

## Freedom of Information Act 2000 (Section 50) and the Environmental Information Regulations 2004

### Decision Notice

Date: 19 November 2007

**Public Authority:** Department for Environment, Food and Rural Affairs  
**Address:** Nobel House  
17 Smith Square  
London  
SW1P 6JR

### Summary

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The complainant asked Defra for information about two contractors involved in the clean up operation after the 2001 Foot and Mouth Disease epidemic. In respect of the first company, Defra withheld the information sought, citing the exceptions in regulations 12(3), (4)(e), (5)(d) and (e) of the EIR. Defra said that investigations were proceeding into the second company. It subsequently cited regulation 12(4)(d) as its grounds for withholding information about that company. The Commissioner decided, in relation to the first company, that the information in question should be withheld under regulations 12(4)(e), 12(5)(b) and (d). For the comparable information for the second company, the Commissioner found that some of the information had been correctly withheld under regulation 12(4)(d), and that Defra had complied with its obligations under regulation 5(1) in saying that other information was not held at the time of the request. The Commissioner concluded that, in all the circumstances of the case, the public interest in maintaining the exceptions in the regulations outweighed the public interest in releasing the information. He found, however, that Defra had misapplied regulation 12(5)(d), in relation to the legal aspects of some of the information.

### The Commissioner's Role

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1. The Environmental Information Regulations ("EIR") were made on 21 December 2004, pursuant to the EU Directive on Public Access to Environmental Information (Council Directive 2003/4/EC). Regulation 18 provides that the EIR shall be enforced by the Information Commissioner (the "Commissioner"). In effect, the enforcement provisions of Part 4 of the Freedom of Information Act 2000 (the "Act") are imported into the EIR.

## The Request

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2. On 22 February 2005 the complainant asked the Department for Environment, Food and Rural Affairs (“Defra”) for information relating to the 2001 outbreak of Foot and Mouth Disease in Wales. He asked for files or information about: the disposal site operated on Mynydd Eppynt; the operations of Greyhound Plant Services (“Greyhound”) as contractors at the Eppynt site; any enquiries or investigations carried out into the operations of Greyhound on that site; payments made to Greyhound for services connected with the 2001 Foot and Mouth outbreak either on the Eppynt site or farms; the investigation or auditing of claims for payments made by Greyhound for such services. The complainant also asked for similar information in relation to JT Landscape Designs of Blackwood (“JT Landscapes”), and/or Mike Thomas of that company.
3. On 9 March 2005 Defra replied, saying that it was considering the information request under the EIR. It said that the request was very broad, covering a large amount of information over a number of years and that gathering it would involve significant cost and diversion of resources. Defra suggested that the complainant might wish to narrow his request, and warned that it might otherwise have to charge for, or even refuse, the request.
4. On 10 March 2005 the complainant narrowed his request to cover enquiries and investigations on the Eppynt site, the payments made to Greyhound and the investigation or auditing of claims. He requested similar information for JT Landscapes. On 18 March 2005 Defra provided details of the overall sums paid to Greyhound and to JT Landscapes, but said that it was not clear to what investigations the complainant was referring. The complainant responded on 21 March 2005 offering the necessary clarification. Defra responded on 6 May 2005, but refused to provide the complainant with the information he sought, citing the exceptions in regulations 12(3), (4)(b), (c), (d) and (e) and (5) (d) and (e) of the EIR. It said that it had applied the presumption in favour of disclosure, but that it held the information in question under both an express and implied duty of confidence. Defra said that it considered that in all of the circumstances of the case, the public interest in maintaining the exception to the duty to disclose outweighed the public interest in disclosing the information.
5. The complainant sought a review on 12 May 2005. He said that he believed that the public were entitled to know the results of any investigations that the Government had carried out into the conduct of these companies, on whom much public money had been spent: Defra had not attempted to address this public interest. He said that the regulations specifically referred to the aims of promoting accountability and transparency by public authorities for decisions taken by them and in the spending of public money. He disputed the relevance of the exceptions cited by Defra to the information that he had requested.
6. On 7 July 2005 Defra responded, saying that it was concentrating on his request for reports or briefing:

- resulting from the examination of Greyhound's accounts by Defra's quantum, forensic accounting and legal experts, including cost breakdowns;
  - resulting from the similar examination of JT Landscape's account;
  - containing information on the environmental aftermath of the Eppynt disposal operation in general and the actions of Greyhound in particular, including cost breakdowns.
7. Defra explained the large volume of information that it held relating to its commercial relationship with Greyhound, with documents running to many thousands. It said that it appreciated the complainant's efforts to clarify his request, but it was still too broad to deal with without a significant diversion of resources. Defra had, however, identified and considered for release three specific reports relating to the examination of Greyhound's accounts. These were:
- (a) A forensic accountant's report on final valuation of account as at 18 July 2003;
  - (b) Updated case analysis dated 29 October 2004 prepared by Defra's legal advisers;
  - (c) A final briefing report dated 23 March 2005 prepared by Defra's legal advisers summarising the principal financial and non-financial ramifications of Defra's dispute with Greyhound.
8. As to the forensic accountant's report, Defra said that its purpose was "to provide a forensic accounting opinion as to whether the invoices submitted by Greyhound for payment by Defra represented valid charges for work requested by Defra to combat the outbreak, and were supported by valid evidence. The report was used by Defra to obtain legal advice regarding its position in relation to the dispute." Defra considered that regulations 12(4)(e) (internal communications), (5)(d) (confidentiality of proceedings of a public authority where such confidentiality is provided by law) and 5(e) (confidentiality of commercial information where such confidentiality is provided by law to protect a legitimate economic interest) were relevant (the statutory provisions relevant to the complaint are set out in full in the Legal Annex to the Decision Notice). Defra said that it fully recognised the public interest in releasing information to explain the disbursement of public funds. However, it believed that this was outweighed by the damage that could be caused to the commercial interests of the Greyhound company, and the prejudice to the Government's position in any similar negotiations with other companies in future, if the information in the report were to be released. Defra said that, in addition, the report contained commercially sensitive information relating to Greyhound's charging structure, and its relationships with its sub-contractors and third-party labour and plant suppliers. Defra said that it considered disclosure could cause direct harm to the commercial interests of those businesses.
9. As regards the updated case analysis, dated 29 October 2004 and prepared by Defra's legal advisers, Defra said that the analysis covered a detailed assessment of both Greyhound's claims against Defra and the likely impact of various possible settlements on the company's overall financial situation. Defra said that the advice was covered by legal professional privilege and therefore fell within the terms of regulation 12(5)(d), and also regulations 12(4)(e) and 12(5)(e) as mentioned above. The legal advice rehearses both arguments and counter arguments and Defra considered that its release would not be in the public interest because of the direct

and indirect damage it could cause to the Department's interests in future legal disputes and in seeking and obtaining the most comprehensive and clear legal advice in such circumstances. Defra said that there was also a risk of direct commercial harm to Greyhound, its sub-contractors and suppliers as explained in relation to the forensic accountant's report.

10. As to the final report of 23 March 2005 Defra said that, as well as describing the history of the examination of the Greyhound account, it contained a detailed description of the financial position of Greyhound and an assessment of the settlement reached. Defra said that the exceptions in regulations 12(5)(d), 12 (5)(e) and 12(4)(e) were relevant, and that, for the reasons given in relation to its interim report (paragraph 8 above), the public interest arguments in favour of withholding this information outweighed the public interest in its release.
11. Defra also said that the reports contained some personal data, so regulation 12(3) was also relevant.
12. As to JT Landscapes Defra said that, at that time, the examination of that company's account was still in progress (with completion expected by the end of July 2005) but information about that investigation was likely to fall within the same exceptions as those set out above, and the same considerations would therefore apply.

## **The Investigation**

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### **Scope of the case**

13. On 4 August 2005 the complainant contacted the Commissioner to complain about the way in which his request for information had been handled. The complainant commented that, in undertaking its review decision, Defra had isolated three reports falling into the category that he had identified but had then refused to release them. He said that he believed that there might well be other relevant documents, but that it would go a long way towards meeting his request if he were able to see those three reports. He asked the Commissioner 'to examine all of the arguments put forward for refusing access to these reports and rule as to whether the public interest is genuinely served by keeping these reports secret'. He also asked the Commissioner to review Defra's arguments for refusing, in advance of its completion, to release similar information about JT Landscapes. These two aspects form the scope of the Commissioner's investigation.

