



**IN THE FIRST-TIER TRIBUNAL  
GENERAL REGULATORY CHAMBER  
(INFORMATION RIGHTS)**

**Appeal No: EA/2012/0071**

**DEPARTMENT OF COMMUNITIES AND LOCAL GOVERNMENT**

**Appellant**

**And**

**THE INFORMATION COMMISSIONER**

**Respondent**

**And**

**NICK POSFORD**

**Second Respondent**

**Subject**

Freedom of Information Act 2000 ('FOIA'): s.35(1)(a)

**Decision**

We allow this appeal in part and issue a Substituted Decision Notice.

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**Substituted Decision Notice**

Dated: 23 January 2013

Public Authority: Department for Communities and Local Government

Address: Zone 1/H3, Eland House, Bressenden Place, London, SW1E 5DU

For the reasons set out below, we find that within 30 days of this notice

1. The submissions and emails listed in the Appendix are within the scope of the request to the extent listed as such;
2. Of those, certain parts are to be disclosed and other parts redacted as set out in the Appendix, for the reasons set out below.

## Reasons For The Decision

### Background

1. In 2010, the Appellant reviewed its expenditure to make savings as part of the new Government's Comprehensive Spending Review ("CSR") due to be announced on 20 October 2010.
2. At the time, the Royal Town Planning Institute ('RTPI') ran Planning Aid England ("Planning Aid"). Planning Aid is a charity offering professional independent advice on planning issues to those who would not otherwise engage with the planning system. It has aimed to enable people to influence the future development of their neighbourhoods and localities in an informed manner. By late November 2010, it was almost entirely funded by the Department of Communities and Local Government ('DCLG').
3. On 3 December 2010, RPTI issued a statement that the Rt. Hon Greg Clark MP, ('the Minister') had informed them that the Planning Aid contract for funding it would be discontinued from 31 March 2011.
4. On 13 December 2010, the Government introduced into Parliament the Localism Bill. This received Royal Assent on 15 November 2011. It aimed at decentralisation and introduced 'neighbourhood planning'. This involved local community groups bringing planning proposals for their area. In a speech by the Minister on 30 November 2010, he explained:

*"... planning also of course requires the application of specialist skills. We recognise that in some circumstances people will need support to make the most of the opportunity to get involved. That's why, if a very local area wants to draw up its neighbourhood plan – we will require the local authority to provide support. We will also fund independent advice, so that local communities and neighbourhood groups who are new to the topic can learn from what has worked well in other areas."*
5. On January 2011, DCLG published 'Supporting Communities and Neighbourhoods in Planning Prospectus' ('the Prospectus'), inviting applications for grants to support the new planning scheme. On 13 April 2011, it announced four successful bidders who would share a £3.2 million fund, including Planning Aid.

### The Request for Information

6. On 4 December 2010, the Second Respondent emailed DCLG:

*"Further to the announcement yesterday that the grant of Planning Aid England is to cease on 31 March 2011, I would like the following information to be released under FOI laws:-*

- (a) When was this decision made and by whom? Who else was involved in making this decision? ('request a')*
- (b) **On what basis was it decided that funding should cease entirely, what was the reasoning and justification? ('request b')***
- (c) **Any background information that informed the decision? ('request c')***

*(d) What mechanisms the department will be putting in place to ensure that everyone (including those from deprived areas or who have no assets) will be able to access professional planning advice?” (“request d”)*

7. On 17 December 2010, DCLG responded that:

*(a) Ministers made the decision on 29 November, informed by briefing provided by officials.<sup>1</sup>*

*(b) The basis for deciding that funding should cease entirely was that it was intended that the focus of funding should shift to a more direct support of the neighbourhood planning process.*

*(c) The background information informing the decision consisted of submissions dated 9 July, 8 October and 9 November 2010<sup>2</sup> from officials to Ministers. DCLG withheld these submissions, claiming s.35(1)(a) FOIA.*

*(d) There would be a shift to the provision of more direct support for the neighbourhood planning process and that parties would shortly be invited to bid for available funds. (The position has since changed, but is not pertinent to this appeal.)*

8. The Second Respondent was not satisfied and progressed his request through the usual process. The Commissioner investigated the matter and in his Decision Notice concluded that the decision to cease funding for Planning Aid was linked to the formulation of policy to establish an alternative delivery of aspects of the service Planning Aid had provided, such that s.35 FOIA exemption was engaged and the public interest in disclosing the disputed exemption information outweighed the public interest in maintaining it.

9. DCLG appealed.

### **Grounds of Appeal**

10. DCLG claimed that the Commissioner erred in his Decision Notice because the public interest in disclosure did not outweigh that in maintaining the exemption under section 35(1)(a) FOIA. This was based on (a) a need for a safe space for policy formulation; (b) the distractions that would be caused by premature disclosure; (c) the risk of a chilling effect; and (d) the risk of the impartiality and political neutrality of officials being compromised by disclosure. Up to this point, DCLG had based its argument on the chilling effect alone.

11. Additionally for the first time, DCLG sought to rely on s.40(2) FOIA (personal data) and s.42(1) FOIA (legal professional privilege) in relation to parts of the requested information. The Second Respondent did not challenge the application of s.40 and s.42 FOIA, and it was agreed at the hearing that it was not necessary to consider these points any further as the relevant information would be redacted.

12. The parties also confirmed at the hearing that information related to requests (b) and (c) remained the subject of this appeal.

### **The Task of the Tribunal**

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<sup>1</sup> At the oral hearing the Appellant confirmed that it had been an internal departmental decision with no involvement or input from third parties, such as corporate bodies.

<sup>2</sup> The date of 09/11/10 was later corrected to 04/11/10.

13. The Tribunal's remit is governed by s.58 FOIA. This requires the Tribunal to consider whether the decision made by the Commissioner is in accordance with the law or whether he should have exercised any discretion he had in a different manner.

#### **a) The Law**

14. For the purpose of this appeal, a public authority is exempt from providing information requested under FOIA where (a) it is 'exempt information', and (b) in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information (S.2(2)(b) FOIA).
15. The s.35(1)(a) FOIA exemption provides that Information held by a government department is 'exempt information' if it relates to:

*'the formulation or development of government policy.'*

#### **b) The Issues**

16. The matters for the Tribunal are:
  - i. **Scope: Which documents fall within parts (b) and (c) of the request?**
  - ii. **Public Interest: Does the public interest in maintaining the s.35(1)(a)FOIA outweigh that in disclosure for any or all of the documents considered by this Tribunal?**

#### **Evidence and Submissions**

17. The parties provided witness evidence, submissions (both oral and skeleton arguments) and bundles of documents, and the requested information. We have considered all that has been submitted, even if not specifically summarised below. (*We have added our own headings to these summaries, for ease of reference.*) We have not issued any part of this decision or Appendix in confidential or 'closed' form.

