

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 3 May 2007

Public Authority: Foreign and Commonwealth Office
Address: King Charles Street
Whitehall
London
SW1A 2AH

Summary

The complainant requested information relating to a draft of the Iraq's Weapons of Mass Destruction dossier from the Foreign & Commonwealth Office (the "FCO"). The FCO refused the request citing the exemption under section 36(2)(b)(ii) of the Freedom of Information Act 2000 (the "Act") in that disclosure of the information would prejudice the ability of officials to freely and frankly exchange views for the purposes of deliberation. After reviewing the information and considering the relevant arguments, the Commissioner decided the FCO were wrong to rely on the exemption under section 36 of the Act and also that it failed to provide a response to the request within the 20 working days permitted by the Act. In view of this, the Commissioner requires the FCO to disclose the requested information to the complainant.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Act. This Notice sets out his decision.

The Request

2. On 9 February 2005, the complainant made a request for information via email to the FCO to see:

'a draft of the September dossier on "Iraq's Weapons of Mass Destruction" which, according to John Scarlett, was produced by John Williams. It was referred to in an email from [name] as "John's draft of 9 September 2002".'
3. Following receipt of the request on 9 February 2005, the FCO wrote to the complainant on 18 March 2005 advising him that it was extending the time limit in which to respond to the request by approximately 10 working days. It

acknowledged that the twenty working days permitted under the Act in which to respond had already elapsed, but stated that it was necessary to further extend the time limit in order to consider the public interest under one of the exemptions in the Act. However, it did not indicate which exemption was being considered.

4. On 18 March 2005, the complainant asked the FCO which exemption it had used.
5. On 21 March 2005, the FCO stated that it was using the exemption under section 36(2) (prejudice to the effective conduct of public affairs) of the Act.
6. Following further correspondence with the complainant, the FCO explained on 22 March 2005 that it was relying on the exemption under section 36(2)(b) of the Act. At that point, the FCO also explained that the 'qualified person' is required to take the view that the exemption applied under section 36 is appropriate. It went on to say that the qualified person had not yet taken the view that the exemption applied as the FCO had not finalised its consideration of the public interest.
7. The FCO contacted the complainant again on 18 April 2005 to explain that it was extending the time limit in which to respond again. It indicated that the further extension was to consider the balance of the public interest under the exemption, and that it anticipated that a response would be provided by 20 May 2005.
8. On 20 May 2005, the FCO wrote to the complainant, informing him that the FCO was withholding the information he had requested under the exemption in section 36(2) of the Act. It went on to say that the qualified person, in this case the Foreign Secretary, had taken the view that release of the information would, or would be likely to, inhibit the free and frank provision of advice and the free and frank exchange of views for the purposes of deliberation and provided a short explanation of this. It went on to briefly explain that the public interest in withholding the information outweighed the public interest in disclosing the matter.
9. On 23 May 2005, the complainant requested asked the FCO to carry out an internal review of its decision.
10. Following some interim correspondence between the two parties, the internal review dated 11 August 2005 was posted to the complainant. The review upheld the FCO's original decision and its handling of the request.

The Investigation

Scope of the case

11. On 20 April 2005, the complainant contacted the Commissioner to complain about the delay in receiving a substantive response to his request for information.
12. An administrative error meant that this case was not looked at substantively until the complainant contacted the Commissioner on 16 August 2005.

13. On 16 August 2005, the Commissioner contacted the complainant to apologise for the delay and to request copies of correspondence which had passed between the complainant and the FCO.
14. Following a telephone call to the FCO on 7 September 2005, the Commissioner confirmed with the FCO that the internal review had been completed and the results had been communicated to the complainant. It stated that it would send an electronic copy of this to the complainant for the avoidance of any doubt.
15. Subsequently, the complainant contacted the Commissioner on 9 September 2005 to complain about the FCO's refusal to supply the information and the investigation into the validity of the FCO's decision to withhold the information began.