### **Chronology**

14. On 8 November 2006 the Commissioner contacted Defra to ask for sight of the withheld information and for its comments on the complaint; whether any similar information existed for JT Landscapes at the time of the complainant's information request; and for a progress report of the investigation into JT Landscapes.

15. Defra replied on 7 December 2006, and provided copies of the three withheld reports relating to Greyhound. As regards JT Landscapes, Defra said that the examination into their accounts was continuing. Defra subsequently provided the Commissioner with copies of two draft interim reports dated 27 July 2005 and a final report dated 30 August 2005 from its forensic accountants, and of the settlement agreement that it had reached with JT Landscapes on 19 February 2007. Defra said that it wished to withhold that information for the same reasons as previously advanced for the Greyhound reports, with the addition of the exception in regulation 12(4)(d) relating to material in the course of completion.

## Analysis

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### Exceptions

16. In considering whether or not environmental information should be released a public authority should apply a presumption in favour of disclosure (regulation 12(2)). Regulation 12(2) therefore weights the public interest in favour of release from the outset. There are, however, exceptions to that presumption, and those of relevance to this complaint are set out below. In addition, regulation 12(1)(b) provides that a public authority may refuse to disclose environmental information requested if, in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.

### Regulation 12(4)(e) – internal communications - The Forensic Accountant's Report for Greyhound

17. Under regulation 12(4)(e) a public authority may refuse to disclose information to the extent that the requested information involves the disclosure of internal communications. Defra has cited this exception as one of its grounds for withholding information in the report prepared by its forensic accountants on 18 July 2003. As stated in paragraph 8 above, the purpose of the report was to form an opinion on the invoices submitted by Greyhound for payment by Defra as to whether they represented valid work requested by Defra to combat the foot and mouth crisis and were supported by valid supporting evidence. There is little doubt that the report is an internal document, and thus the exception in regulation 12(4)(e) is engaged. However, regulation 12(4)(e) is a qualified exception, and is therefore subject to the public interest test in regulation 12(1)(b).

### Public interest test

18. As recognised by both the complainant and Defra, the public interest arguments in favour of releasing the information in the forensic accountant's report are:
  - disclosure would help to ensure that public authorities are accountable for their actions through the transparency of the decision making process;

- there is a particular public interest in promoting accountability and transparency in the disbursement of substantial public funds.
19. Defra identified the following public interest factors in favour of withholding the information in the report:
- the use of forensic accountants and the subsequent out of court settlements were estimated to have saved the taxpayer tens of millions of pounds and the ability of Government to enter into such confidential settlements in the public interest would be undermined if it was unable to offer the prospect of reasonable certainty relating to the confidentiality of the parties involved;
  - such specialist advice typically covered not only relevant arguments in support of the line recommended, but also possible counter arguments and hence would also describe any perceived weakness in Defra's position: this could adversely affect Defra's negotiating position in future disputes;
  - the examination and investigation of contractor accounts involved forensic techniques that are not in the public domain, and it would not be in the public interest to disclose them if tax payers are to be protected in the future;
  - providing a detailed insight into how the Department's forensic accountancy advisers assess the validity of claims made against Defra could provide assistance to persons seeking to defraud the Department.
20. The Commissioner recognises that there is a considerable, and continuing, interest in the Foot and Mouth Disease epidemic of 2001 and its aftermath, in particular in establishing the financial probity of any outstanding claims for payment made by contractors involved in clean up and disposal operations. However, in order for Defra to be able to fully assess the validity of any applications for payment, it needs to be able to call on the services of its specialist forensic accountants. Such specialists need to be able to employ whatever forensic techniques they consider necessary, and it would not be in the public interest for those techniques to be revealed thereby enabling those who wish to defraud the Department to find ways of circumventing the checks and balances that are in place to prevent this. The Commissioner considers that, notwithstanding the strong inherent presumption in favour of release of the information in the forensic accountant's report, the need to protect forensic accountancy procedures means that, in all the circumstances of this case, the public interest in maintaining the exception in regulation 12(4)(e) outweighs the public interest in disclosing the information, and Defra is not required to release that information. It should be said that the Commissioner considered whether the report could be redacted to remove the details of the forensic accountancy procedures, but to do so would render the small amount of information that remained virtually meaningless and of little value. He therefore considers that the whole of the forensic accountant's report should be withheld. That being so, the Commissioner does not consider that any useful purpose would be served in him determining whether the other exceptions cited by Defra in relation to that information are also applicable.