#### **Appellant Witness Statement**

18. Oral and written testimony from a senior civil servant whose team dealt with neighbourhood planning policy included:

##### A. Background

- i. In 2010, DCLG reviewed its expenditure to make savings as part of the CSR. Planning Aid's funding was considered.
- ii. Concurrently, DCLG developed its policies to allow local groups to establish their own planning policies (*'neighbourhood plans'*) for their area and grant planning permission for certain kinds of development. This resulted in the Localism Bill.
- iii. From late November 2010, DCLG considered how best to fund providers who would deliver free advisory planning services. They developed the Prospectus that in January 2011 invited potential providers to apply for funds.

##### B. Chronology of team's communications with Minister

- iv. On 2 July 2010, a submission on Planning Aid was sent to and at the Minister's request exploring funding options for it, ranging from percentage cuts through to complete withdrawal ('Submission 5').
- v. On 5 July 2010, officials were sent the Minister's decision to reduce Planning Aid's funding by 20% to £3.6 million for 2010/11, and require further information on its financial commitments and future funding options ('Email 2'). This resulted in the submission of 9 July 2010 ('Submission 6'). The Minister's office sent a decision on that submission on 10 September 2010 ('Email 3a'). The officials sought clarification of that decision ('Email 3b'). They met with the Minister on 30 September. A summary of the meeting was set out in an email to them on 1 October 2010 ('Email 4').
- vi. On 8 October 2010, 'Submission 7' was sent. This contained proposals for future provision of advisory services and support for communities, focusing on support for production of neighbourhood plans. The 4 November submission ('Submission 8') was in response to the Minister's request for further details about funding a number of organisations to advise communities on planning.
- vii. On 18 November 2010, the Minister's private office confirmed that the Minister (1) was content to proceed with the recommended approach for a trial period of two years; (2) wished to meet with Planning Aid as part of the process of briefing interested organisations prior to the introduction of the Localism Bill ('Email 6').

#### C. Subsequent developments

- viii. On 24 November, Planning Aid wrote to DCLG that it would have to start the redundancy consultation process with staff that week and requesting an early decision on its funding for 2011 to 2012. This formal record reflected on-going discussions with DCLG.
- ix. On 29 November, the Minister replied to RTPI:
  - DCLG's budget was to reduce by 33%. The grant arrangements to Planning Aid would end on 31 March 2011.
  - The Localism Bill would put in place a neighbourhood-planning regime.
  - DCLG would shortly invite parties to express an interest in bidding for available funds. He hoped Planning Aid would feel able to be part of the new approach.
- x. On 30 November, RTPI notified DCLG that Planning Aid staff had been advised of preparations for a formal redundancy consultation process as a precautionary measure.
- xi. On 2 December, DCLG officials met with Planning Aid to discuss the reasons for the funding changes and proposals for planning advisory services from a number of providers.
- xii. On 3 December 2010, RTPI published a statement:

*"A formal letter from the minister, Rt Hon Greg Clark MP, has been received by the Institute, which states that the RTPI Planning Aid England contract and funding will not be continued beyond the 31st March 2011. We have also met*

*with officials at the Department of Communities and Local Government (CLG) to discuss the future for Planning Aid England beyond this date.*

*During the meeting, CLG officials said the government would be making available money for 'neighbourhood planning' for parties to bid for and that it was hoped that Planning Aid England would want to be part of this new approach. The letter signed by Greg Clark also makes this point and states "... I very much hope that Planning Aid will feel able to be part of this new approach, building upon its excellent work supporting the community to date".*

*Clearly CLG are looking for a different model to support neighbourhood planning. We have made it very clear to CLG that it is critical that information about the fund is made available as a matter of urgency so that we have the necessary time to put together a bid for these funds and be clear about the outcome well before the end of March 2011.*

*Whilst this was not the news we had all been hoping for, we know we share a common aim with our many stakeholders, clients and volunteers, to see the service and support for communities continue after the end of March, albeit in a different form. We shall continue to look at all options and possible funding streams including the CLG fund once details are known."*

#### D. Outstanding Policy at time of Request

- xiii. At the time the request, (i.e. the day after RTPI's announcement), DCLG's policy was unsettled. Although exclusive provision of DCLG funding to Planning Aid would cease, and it would instead provide funding to a range of advisory organisations, this was not the terminus of the policy development process. There would be new funding arrangements for community planning advisory services. The way in which they would be delivered and amount of funding were not finally concluded until the issue of the Prospectus on 7 January 2011. The development of policy on funding for Planning Aid and similar organisations was connected with the development of policy on neighbourhood planning. There was no firm decision on Planning Aid's role, if any.
- xiv. From late November 2010, DCLG had been considering how to fund providers to deliver free advisory planning services and developing the prospectus. DCLG wanted to ensure decisions on which planning advisory organisations to fund after 31 March 2011 was made as soon as possible to both provide Planning Aid with opportunity to apply before it wound up and also have a range of providers in place by then.
- xv. At the time of the request, key issues of external interest and pressure remained in flux:
  - a) Whether and how to fund by grant rather than commercial procurement. Officials considered which kind of bodies could be eligible for funding, and how the application process would be administered. This was not settled until ministerial approval of the Prospectus shortly before publication, as evidenced by a submission of 21 December 2010.
  - b) Whether funding previously provided to Planning Aid would be able to be used from 1 April 2011 to fund organisations for new neighbourhood planning system. Whilst the new policy was decided on

18 November 2010, it was based on the premise that it would be funded by the savings, but this would only be possible if and when the relevant provisions of Localism Bill were passed by Parliament.