Chronology

16. On 19 October 2005, the Commissioner asked the FCO for some information about the refusal. In particular, he asked the FCO to comment on the handling of the original request, the handling of the internal review and an explanation of the application of the exemption under section 36(2)(b). The Commissioner asked to see some evidence that the qualified person had taken the decision to apply the section 36, and a more detailed explanation of the public interest considerations which had been taken into account. In addition, the Commissioner asked the FCO to supply a copy of the withheld information within 20 working days.
17. On 16 November 2005, the Commissioner granted a short extension of time until 22 November 2005 to the FCO in which to respond.
18. On 22 November 2005, the FCO provided a response to the Commissioner. This accepted that the FCO had not responded to the original request within 20 working days, and that the initial response of 18 March should have explained more clearly which exemption was being relied upon. However, the FCO felt that it had not taken an unreasonable time in which to conduct the internal review.
19. In addition to this, the FCO confirmed that it was relying on the exemption under section 36(2)(b)(ii) of the Act with which to withhold the information. It then explained how it had assessed the public interest considerations when applying the exemption. In coming to its decision, the FCO stated that it was necessary to consider the information in the context in which it was prepared, namely as part of the drafting process which was considered by the Hutton Inquiry. The document at issue here is described by the FCO as a preliminary document used in the production of a draft dossier concerning Iraq's weapons of mass destruction. It was requested by the Chairman of the Joint Intelligence Committee to provide an expert's view of how the information in the draft might be presented in a published document. However, as it was designed to give a communication professional's perspective on the matter, the FCO argue that it was not an integral part of the iterative drafting process. The FCO further stated that the document was before the Hutton Inquiry, but that the Inquiry did not see fit to discuss it or include it in the annex to his report.

20. The FCO also outlined the arguments it had considered in favour of disclosure, namely the public interest in transparency in government decision-making. This would ensure that decisions are based on the best available information and best quality advice, that proper processes are followed and the public debate is fully informed on matters of public importance. However, the FCO considered that these functions had been filled by the full judicial inquiry that investigated the drafting process of the dossier and published a number of relevant documents. The FCO also took into account the fact that some of the information included in the assessment is now in the public domain as part of the government's evidence to the Hutton, Butler, Foreign Affairs Committee and Intelligence and Security Committee Inquiries.
21. In addition to this, the FCO also outlined the factors it had considered in favour of withholding the information. It argued that there is a strong public interest in maintaining and protecting the efficacy of the drafting process to ensure the effective conduct of public affairs. It stated that it is therefore essential that there is a space, away from the public gaze, in which officials can freely and frankly exchange views when drafting documents for publication and providing advice to senior colleagues and Ministers. The FCO indicated that the Environmental Information Regulations 2004 (the 'EIR') and the Directive upon which it is based expressly include an exception for draft documents and that both the European Commission and Parliament recognise the public interest in public authorities being able to draft documents freely.
22. Further, the FCO considered that drafts of documents and comments on these often represent the first thoughts of officials and provide an opportunity for officials to explore options, make suggestions and note opinions as frankly as they wish. It submitted that it was important to the process for no judgements to be passed on these thoughts and opinions, so that the pros and cons of each option and view can be properly assessed. In this case, it was felt that the sensitivity and complexity of the issues considered in the dossier lend particular weight to the view that the information requested should not be disclosed.
23. The FCO considered that the chief factor in release would be the inhibiting factor on the drafting process in the future, as it is central to the drafting process that officials are able to freely and frankly share information with colleagues across government.
24. The FCO also submitted that there is a lesser public interest in transparency about drafts of documents because although they provide information on the process of drafting documents, they do not represent the government's view to the extent that they are different from the final, published version. Further, just because an issue is high profile, the FCO consider that this does not necessarily result in a stronger public interest in release of details of the drafting process. In this case, the FCO concluded that the additional information which would be disclosed by the release of this document was too remote from the final dossier to be capable of furthering the understanding of the drafting of the dossier.
25. Finally, the FCO informed the Commissioner that it was making the requested information available for inspection, as the information was too sensitive to be

