers do not shield public funding from scrutiny.

### **21–23. Trust and Future Scheme Participation:**

There is no evidence that confirming BBLS participation for past recipients would deter future engagement. Such claims are speculative and unsupported.

### **24. Public Interest Test Conclusion:**

Your conclusion is unconvincing and fails to account for the strength of transparency in taxpayer-backed schemes. A tailored confirm/deny is proportionate and necessary.

### **25–29 (Section 40(5B) – Personal Information)**

- The individual referenced *MP James McMurdock* has publicly confirmed his connection to the Bounce Back Loan Scheme via two companies, as reported by *The Sunday Times* and the *BBC* on 8 July 2025. He acknowledged the loans and stated his business dealings were compliant with the rules.
- Once a data subject voluntarily places such information in the public domain, the fairness principle under UK GDPR is satisfied. FOIA disclosure cannot “**breach privacy**” that has already been waived by public admission.
- The ICO guidance on information in the public domain explicitly affirms this: *if the information is already publicly available or confirmed by the subject, the personal data exemption is unlikely to apply.*
- Therefore, citing Section 40(5B)(a)(i) in this context is not only disproportionate it is untenable. Any refusal must disregard the prior disclosure by the data subject and incorrectly assumes confidentiality that no longer exists.

I ask that you reprocess the request, accordingly, removing reliance on Section 40 for any entity or case where the relevant individual has already publicly acknowledged involvement.

### **30. Hypothetical NCND:**

NCND requires demonstrated and evidenced justification, not hypothetical harm or formulaic refusal. A request-specific analysis is mandated under FOIA.

## Next Steps

I ask that you:

1. Re-assess this request with specific prejudice and public interest tests for each named entity.
2. Process any incorporated entities where s.40(5B) is clearly not engaged.
3. Provide a revised response confirming or denying BBLs participation for entities where commercial and personal sensitivity risks do not apply.
4. Apply exemptions surgically, not as a blanket NCND.

This review request is made in accordance with the FOIA and Section 45 Code of Practice. I reserve the right to escalate the matter to the Information Commissioner should a satisfactory outcome not be achieved.

Yours sincerely,

Jason Nield