- c) What level of funding would be available. Although the Minister had made a decision, there were on-going financial discussions following the outcome of the CSR. Until January 2011, the extent of available funding for planning advisory services was not finally determined, although DCLG had provisionally determined how such funds were to be apportioned internally for most programmes. As stated in the Submission of 21 December:

*“The budget for this programme is currently classified as firm subject to conditions in the current divvy up process. All such budgets are subject to final review by Ministers in January. The department’s Finance Sub Committee recently recommended that year 1 (2011-12) of the local authority support grants should be reviewed at the mid-year point and lessons learned should be used to develop the ongoing delivery plan and programme.*

- xvi. Until the issue of the Prospectus in January 2011, the amount funding and deliberations on what could be funded was not concluded. Since there would be a need for the provision of advisory services after 31 March 2011, it was still possible that Planning Aid might have been, at least temporarily, the sole provider of government funded planning advice had it not been possible to issue the Prospectus in early 2011.
- xvii. The day before the request, John Leech MP expressed concern about the future of Planning Aid and *“ongoing uncertainty regarding its future funding”*. Alison Seabeck MP submitted a Parliamentary question regarding meetings between ministers and Planning Aid for answer on 14 December 2010.
- xviii. On 16 December 2010, the Minister met with Planning Aid to discuss the funding reform. This was the day before DCLG responded to the Second Respondent’s request.

#### E. What Decisions and When

- xix. In terms of when the decision was made to stop funding Planning Aid, the witness stated that by 30 September, the Minister was clear that more people needed to have access to planning advice. He was clear what he wanted but unclear how it would work. However, in this process ministers could change their mind completely. The debate on funding Planning Aid came about as a result of the CSR, where it was decided to reduce the budget by 20%. In September, there was a separate policy development process on ‘bottom-up neighbourhood planning’, and how it would be funded and support communities. The policy discussions intersected because they considered how the remaining 80% budget allocated to Planning Aid could be used in a better way. Planning Aid’s remit was very wide in helping communities on anything to do with planning. Ministers were thinking how to focus support on neighbourhood plans. If the submissions were to be disclosed whilst the policy development was not finished, the debate would not have been properly informed or productive and it would have stoked the flames of controversy. By January 2011, the witness stated that many were happy with where the Government had landed.

## Public interest test

19. The public interest in maintaining the exemption in FOIA, s.35(1)(a) included:

### Safe Space

- A. DCLG needed to formulate policy within a 'safe space' free from premature external scrutiny so that officials and politicians could deliberate unhindered by external pressure. This facilitates and protects effective government policy and decision-making. What matters most here is that those involved in formulating and developing policy have trust and confidence in this safe space, to be able to speak their minds, test ideas, challenge and disagree with each other, think creatively on the basis of provisional information or assumptions and consider raw or untested data which may be open to question or difficult to interpret.
- B. Public scrutiny and criticism of internal thought processes are liable to be premature, unconstructive and distracting, particularly where, as in this case, those processes are still ongoing. This is material when authorities have a duty to engage with public concerns and ensure that the public are not misled. Once released, misleading information may need to be amended or clarified to correct or avoid misapprehensions. The preparation of public notices and statements and briefings for ministers and officials dealing with public enquiries requires time and effort, particularly where the final outcome is unknown. Had the policy of provision of funding directly to communities been made known at the time of the request, this could have given rise to pressure from community groups to adopt this option thereby creating a distraction and having an adverse effect on the development of the chosen policy.
- C. In this case, there was a keen active interest in the process from planning professionals, members of the public and their elected representatives. Much of their comment was, in the early stages, negative about the proposed changes. The intense pressure to finalise the relevant policy during November and December 2010, meant that the release of the disputed information at that time, and resultant increased intensity of debate could have severely negatively impacted the policy development process. Ministers and officials would have had to spend time responding to queries and statements instead of developing the policy.
- D. The Localism Bill was introduced into Parliament during this period. It gave rise to heightened interest in planning matters, which could have intensified the potential effects set out above.
- E. It is important that this confidential safe space is not confined to the exclusive protection of extreme disagreements or criticisms, or examples of people "thinking the unthinkable". Rather, it is necessary to maintain a private area in which issues can be explored and discussed on a provisional basis, without the prospect of premature external pressure or scrutiny and, therefore, without any need or incentive to anticipate or pre-empt the form this might take or the reaction of others more generally.

### Chilling effect

- F. If ministers and/or officials involved in the formulation of policy are not confident that the privacy of their work will be respected, at least during the formulation and development stage, they will inevitably be less



candid and robust in their approach and more guarded, defensive and overly cautious. For example, if those involved were aware of the possibility of public disclosure they will inevitably feel that they should keep in mind how their words might be read or portrayed in the media or on the internet. This may in turn make them shy away from controversial areas, avoid frank criticisms of individuals or ideas, spend time framing things in more diplomatic language or divert attention towards the addition of qualifications or contextual points needed to pre-empt ill-informed or unjustified criticisms. This would dilute the incisiveness and clarity of the internal deliberations and debate and adversely impact the quality of decision-making.

- G. Whilst the respondents argued that providing the information would have allowed those who were wanting to keep Planning Aid operating to be able to make their case in a fully informed way, there needs to be a space for decision making without a running commentary.
- H. Whilst officials are aware of the FOIA, releasing civil servants' advice in the middle of a controversial and extensive policy planning agenda, would come as a surprise to civil servants.
- I. Whilst we can trust civil servants to do their job well, and present advice in a robust way, there are grey areas where the policy debate is less clearcut. In these cases it will make a difference to the relationship between ministers and civil servants. The latter may be less willing to put forward their views to the Minister who has the clear mandate, if these are to be released, because they will not want to get involved in the policy debate. Plenty of ministers are happy to have robust discussions, but there is a difference if this is done in public. Officials may be more sensitive in how they phrase advice if the debate will appear as if a minister is overruling officials.
- J. Whilst the Second Respondent argued that the process would be more democratic and inclusive with disclosures, even if uncomfortable for politicians, part of the way that the process is structured is for Government to take a view on an issue which is then subject to debate.

### **Political neutrality of the Civil Service**

- K. The publication of civil servants' views may strain their relationship with ministers. Exposure of materials such as the disputed information to public scrutiny, particularly before Ministers have made final decisions, may lead to public and political pressure on and criticism of officials. This may then compromise their impartiality as civil servants. Civil servants must adhere to 'core values' of integrity, honesty, objectivity and impartiality set out in the Civil Service Code and ministers must accept public and Parliamentary responsibility for policies they have approved and adopted. However, this may not be possible in the case of a view expressed by an official, which is not then endorsed by ministers.
- L. For ministers to make decisions it is important to have advice that is balanced, neutral and outside the political arena.
- M. However, the witness agreed in the oral hearing that the issue about robust debate is more likely to be affected than neutrality. Whilst it is the official's role to be politically neutral, when talking to people, officials are representatives of the Government. This is more difficult if at the same time the official's internal discussions are in public view.
- N. Whilst he recognised that the public would not expect ministers to rubber stamp official advice and would expect disagreements, he thought that in the world of policy making and politics such circumstances could be used

to apply political pressure particularly when the policy attracts such interest. This may result in the ministers being less keen to get official's advice if it is then to be publicised. It would make the relationship between ministers and officials harder and the public debate more skewed. Ministers and officials need to be able to build a relationship of trust. Ministers felt that civil servants were pushing things uphill. If it was felt that the submissions would be published, they may push officials to provide more favourable advice.

