

AIC Decision on appeal #67

**CASE NUMBER AI5823
SEXUAL HARASSMENT SURVEY DATA**

(Decision dated December 3, 2018)

Summary of Decision

- As part of its due diligence on appeals, the Access to Information Committee (“AIC”), through its secretariat, seeks the relevant business unit’s views on the possible disclosure of the requested information in light of the respective appeal. In this case, the relevant business unit informed the AIC that part of the requested information being appealed has been made publicly available, and part of the information remains restricted by the Bank’s exercise of prerogative. The AIC also found that the part of the information that remains restricted had not been considered upon the Bank’s receipt of the Request.
- Based on the above:
 - (a) with respect to the portion of the appeal for which information is already publicly available, the AIC is not considering the Appeal; and
 - (b) with respect to the portion of the appeal for which information is restricted by the Bank’s exercise of prerogative, and notwithstanding there has been no Bank denial of public access to this part of the information, the AIC found that:
 - the Bank’s omission of this part of the information is a harmless error as the information remains restricted from public access by the reasonable and proper exercise of the Bank’s prerogative to restrict under the AI Policy. Therefore, the Bank acted pursuant to the AI Policy to protect the confidentiality of the information and there is *no violation of policy* in this case; and
 - the appeal is not properly before the AIC on a *public interest* basis because the Bank exercised its prerogative to restrict the information which is not eligible for consideration on a public interest basis under appeal. For this reason, the appeal is not properly before the AIC.
- For the above reasons, the part of the information restricted by the Bank’s exercise of prerogative remains restricted from public access.
- AIC decisions are final on appeals challenging a denial of access to information restricted by the Bank’s exercise of prerogative to restrict (*see* Bank Directive/Procedure on the AI Policy, at Section III.B.5.(b).ii).

The Decision

Facts

1. On July 26, 2018, the requester submitted a request (“Request”) seeking to access the most recent employee survey data on sexual harassment in the World Bank.
2. On October 12, 2018, the World Bank (“Bank”) informed the requester that the requested information was restricted from public access on the basis of the “Personal Information” exception under the Bank’s Policy on Access to Information, as amended (“[AI Policy](#)”). On the same date, the secretariat to the Access to Information Committee (“AIC”) received an application (“Application”) appealing the Bank’s decision to deny public access to the requested information. The Application challenges the Bank’s decision to deny public access to the requested information on the basis that the denial violates the AI Policy and that there is a public interest case to override the AI Policy exception that restricts the requested information.

Findings and Related Decision

3. In reviewing the Appeal in accordance with the AI Policy, the AIC sought the relevant business unit’s views on the possible disclosure of the requested information in light of the Appeal. On October 16, 2018, the relevant business unit agreed to make publicly available the following three pieces of information considered upon the Bank’s receipt of the Request and previously denied public access based on the “Personal Information” exception under the AI Policy:

- (a) Staff Association Update, Results of the WBG Sexual Harassment Survey, June 1, 2018
<http://spapps.worldbank.org/apps/sa/Documents/SAUpdateMay312018.pdf>
- (b) Sexual Harassment Survey, Preliminary results, May 2018
http://spapps.worldbank.org/apps/sa/Documents/survey_results_with_breakdown.pdf
- (c) Results broken down by gender and other demographic variable
http://spapps.worldbank.org/apps/sa/Documents/Cross_tabs_tables_sexual_harassment_survey.pdf

4. The business unit was required to clarify the status of the “raw results and data file” referred to in the Staff Association Update, Results of the WBG Sexual Harassment Survey, June 1, 2018. The business unit clarified that there are two data files: one consisting of the raw data collected and including names and other personally identifiable information, and the other consisting of the same number of observations, but anonymized following best practices. These pieces of information were not considered by the business unit at the time of the Request. However, being

in the Bank's possession, such information also needs to be addressed pursuant to the AI Policy. Because such raw results and data files contain names and other personal identifiable information on staff for purpose of the survey, which disclosure would cause more harm than benefit, the business unit decided to exercise the Bank's prerogative to restrict public access to the raw results and data files. The AIC solely considered this portion of the information, as elaborated below.