## **Regulation 12(5)(b) – the course of justice – The Updated Case Analysis and the Final Briefing Report for Greyhound**

21. Both the updated case analysis dated 29 October 2004 and the final briefing report dated 23 March 2005 in respect of Greyhound were prepared by Defra's legal advisers. The final briefing report also incorporates the settlement agreement between Defra and Greyhound. Defra has argued that all of this information, both the advice elements (protected by legal professional privilege), and the details of the settlement agreement, should be withheld under regulation 12(5)(d) (see also paragraphs 30 to 31 below).
22. As noted above, Defra has cited the exception in regulation 12(5)(d) in support of its conclusion that legal professional privilege is applicable. However, in accordance with the Information Tribunal's decision in *Kirkaldie v the Information Commissioner and Thanet District Council* (Tribunal ref: EA/2006/001), the Commissioner considers that regulation 12(5)(b), relating to (amongst other things) information whose disclosure would adversely affect the course of justice, is appropriate to the consideration of whether information is protected by legal professional privilege. Given that it is clear that Defra intended to cite legal professional privilege, the Commissioner is prepared to examine the matter under that exception, although Defra should take note of that decision for future reference.
23. Legal professional privilege protects the confidentiality of communications between a lawyer and client. It has been described by the Information Tribunal in the case of *Bellamy v the Information Commissioner and the DTI* (Tribunal ref: EA/2005/0023; para 9) as "a set of rules or principles which are designed to protect the confidentiality of legal or legally related communications and exchanges between the client and his, her or its lawyers, as well as exchanges which contain or refer to legal advice which might be imparted to the client, and even exchanges between the clients and their parties if such communication or exchanges come into being for the purpose of preparing for litigation." There are two types of privilege – legal advice privilege and litigation privilege. The second will be available in connection with confidential communications made for the purpose of providing or obtaining legal advice in relation to proposed or contemplated litigation.
24. It is clear from the documents in question that they were prepared by Defra's legal advisers on a privileged and confidential basis at a time when it was considering what course of legal action would be appropriate to achieve settlement. To release such information would have affected the course of justice, and the Commissioner therefore considers that the exception in regulation 12(5)(b) is engaged. However, regulation 12(5)(b) is a qualified exception and is, thus, subject to the public interest test.

### **Public interest test**

25. The Commissioner recognises the strong inherent public interest in protecting confidential communications between client and legal adviser. It is certainly in the public interest that authorities have the ability to consult openly with their legal

representatives and that forthright views can be expressed without fear of that advice subsequently being made public.

26. In making his assessment of where the balance of the public interest lies the Commissioner is mindful of the Tribunal's decision in the *Bellamy* case (see paragraph 23 above), in paragraph 8 of which the Tribunal observed that "there is no doubt that under English law the privilege is equated with, if not elevated to, a fundamental right at least insofar as the administration of justice is concerned."
27. In summing up, the Tribunal stated that "there is a strong element of public interest inbuilt into the privilege itself. At least equally strong counter-vailing considerations would need to be adduced to override that inbuilt public interest". It concluded, at paragraph 35, that "it is important that public authorities be allowed to conduct a free exchange of views as to their legal rights and obligations with those advising them without fear of intrusion, save in the most clear cut case...".
28. Having considered the arguments of the complainant and, in addition, having taken into account the public interest inherent in understanding Defra's decision-making process, the Commissioner is of the view that such public interest is not sufficiently strong in this case to override the public interest served by protecting confidential communications between client and legal adviser. Defra has argued that the legal advice rehearses both arguments and counter arguments. Since Defra may well wish to utilise similar arguments in future cases, the release of the advice would not be in the public interest. Whilst it will sometimes be appropriate to overturn legal professional privilege where a strong public interest exists in disclosure, it is the Commissioner's judgement that, in all of the circumstances of this case, the public interest in maintaining the exception in regulation 12(5)(b) outweighs the public interest in disclosure, and that Defra is therefore entitled to withhold the legal advice information .
29. Since the Commissioner considers that Defra is entitled to rely on the exception in regulation 12(5)(b) to withhold the legally privileged information in the reports, no useful purpose would be served in him determining whether the other exceptions cited by Defra in relation to that information are likewise relevant.