O. The Second Respondent argued that:

*"The public have a right to know whether their elected representatives and the government are taking heed of advice, or ignoring it, in order that the electorate can decide whether they are well served by their elected representatives....As I was in the employ of the RTPI at the time, my understanding was that the civil servants in DCLG were opposed to the change...That Ministers seemed to have chosen to ignore this advice seemed so counterproductive ..."*

However, there is a difference between ministers challenging, disagreeing with or refining official recommendations and ministers ignoring official advice. The former situation is healthy and commonplace.

20. There was a **public interest in disclosure**, as there was a high level of interest in the subject generally:

A. In transparency, accountability and public participation in connection with planning matters: The provision of advice to persons and communities which would otherwise struggle to engage with the planning system itself raises issues of accessibility and public participation. Various MPs contacted DCLG to relay concerns raised by their constituents and a number of specialist publications ran articles relating to the proposed changes, particularly in December 2010 and January 2011.

B. The on-going policy development process between November 2010 and January 2011 thus took place during a period of heightened sensitivity in the planning sector. The changes being made in relation to Planning Aid would ordinarily have attracted a certain level of interest and correspondence from the planning sector. In addition, the introduction of the Localism Bill, along with wider public engagement on the changes which it was making, further heightened the level of public discourse on planning matters. The process of making changes to the provision of advisory services certainly gained a wider public profile as a result.

21. However, disclosure would not have assisted the public interest and non-disclosure did not materially hamper the pursuit of any of the public interest concerns. Whilst the Second Respondent argued that it was important for the public to be able to scrutinise policy and debate the issues at the time the decisions were being made, it was important to wait for all the information to be ready and comprehensive and for the debate not be skewed informative and for the debate not to be skewed in an unhelpful way before the minister had fully decided. However, 'reality intervened' in that the decision to end funding for Planning Aid was publicised before the policy had been finalised. RTPI wanted confirmation of Planning Aid's position by 30 November in order to be able to issue notices to staff.

22. DCLG engaged with these issues publicly in late 2010 and early 2011, insofar as it was able given the work it was doing in parallel on the formulation of the Prospectus. Around the time of the request, public statements such as the following provided insight into DCLG's decision-making and served to help satisfy and lessen any public interest in disclosure:

A. *"But planning also of course requires the application of specialist skills. We recognise that in some circumstances people will need some support to make the most of the opportunity to get involved. That's why, if a very local area wants to draw up its neighbourhood plan - we will require the local authority to provide support. We will also fund independent advice, so that local communities and neighbourhood groups who are new to the topic can learn from what has worked well in other areas... The third argument against local planning is about equality. It says - are you, in effect, empowering those who are already powerful - giving the well-organised an opportunity to channel unwanted development towards the places where the less well-organised live? There are several points to make in response here. One is that the provision of advice and support should enable those who want to, to draw up their neighbourhood plan, no matter where they live. Another is that there will be some safeguards in the system. Neighbourhood plans will need to be consistent with wider local plans. If the wider areas needs lots of new houses, the neighbourhood plan will not be a means to refuse development altogether. An independent assessment will make sure that neighbourhood and local plans are consistent." - Minister's speech at the Town and Country Planning Association Annual conference, 30 November 2010,*

#### **21 December 2010, the Minister's evidence to the DCLG Select Committee**

*"Q92 Chair: ...Many of us ... have supported .. Planning Aid and have seen it do good things in the past. I am surprised that its funding has been stopped from the new financial year.*

*Greg Clark: They've issued notices to their paid staff, warning them that there's a risk of redundancy... We've been clear that it is important for central Government to help communities with the planning process. Obviously, with the Bill, we want - exactly as the Secretary of State said - to move from the focus being on development control and battles over particular applications, one way and another, ... to getting communities to express their ambitions and aspirations in their neighbourhood plans right from the beginning. That is a much better way of proceeding; it helps with the reform of the system and genuinely empowers communities. The funding and support that we want to give to the planning process we want directed to the formation of neighbourhood plans. Planning Aid has, over the years, had a good record of working with communities, so would be having more to say during the next few weeks about the process of supporting communities in this way. There is a good chance that Planning Aid may be able to help provide some of those services, but what it has done in terms of its letters is - I am sure they've been advised - a precautionary method, given that we are changing the focus of support.*

*Q93 Chair: But there's still a chance it could be involved in that process.*

Greg Clark: *There is...*

23. At the hearing, the witness was asked about whether the decision not to renew Planning Aid was independent of and separate from the rest of the planning policy. He replied that it was taken in the context of the Localism Bill. When the specific decision on Planning Aid had been made, ministers did not know what would replace it. A decision had been made about what not to do, but the replacement was two sides of the same coin. Had they not been time pressured, the announcement in December would not have been made. Whilst a firm decision had been made about the long-term funding of Planning Aid, and the old grant arrangement with Planning Aid was over, the decision was (a) still part of wider policy developments with outstanding issues still live at the time of the request which no one knew the answer of and (b) if it had not been possible to finalise alternative arrangements, they would have had to return to look at alternatives. Whilst he accepted that it could be argued that once there had been a final decision taken on the policy, the argument as to safe space had less force, it was still relevant to the policy would be implemented and when, which was still under active discussion.

**Issue 1: Scope: Which documents fall within the scope of Parts (b) and (c) of the request?**

*Background to Issue 1*

24. Much or all of this part of the decision concerns matters of scope that were not before the Commissioner at the time of its investigation. The Commissioner was provided with Submissions 6 to 8 and some emails in its decision notice. Submission 5 and related emails were inserted as part of an appendix to the closed section of the witness statement provided to the Tribunal and Commissioner during this appeal. It did not explain why it had not been provided to the Commissioner during the investigation, or highlight the omission. Submission 4 was provided at the request of the panel during the oral hearing, after the hearing, along with Submissions 2 to 4, which it referenced. Submission 1 was provided after further probing at that point. Even then, only part of Annex A to Submission 1 were provided, and not Annex B or C that could have potentially been of relevance, and further emails were also then sought. The complete list of relevant documents that the Tribunal considered in deciding what was in scope are set out in the Appendix.