Violation of policy

5. Pursuant to the AI Policy, a requester who is denied public access to information by the Bank may file an appeal if the requester is able to establish a *prima facie* case that the Bank has violated the AI Policy by improperly or unreasonably restricting access to information that it would normally disclose under the AI Policy (*see* AI Policy, at Section III.B.8.(a).i). Additionally, and notwithstanding the AI Policy's broad intent, the Bank reserves the right, under exceptional circumstances, to restrict access to information that it would normally disclose if it determines that such disclosure is likely to cause harm that outweighs the benefits of disclosure (*see* AI Policy, at Section III.B.1, and Section IV.2). Information that would normally be disclosed under the AI Policy is any information that would not be restricted by an AI Policy exception (*see* AI Policy, at Section III.1).

6. In this case, the AIC found that:

- (a) by not having the raw results and data files considered by the business unit at the time of the Request, the Bank did not deny access to that information;
- (b) the business unit has two data files in its possession: (i) one data file with all the information, including names and other personally identifiable information, and (ii) one data file that has been anonymized;
- (c) when the business unit carried out the survey resulting in the raw results and data files it did so promising confidentiality to the survey respondents of their responses, regardless of anonymity.

7. Notwithstanding the finding that the Bank has not denied access to the raw results and data files, the AIC considered the information in light of the appeal on a violation of policy ground. The AIC concluded that there are exceptional circumstances and, with respect to the e raw results and data files:

- (a) for the data file including names and other personally identifiable information, the harm of disclosing such information is clear and outweighs the benefits of disclosure; and
- (b) for the data file that has been anonymized, the Bank collected such information with the promise of confidentiality to survey respondents. Disclosing such information at this juncture, even if anonymized, could harm the Bank's ability and credibility to carry out future surveys on the topic of sexual harassment within the Bank.

8. Based on the above, the Bank’s omission of the raw results and data files from its consideration and denial as part of the Request is a harmless error as the information remains restricted from public access. The Bank properly and reasonably restricted public access to both data files based on the exercise of the Bank’s prerogative to restrict under the AI Policy and, therefore, acted pursuant to the AI Policy to protect the confidentiality of survey respondents. For these reasons, the AIC does not find a violation of policy in this case.

9. AIC decisions are final on appeals challenging a denial of access to information restricted by the Bank’s exercise of prerogative to restrict (*see* Bank Directive/Procedure on the AI Policy, at Section III.B.5.(b).ii).

“Public Interest” case

10. Pursuant to the AI Policy, a requester who is denied public access to information by the Bank may file an appeal on a “public interest” basis if the requester is able to make a public interest case to ***override certain AI Policy exceptions that restrict the information, limited to corporate administrative matters, deliberative information, and financial information, except for banking and billing*** (*see* AI Policy, at Section III.B.8.(a).ii).

11. In this case, notwithstanding the finding that the Bank has not denied access to the raw results and data files, the AIC considered the information in light of the appeal on a public interest ground. The AIC found that even if there had been a denial of access to the raw results and data files, and the AIC had considered the appeal on a public interest ground, such information remains restricted because the Bank exercised its prerogative to restrict. Such prerogative is not eligible for consideration on a public interest basis under appeal. For this reason, the appeal would be dismissed for appealing a matter that the AIC does not have authority to consider (*see* [Bank Directive/Procedure on Access to Information](#), at Section III.D.1.a.(iii)).

12. Under the AI Policy, for appeals that assert a public interest case to override an AI Policy exception, the decision of the AIC is final (*see* AI Policy, at Section III.B.8.(b).i). Additionally, and as noted in paragraph 9 above, AIC decisions are final on appeals challenging a denial of access to information restricted by the Bank’s exercise of prerogative to restrict (*see* Bank Directive/Procedure on the AI Policy, at Section III.B.5.(b).ii).