### **Regulation 12(5)(d) - the confidentiality of proceedings – The Settlement Agreement for Greyhound**

30. Under regulation 12(5)(d) a public authority is permitted to refuse to disclose information to the extent that to do so would adversely affect the confidentiality of the proceedings of that or any other public authority where such confidentiality is provided by law. Defra has argued that the details of the settlement agreement between it and Greyhound should be withheld under the exception in that regulation, rather than that it should be regarded as covered by legal professional privilege (regulation 12(5)(b) – see above). In order to determine whether the exception in regulation 12(5)(d) is engaged, the Commissioner must first establish whether the meetings which led to the settlement agreement could be said to be 'proceedings' within the terms of the regulations. In its decision in the case of *Archer v the Information Commissioner and Salisbury District Council (Tribunal ref: EA/2006/0037)* the Information Tribunal found that, for a meeting to be so



designated, a relevant consideration was whether the information in question was prepared exclusively for discussion at the meeting in question. The settlement agreement was so prepared, and the Commissioner considers that the meetings at which its terms were discussed constitute proceedings for the purposes of regulation 12(5)(d).

31. Defra has explained that the settlement agreement was achieved through mediation as part of its process for dispute resolution. The terms and conditions for that process say that, 'unless otherwise agreed, all negotiations and proceedings in the mediation connected with a dispute shall be conducted in strict confidence and shall be without prejudice to the rights of the relevant parties in any future proceedings'. The settlement agreement contains a clause which says that the agreement, its terms, and all negotiations and correspondence leading up to it are confidential to the parties and their respective professional advisers, except insofar as disclosure is required for certain specified purposes (which do not include the EIR or the Act), with any claims or matters arising from it being within the exclusive jurisdiction of the English Courts. Moreover, the Commissioner finds that the release of the details of the settlement would breach the confidentiality agreement and would thus adversely affect the confidentiality of the mediation proceedings: the exception in regulation 12(5)(d) is therefore engaged.

### **Public interest test**

32. As a qualified exemption, regulation 12(5)(d) is subject to the public interest test. Defra has argued that this particular settlement was negotiated on the basis that its content would remain confidential and that to renege on that agreement would create an actionable breach of confidence. Defra contends that there is no general public interest in the disclosure of confidential information in breach of a duty of confidence. However, the Commissioner recognises that there is a particular public interest in establishing the probity of payments when they involve public funds, although this has to be balanced against the likely effect on any future mediation process of the release of the details of the settlement. Given the restrictive terminology of the settlement agreement, it is indeed possible that the release of its details would leave Defra vulnerable to legal action. Moreover, if Defra were to breach the terms of the settlement having agreed to confidentiality, it is likely that Defra's trustworthiness would be called into question, which could have an effect on future mediation proceedings. The Commissioner therefore considers that, in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information, and that Defra is not required to release the information. That being so, the Commissioner does not consider that any useful purpose would be served in him determining whether the other exceptions cited by Defra in relation to that information are likewise relevant.

### **Regulation 12 (4)(d) – material in the course of completion – JT Landscapes documentation**

33. Under regulation 12 (4)(d) a public authority may refuse to disclose information that relates to; material which is in the course of completion; documents that are unfinished; or data that are incomplete at the time of the information request. Defra has cited this exception in refusing to provide both the draft and the final forensic

accountancy reports into JT Landscapes. The complainant asked for information about JT Landscapes on 22 February 2005 and clarified that request on 21 March 2005. Defra first notified him on 6 May 2005 that examination of JT Landscape's accounts was continuing. The draft reports, by one of Defra's forensic accountants, were not completed until 27 July 2005, with the final version being completed on 30 August 2005, and thus they did not exist at the time of the complainant's information request. However, in correspondence with the Commissioner's staff, Defra has said that its forensic accountants were examining JT Landscape's accounts at that time. The Commissioner therefore considers that, at the relevant time, Defra did hold information forming the basis of the forensic accountant's reports. That information would thus relate to material which was in the course of completion and the Commissioner considers that the exception in regulation 12(4)(d) is engaged.