25. The relevant parts of the request are:

*“Further to the announcement yesterday that the grant of Planning Aid England is to cease on 31 March 2011...*

***(b) On what basis was it decided that funding should cease entirely, what was the reasoning and justification?***

***(c) Any background information that informed the decision?”***

### **Respondent's Submissions**

26. The Commissioner has accepted that Submissions 2 to 4 were not within the scope of the request, because the documents concerned '*the 2010/11 decision and do not inform the 2011/12 decision*'. It did not specifically confirm its position on Submission 1, but it would presumably be the same.
27. As regards Submission 5, the Commissioner accepted that this informed a decision in respect of 2010/11 rather than 2011/12 and beyond. However, he considered it within scope, because it fell within the ordinary objective meaning to request (c) as being "*any background information that informed the decision [concerning 2011-12 and beyond]*". The Commissioner suggested that any ordinary 'FOI' official would have read it this way.
28. Indeed, the witness testimony described Submission 5 as "*setting out various funding options for Planning Aid including different permutations for making savings from percentage cuts in funding through to its complete withdrawal*". In other words, even at that stage the Minister was contemplating the total withdrawal of Planning Aid funding, which was the very decision made four to five months later. Therefore, the Commissioner considered that when dealing with a request for "any background information" which "informed" the latter decision, it would be artificial in these circumstances to draw a neat line between the two decisions.
29. The Commissioner considered it unlikely that the information in Submission 5 did not in some way inform the thought process commenced in Submission 6 with respect to Planning Aid funding for future years.

### **Second Respondent's Submissions**

30. The Second Respondent maintained that all submissions were within the scope of the request because the words '*any background information*' in request (c) had a broad meaning. Given that he was unable to put his case by reference to the actual documents, the panel put to the other two parties that certain identified parts of the Submissions 2 to 4 and accompanying emails might be argued to fall within "*Any background information that informed the decision*". (*At the same time it requested Submission 1 be provided*). This was because:
  - The decision to cut planning aid by 20% in 2011 might be argued to be background to the subsequent decisions to (a) change the approach to Government funding of planning advice, (b) cut funding to Planning Aid altogether as sole provider and (c) proceed with a new approach to funding of planning under the Localism Bill and Prospectus.
  - The submissions contained information about Planning Aid which (to the extent they were not repeated in subsequent submissions) would presumably have informed the Minister's background knowledge about the body.

### **Appellant's Submissions**

31. The Department maintained that Submissions 1 to 5 and Emails 1 and 2 supplied after the hearing fell out with the scope of the request. This was because the request was for details of "any background" information to the decision to cease funding of Planning Aid England from 31 March 2011. The relevant material related instead to the decision to cut the level of Planning Aid's 2010/11 funding.

32. It thought that it was clear that this Email 2 represented the conclusion of one decision-making process (to reduce funding of Planning Aid in 2010/11) and the beginning of another (the consideration of funding options for future years). It is this second decision-making process about which Mr Posford has sought information. This email prompted the 9 July 2010 submission (Submission 6), which provided for the first time advice and options on funding for Planning Aid in financial years following 2010/11. This, it argued, was the point at which material could logically be termed "background" to the decision to cease funding in future years. It was the point at which officials were asked to review the possibilities for a cessation of funding in future years.

### Our Findings on Issue 1

33. The request related to part (b) and (c) was for any background information that informed the decision for Planning Aid's grant to cease on 31 March 2011 and the basis, reasoning and justification of that decision. It is clear from the correspondence that we were given that the Minister was given background information about Planning Aid when considering the CSR, and that subsequently (and it is plausible that consequently) he considered removing Planning Aid's funding altogether, so as to use the savings to pay for the neighbourhood planning initiative. That the Minister made the connection in his mind having been given the facts about Planning Aid for the CSR, to then consider cutting its funds altogether is clear from the correspondence. The same background information about Planning Aid would have informed both decisions. DCLG and its witness actually described the CSR as background in his testimony. Whilst the earlier submissions would have been building blocks to inform him on the later decision for 2011 and beyond, the emails indicate the dialogue and steering of focus in relation to the development of policy in relation to Planning Aid's future.
34. Furthermore, certain of these documents specifically address the proposal of complete withdrawal of aid – this would clearly affect decisions beyond 2011 and so would be described as relevant background or germinations of the decision to cease funding.
35. In short, we agree with the Commissioner's arguments regarding Submission 5, (in paragraphs 27 to 29), but consider they apply equally to earlier emails and submissions to the extent set out in the Open Appendix.

### **Issue 2: Public Interest: Does the public interest in maintaining the s.35(1)(a)FOIA outweigh that in disclosure for any or all of the documents considered by this Tribunal?**

#### ***Appellant's Submissions***

##### *Scope of Request: Parameters of Decision*

36. The Department emphasised that "the decision" did not entail the complete cessation of funding for independent planning advice accessible by the public free of charge, but rather that it would no longer be exclusively provided through Planning Aid.
37. As background to the decision, the wider context was set by the CSR; development of DCLG's "neighbourhood planning" policies and reduction of

Planning Aid's government funding for 2010/11. Within this context, the decision represented a policy decision to discontinue funding Planning Aid on the basis then in operation from 2011/12 onwards. However, this was a sub-decision which formed one part of a broader policy change and the remaining parts of the new policy (including as to alternative means of delivering free planning advice) had yet to be fully worked out and had not been the subject of any final decision or public announcement by the time the request was received. The policy formulation and development process was live, ongoing and pressing at the time of the request:

- a) no final decisions had been taken as to new arrangements or the role of Planning Aid (if any) thereunder;
  - b) there was a pressing need to arrive at a settled policy to have other providers in place by April 2011 and the potential of future Planning Aid involvement; and
  - c) DCLG was facing external political and Parliamentary interest and pressure over the future of Planning Aid and the Minister was involved in face-to-face discussions with its management.
38. They maintained that the Commissioner had misunderstood the nature of the decision in (1) assuming that the policy formulation and development process had terminated; and (2) concluding that disclosure of the disputed information would *"help the public assess whether the ceasing of impartial planning advice from Planning Aid will disadvantage local neighbourhoods in this respect"*. In reality the decision to terminate Planning Aid funding could not be separated from the issue of what to replace it with. This was because the Minister had not decided to 'pull the plug' on Planning Aid itself, but to change the focus of the planning policy, such that at the time of the request, Planning Aid was not necessarily finished, and it was not yet known if and where it would fit into the new system.

*Weighing Interest favouring disclosure*

39. The Department's argument reflected that stated by the witness (set out above). Additionally, as the FOIA was *"applicant and motive blind"* the relevant interest in disclosure is the public interest such that the purely private interests of the requester as a former employee of Planning Aid are strictly irrelevant.
40. As regards the Second Respondent's arguments that the public need to be able to proactively contribute to forming policy and so should see the material, they argued that this was not part of the elected democratic system. Our system was more passive in seeking to ensure the public understood why decisions were made. Instead, they suggested that political accountability was sufficiently satisfied by the public writing to their MPs who in turn sat in Parliament.
41. As regards the Localism Bill not having had a prior period of consultation, they suggested that under Administrative Law there was no legitimate expectation to have this – some proposed reform might require it, and others not.
42. DCLG referred to previous cases, including:

*DFES v IC (EA/2006/0006) 19/02/07 (as endorsed in OGC v IC [2008] EWHC 774 (Admin), [2010] QB 98, para.100 by Stanley Burnton J):*

*“...Every decision is specific to the particular facts ... (iv) The timing of a request is of paramount importance to the decision...disclosure of discussions of policy options, whilst policy is in the process of formulation, is highly unlikely to be in the public interest, unless, for example, it would expose wrongdoing within government. Ministers and officials are entitled to time and space, in some instances considerable time and space, to hammer out policy by exploring safe and radical options alike, without the threat of lurid headlines depicting that which has been merely broached as agreed policy.*

*(v) When the formulation or development of a particular policy is complete for the purposes of (iv) is a question of fact. However, s.35(2) and to a lesser extent 35(4), clearly assume that a policy is formulated, announced and, in many cases, superseded in due course. We think that a parliamentary statement announcing the policy, of which there are examples in this case, will normally mark the end of the process of formulation. There may be some interval before development. We do not imply by that that any public interest in maintaining the exemption disappears the moment that a minister rises to his or her feet in the House. We repeat - each case must be decided in the light of all the circumstances...”(Para 75)*

43. The Department noted that whilst it may be arguable that the public interest in the maintenance of the “safe space” and the avoidance of the “chilling effect” may both reduce (but not necessarily terminate) upon completion of the relevant policy formulation and development process, but that it had not completed in this case.

#### **Respondent’s Submissions**

44. The Commissioner’s arguments included:

##### *Scope of Request:*

- i. Having now seen DCLG’s evidence and Submission 5 which had not been before him at the time of the Decision Notice, the scope of the information within the requested included Submission 5 but not Submissions 1 to 4 and related emails (*see above*).
- ii. Parts (a) to (c) of the request were concerned with the decision not to renew Planning Aid’s funding, which had already been finalised and announced. Part (d) was about what, if anything, DCLG envisaged as a replacement for the services Planning Aid had provided. At the date of the request, that decisions had not been finalised.

##### *Public Interest:*

- iii. In weighing the public interests, the Commissioner thought that the public interest favoured withholding some and disclosing other information. He distinguished information on the decision to cease funding Planning Aid in its pre 2011 format (Submissions 5 and 6 and Emails 3a and 3b) which should be disclosed from information on what to replace it, (Submissions 7 and 8 and Email 4).
- iv. The Commissioner considered general arguments in favour of disclosure as:
  - a) Transparency and accountability: in the way that the decision to cease funding Planning Aid was reached.



- b) Increased understanding:
- of the extent to which officials and ministers had explored alternative policy options;
  - of the reasoning behind abolition of the Planning Aid scheme;
  - of how the DCLG facilitated the formulation and development of policy and assisted ministers in reaching decisions.
- c) The public concern that the decision to cease funding free and independent planning advice would discriminate against deprived communities and individuals who could afford professional fees.
- d) The significant public debate regarding the prospective relaxation of planning controls in the Localism Bill in favour of sustainable development. Disclosure would help the public to assess whether the ceasing of impartial planning advice from Planning Aid would disadvantage local neighbourhoods in this respect. The witness admitted that the introduction of the Localism Bill had “*given rise to a heightened level of interest in planning matters*”. Changes to the provision of planning advisory services had a wider public profile at the time and that, at the time of the request, there was a strong public interest in the subject generally and in the contents of these submissions and emails specifically.
- e) That at the time of the request, nothing in the public domain served to weaken the public’s interests summarised above.

45. The Commissioner argued that:

i. Safe Space

For Submissions 7 and 8 and Email 5:

- a) Accepting DCLG’s arguments, there was genuinely ‘live’ issues postdating the request, and so has great weight in favour of considerations of safe space.

For Submissions 5 and 6 and Emails 3a, 3b and 4:

- b) Conversely, the Planning Aid decision was finalised on 29 November 2010 and there was no prospect of it being revisited. Therefore, no significant safe space was required for that decision.
- c) Whilst the decision to cease funding Planning Aid was linked to the broader policy decisions, which were only finalised by 7 January 2011, that link was not clear or strong enough to sway the public interest in favour withholding the information: due to be set out in the Localism Bill.

ii. Chilling effect

The Commissioner’s representative did not accept the testimony that disclosure of the Planning Aid information would “*inevitably be less candid and robust in*

It was necessary to trust that the system and relationship between ministers and officials could cope and that there must be sufficient shock absorber to cope with knocks as part of the ordinary course of business, even if, say, they were not always in agreement.

The Commissioner did not accept that any significant weight should be given to the argument that publication of advice would strain the relationship between Minister and officials. He did not accept the strength of witness testimony that while Ministers ultimately take responsibility for decisions, it might not be possible in the case of a view expressed by officials that were not then endorsed by ministers.

iii. Neutrality

The Commissioner did not accept that disclosure of the information would compromise the political neutrality of the civil service. As accepted by the witness, *impartiality* and neutrality was mandatory under the Civil Service Code and civil servants could be expected to maintain these values.

46. The Commissioner cited the following cases as strengthening his argument:

- i. *DFES v IC* (EA/2006/0006), [2011] 1 Info LR 689: It is appropriate to consider the protection from compromise or unjust public opprobrium of civil servants, but not ministers.
- ii. *Department of Health v IC, Healey and Cecil* (EA/2011/0286 & EA/2011/0287): The Tribunal analysed the issue of the times at which a safe space is required. It considered that there was no straight line between formulation or development of policy and implementation or delivery of policy; rather, the process often dips in and out of the need for a safe space.