### **Public interest test**

34. For the reasons given in paragraph 20 above in relation to the application of regulation 12(4)(e) to the content of the forensic accountants' reports for Greyhound, the Commissioner considers that, in all the circumstances of the case, the public interest in maintaining the exception in regulation 12(4)(d) outweighs the public interest in disclosing the information held by Defra at the time the complainant made his request.

### **Other statutory provisions**

#### **Regulation 5(1) – information not held – The Settlement Agreement for JT Landscapes**

35. Under regulation 5(1), and subject to the remaining provisions of that Part and of Part 3 of the regulations, a public authority that holds environmental information shall make it available on request. The settlement agreement between Defra and JT Landscapes was not reached until 19 February 2007, almost two years after the clarified information request on 21 March 2005. The Commissioner is satisfied that Defra was correct in stating that the information was not held at the time of the information request, and that it has complied with its obligations under regulation 5(1) in relation to that information.

### **Other matters**

36. The complainant has asked the Commissioner to determine whether Defra's comment that information about the investigation into JT Landscapes was likely to fall within the same exceptions as those set out for Greyhound was acceptable procedure. The Commissioner considers that in this case Defra was trying to manage the complainant's expectations, and was not making a pre-emptive decision as to whether or not the information should be released.

## **The Decision**

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37. The Commissioner's decision is that the information requested is exempt from disclosure under the exceptions in regulations 12(4)(d), 12(4)(e), 12(5)(b) and 12(5)(d) of the EIR.
38. The Commissioner has also decided that Defra misapplied regulation 12(5)(d) in relation to the legal aspects of the updated case analysis and final briefing report for Greyhound.

## **Steps Required**

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39. The Commissioner requires no steps to be taken.

## Right of Appeal

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40. Either party has the right to appeal against this Decision Notice to the Information Tribunal. Information about the appeals process may be obtained from:

Information Tribunal  
Arnhem House Support Centre  
PO Box 6987  
Leicester  
LE1 6ZX

Tel: 0845 600 0877  
Fax: 0116 249 4253  
Email: [informationtribunal@dca.gsi.gov.uk](mailto:informationtribunal@dca.gsi.gov.uk)

Any Notice of Appeal should be served on the Tribunal within 28 calendar days of the date on which this Decision Notice is served.

**Dated the 19<sup>th</sup> day of November 2007**

**Signed .....**

**Richard Thomas  
Information Commissioner**

**Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**

## Legal Annex

### Regulation 5 - Duty to make available environmental information on request

**Regulation 5(1)** Subject to paragraph (3) and in accordance with paragraphs (2), (4), (5) and (6) and the remaining provisions of this Part and Part 3 of these Regulations, a public authority that holds environmental information shall make it available on request.

### Regulation 12 - Exceptions to the duty to disclose environmental information

**Regulation 12(1)** Subject to paragraphs (2), (3) and (9), a public authority may refuse to disclose environmental information requested if –

- (a) an exception to disclosure applies under paragraphs (4) or (5); and
- (b) in all circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.

**Regulation 12(2)** A public authority shall apply a presumption in favour of disclosure.

**Regulation 12(3)** To the extent that the information requested includes personal data of which the applicant is not the data subject, the personal data shall not be disclosed otherwise than in accordance with regulation 13.

**Regulation 12(4)** For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that –

- (a) it does not hold that information when an applicant's request is received;
- (b) the request for information is manifestly unreasonable;
- (c) the request for information is formulated in too general a manner and the public authority has complied with regulation 9;
- (d) the request relates to material which is still in course of completion, to unfinished documents or to incomplete data; or
- (e) the request involves the disclosure of internal communications.

**Regulation 12(5)** For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that its disclosure would adversely affect –

- (a) international relations, defence, national security or public safety;
- (b) the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature;
- (c) intellectual property rights;
- (d) the confidentiality of the proceedings of that or any other public authority where such confidentiality is provided by law;
- (e) the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest;
- (f) the interests of the person who provided the information where that person –
  - (i) was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority;
  - (ii) did not supply it in circumstances such that that or any other public authority is entitled apart from the Regulations to disclose it; and
  - (iii) has not consented to its disclosure; or
- (g) the protection of the environment to which the information relates.