***Second Respondent's Submissions***

47. The Second Respondent's arguments in addition to the Commissioner's included:

*Scope*

*Public Interest*

- i. **Accountability:** Whilst accepting the need for allowing [a safe space for] frank advice to Ministers, the [Government] had a responsibility those affected by decisions including the public generally, especially in this case where the policy had national impact.
- ii. **Understanding the Decision Process:** The decision to cease funding seemed perverse in the context of a massive change to the planning system in favour of greater public involvement.

- iii. Transparency, Accountability and Assisting Democratic Functions: He postulated that what would concern Ministers, would be when their decision differed from the advice they had been given, as this would have political ramifications. However, the public had a right to know whether their elected representatives and the Government were listening or ignoring advice, in order that the electorate could decide whether they are well served by their elected. Since he was employed by RTPI at the time of the request, his understanding was that the civil servants had been opposed to the change that had taken place. Therefore it seemed likely that the bulk of the advice would have been to the effect of "*don't cease funding Planning Aid England at this point in time and in this way!*" That Ministers seemed to have chosen to ignore this advice seemed so counter-productive that he was puzzled and wondered what counter advice they had been given, and who by.
- iv. Timing and Democratic Debate: As regards points made about timing, and the information not being disclosed when the decision process was still live, he asked: if the public cannot be involved in decisions as they are made, did this not deny it a rightful opportunity to participate in the legislative process. He further asked, if only one set of representatives (namely the Government's) are properly involved in decisions, would this not mean a whole swathe of the public are denied input? He thought disclosure at the time of the request particularly important given that the Localism Bill had been introduced without a period of consultation.
- v. Good Law: He accepted that the Government made decisions and managed legislation, but considered that everyone should get the chance to participate before decisions were made to ensure good legislation and proper democracy.
- vi. Chilling Effect and Neutrality: he did not accept that civil servants would be unfairly castigated for giving advice, were the information disclosed. This would seem peculiar given that civil servants were simply performing their role in providing advice and the professionalism of civil servants was something the UK prides itself on.

### **Our Findings: Issue 2**

- 48. We accept that the decision to cease Planning Aid was made in the context of the Localism Bill and so related to live and ongoing policy as to what would replace it. We think it was part of a series of decisions (a) to cut down the spending in relation to Planning Aid; (b) to cease funding Planning Aid so as to free up funds for an alternative key policy the Government had decided to pursue; and (c) to decide on the details of the new policy, (reflected in the Localism Bill and Prospectus) with the officials essentially having advised on the options for what might work. However, we think it was a sufficiently discrete decision (and policy) that had been definitively decided by the minister, with the relevant necessary implications and processes having been thought through and advised upon; announced; and at the initial stage of implementation inasmuch as the redundancy process had been started. That the policy was announced before the details of the new policy were clear, we think fortifies our view, as did the fact that the issue that this was not to be debated within the Localism Bill, unlike other parts of the policy. Whilst in a perfect world, the decision to cease Planning Aid's funding arrangements would have been announced once it was known what would replace it and whether Planning Aid would have a future role, this was not what had happened, and in reality the decision announced resulted in a significant change to Planning Aid's

future regardless of whether it would have a future albeit more limited role being publicly funded.

49. We think that it was most likely that the Minister did not make the final decision on this on 29 November. Whilst this was the date of the formal letter to RTPI, this would have been the latest possible date it could have been made, but we think the evidence points otherwise. At a practical level, there would likely have needed to be earlier deliberations and liaison with the Minister before the final draft was sent that day, because such a decision would not have been made and then drafted impromptu. Further, the documents clearly indicate that the decision was made early in September, and was never altered after that, but rather confirmed by the end of September. Whilst it was feasible that ministers could change their mind on policies, in this case he did not. Certainly by 29 November, the decision was as good as set in stone.
50. Therefore, our decision differs for (a) Submissions 1 to 6 and Emails 1 to 4, ('category 1') and (b) all later submissions and emails ('category 2') which focus on the related policy. This is because they relate to two different (but related policies) the former were not on-going, the latter were. Alternatively, they relate to the same overall policy of planning, but the arguments of 'safe space', 'chilling effect' and 'civil service neutrality' cannot convincingly be applied equally to them.
51. As regards to category 2, we accept that DCLG's policy on related issues was unsettled. DCLG's argument on using Planning Aid's grant to fund the initiative would not be decided until Royal Assent in November were disingenuous. The Minister clearly decided to divert Planning Aid's grant for this purpose before the date of the request, the development of government's funding policy would likely be finished by the time of the Localism Bill and available funds would have been clear when the Prospectus as issued. However, it was clear from the RTPI's announcement and letter of 29 November that not all details on the delivery of policy were clear and that the government would have rather known by the time of the announcement what the future role for Planning Aid would be, but it did not. Further we accept that the total level of funds available might not have been clear, and how the application process would work or what kind of bodies might be eligible for funds was not clear until after the request because a further submission on this was drafted later in December.
52. Public Interest for Category 1:
  - i. For this category, the total weight of public interest in maintaining the exemption does not outweigh that of disclosure because:
    - a) There was clearly public interest in the topic as evidenced by the DCLG's description of MPs' expressed concerns about Planning Aid's future. The issue had been made public, and this was therefore the appropriate time to ensure the ongoing debate was as informed as possible, when the debate was at its height of interest and of most concern to those involved at Planning Aid. Public interests in transparency, accountability, understanding the decision process and public participation in debate at the relevant time were high, particularly given that the issues were not to be debated within the Localism Bill.
    - b) The decision had clearly been made. Therefore to the extent to which there was ongoing formulation of government policy, it did not concern

the ending of the funding arrangements in the previous form. Arguments related to needing a 'safe space', or results of a 'chilling effect' or on 'civil service neutrality' seem negligible after the decision had been made. The public statements already made did not sufficiently help to satisfy the public interest in disclosure.

c) We agree with the Commissioner who stated that:

- Once the announcement about Planning Aid had been made, the cat was out of the bag. It gave rise to a more intense debate, and as a controversial decision, the debate was worthy of being as informed as possible.
- December was therefore the time when the public would have benefited most from a fully informed debate to enhance accountability and ministerial accountability. The relevant submissions and emails did not disclose anything meaningful about the policy issues which remained live at the time of the request and so would not intrude upon the safe space required for the later, broader decisions.
- The fact that the decision to cease funding Planning Aid was taken without a clear idea as to what would replace it was a factor adding substantially to the public interest in disclosure.

ii. We did not consider any other factors put to us had sufficient potency to be factored in.

53. Public Interest for Category 2:

i. For this category, the total weight of public interests in maintaining the exemption outweighed that of disclosure because:

- a) Safe Space: DCLG did need to be able to formulate policy, exchange and test ideas, contemplate the unthinkable and so on, free from premature or distracting scrutiny. Given the policy was not complete, the scrutiny resulting from disclosure at the stage of the request would have been unconstructive and could conceivably have strained relations between the minister and officials. This factor carried the most weight of all in the category and favoured maintaining the exemption.
- b) There was a keen active interest in the material. However, its disclosure and the resultant debate would have fogged the issues and been unconstructive prior to completion of the policy development stage. The time for debate would have been best conducted after this.
- c) Interests favouring disclosure in transparency, accountability, understanding the decision process and public participation in debate were together of less weight than lower than the interest in the safe space listed above.
- d) We did not accept the Appellant's arguments that disclosure would affect the neutrality of civil servants or would lead to civil servant advice being less candid or robust. This understated the

professionalism of officials. We doubted officials would intentionally put in written submissions inappropriate phrases, and the public could be trusted to understand that healthy effective policy development involved disagreements, concise or shorthand communications, the complexity and grey areas of policy, and so on.

- ii. We did not consider any other factors put to us had sufficient potency to be factored in.

### **Other Issues**

54. With respect to paragraphs 24, 33, and 34 above, we were troubled that DCLG did not think it appropriate to alert the Commissioner and then the Tribunal to the existence of certain of these documents, (either at an earlier stage or at all), for both to at least consider whether they were within scope. We find the explanations they gave on this to be unconvincing. They sought to argue that in the series of decisions made about Planning Aid within a period of months, spending cuts for 2010-2011 were not in any way background to ceasing to fund it, and yet were very connected to the future policy about its replacement. Whilst that may be an arguable position, it must have been clear to them that the contrary was also the case. Omitting to provide the relevant documents appeared to us to treat the process, the other parties, and the Court without due respect; contrary to the spirit of openness that might be justifiably expected from a government department; and to cause delay and further costs to the Tribunal. Such an approach can result in the panel losing trust in the department's handling of its case and in its arguments more generally, such that we were careful to ensure we saw all documents that might be at all relevant.
55. Our decision is unanimous.

Judge Taylor

23 January 2013

## Appendix

### Key to Submissions and Emails Within Scope of Request

	<b>Date</b>	<b>Contents</b> <i>To extent disclosed by parties</i>	<b>Parts To Be Disclosed and reasons</b>
<b>Submission 1</b> including part of Annex A.	25.5.10	Relates to background of CSR: to re-examine pre-election spending approvals and gives context of this, and of where Planning Aid is placed.  Annex A: background on Planning Aid.	To Disclose: Addressee, date, Title, Para 1-4; 18 and Annex A The Rest is Outside the Scope as not particularly being relevant to Planning Aid or 'background' within the meaning of the request.  <i>Reason: We consider this to clearly fall within 'background'. This is our own view but it actually supported by the DCLG witness statement and skeleton argument which set it out as part of the background to the 'wider context to request' and in described it as such.</i>
<b>Submission 2 and Annex</b>  <i>From Corporate Finance Team</i>	3.6.10	Relates to outstanding decisions needed to be taken by Minister	To Disclose: Addressee, date, Title, Para.s 1 and 2 and Annex. <i>Reason: Identifies background information in relation to Planning Aid</i>
<b>Submission 3</b>  <i>From Planning Programme Management</i>  <b>And Annex</b>	3.6.10	Relates to the CSR and specifically Planning programmes, looking at potential cost savings and contractual obligations.	To Disclose:  addressee, date, title, paras 1-4 (excluding the sentence beginning "The un-committed...") and paragraph 4 of the Annex which relates to Planning Aid, because these parts are 'background' and do not concern legal advice.
<b>Submission 4; Annex; cover email</b>	11.6.10	Further advice related spending approvals	To Disclose: Front page save for officials' names; and point 4 of annex which is about Planning Aid and 'background' within the meaning of the request.
<b>Email 1</b>	23.6.10	Email from private office on funding options in response to Submissions 3 and 4.	To Disclose: date, 'from PSGregClark', and part related to 'No.30'. (The rest is outside the scope as not concerning Planning Aid.)  Reasons: This is looks at funding options and includes potential for abolition which clearly relates to years beyond 2010-11.
<b>Submission 5</b>  <b>And Annex</b>	2.7.10	Setting out various funding options for Planning Aid including different permutations for making savings from percentage cuts in	To Disclose: The whole submission save for officials' names.  Reasons: sets out background of Planning Aid, and contemplates complete withdrawal of funds so is

		funding through to its complete withdrawal.	potentially relevant to part of the 'basis' within request (b) as well as 'background' within request (c).
<b>Email 2</b>	5.7.10	Minister's decision to on Submission 5 and requiring further information on its financial commitments and future funding options.	To Disclose: The whole email save for officials' names.  Reasons: This is looks at funding options and includes potential for abolition, which clearly relates to years beyond 2010-11.
<b>Submission 6</b>	9.7.10	Further information on its financial commitments for Planning Aid and future funding options funding for future years in response to Email 2.	To Disclose: The whole submission save for official's name.  This relates to request b and c.
<b>Email 3a)</b>	10.9.10	Minister's Decision on Submission 6 on future Planning Aid funding.	To Disclose: The whole email save for officials' names.  This relates to request b and c.
<b>Email 3b)</b>	10.9.10	Official's request for clarification of Email 3a).	To Disclose: The whole email save for officials' names.  This relates to request b and c.
<b>Email 4</b>	1.10.10	Summary of the meeting with Minister of 30.9.10.	To Disclose: The whole email save for officials' names.  This relates to request b and c.
<b>Submission 7</b>	8.10.10	Proposals for future provision of advisory services and support for communities, focusing on support for production of neighbourhood plans.	Not to disclose.  To the extent this relates to request c, the public interest favours maintaining the exemption.
<b>Email 5</b>	18.10.10	Minister's request for further information.	Not to disclose.  To the extent this relates to request c, the public interest favours maintaining the exemption.
<b>Submission 8</b>	4.11.10	In response the Minister's request for further details about funding a number of organisations to advise communities on planning.	Not to disclose.  To the extent this relates to request c, the public interest favours maintaining the exemption.
<b>Email 6</b>	18.11.10	The Minister's response to recent submissions on neighbourhood plans or the Localism Bill.	Not to disclose.  This relates to request c but the public interest favours maintaining the exemption.