- sent to the Commissioner's office. Further, the information could only be inspected by someone who had Developed Vetting (DV) security clearance.
26. Following discussions about the sensitivity of the information, the FCO accepted that the information could be inspected by someone with Security Clearance (SC). The FCO agreed that it was appropriate to send a copy of the withheld information to the Commissioner so he could review it as part of the investigation. The information was duly provided.
 27. On 15 December 2005, the Commissioner contacted the FCO to ask whether there was any documentary evidence that the qualified person had taken the view that the section 36 exemption applied. He also asked the FCO for information about the size of the document and its security marking.
 28. On 17 January 2006, the FCO replied, informing the Commissioner that the Foreign Secretary, acting as the qualified person, had approved the use of the exemption under section 36 by means of a minute dated 20 May 2005 from his Private Secretary. It also indicated that the security marking of the documents was "Confidential".
 29. Following further exchanges with the FCO, the Commissioner decided that it was not necessary to have sight of the Private Secretary's minute of 20 May 2005.
 30. Throughout the investigation, the complainant has also supplied a number of submissions and all relevant arguments from both parties have been taken into account, as well as internal advice and relevant background documents.

Analysis

Procedural matters

31. Section 17 of the Act sets out the obligations of public authorities when refusing information requests. The relevant text of the legislation can be found in the Legal Annex to this Notice.
32. This section provides that a refusal notice must be issued within the time allowed under the Act, namely as soon as possible after receipt of the request or in any event no later than 20 working days. In this case, the FCO did not respond to the request until 18 March 2005, that is more than 20 working days after the request was received.
33. Section 17 also provides that a public authority should specify the exemption which is being relied upon. It is clear from the correspondence that the FCO did not provide details of the exemption which was under consideration.
34. Section 36 provides that it must be the reasonable opinion of a qualified person that the exemption applies. The qualified person should take this decision before the public interest considerations are weighed up. The FCO states that the

qualified person provided his opinion by means of a minute from the Private Secretary of 20 May 2005 which reaffirms his decision of 12 April 2005. This means that the qualified person did not take the decision that the exemption under section 36 applied until after the expiry of the first period of the FCO's extended time to consider the public interest and certainly did not take the decision within twenty working days as required by the Act.

Exemption

35. The Commissioner began assessing the validity of the exemption applied under section 36 of the Act, by assessing whether the opinion of the qualified person could be said to be 'reasonable'. Ultimately, this took into account the decision of the Information Tribunal in EA/2006/0011 and EA/2006/0013 of *Guardian / Brooke v the Information Commissioner* promulgated on 8 January 2007.
36. The Commissioner has first considered whether the substance of the opinion could be considered to be objectively reasonable. From his analysis of the evidence and the submissions of the FCO, the Commissioner considers the opinion to be reasonable. While it is possible to argue against the opinion, this does not mean that, in itself, the opinion is an unreasonable one. Therefore, the Commissioner has gone on to consider whether the opinion was reasonably arrived at, that is that the process by which the opinion was reached was a reasonable one.
37. From the evidence of the case, the Commissioner can see that the FCO prepared a submission to be put to the qualified person. The Commissioner understands that this is standard practice in central government departments and that such submissions will contain the relevant factors which should be taken into account by the qualified person. The process by which the qualified person took the opinion is designed to put before the qualified person the relevant factors in the particular case. The Commissioner is also aware that in this particular case the qualified person, the then Foreign Secretary, will have had considerable knowledge of the pertinent issues in this matter, given its national and international political profile. Not being aware of any evidence to the contrary, he therefore considers the opinion to have been reasonably arrived at.

Public interest considerations

38. In view of the above, the Commissioner has gone on to assess whether in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in that of disclosure of the information requested.
39. The FCO have submitted a number of public interest arguments on this matter, both in favour of disclosing and withholding the information, and these are set out in paragraphs 19-24 above.

In favour of maintaining the exemption

40. In assessing the public interest, the Commissioner has first considered those arguments which the FCO put forward in favour of withholding the information, as

it is for the FCO to demonstrate that the exemption should be maintained. The FCO have argued that just because an issue to which information relates is high profile, it does not necessarily follow that there is a greater public interest in details of the drafting process being published. The Commissioner accepts this argument in broad terms, but he does consider that the importance and profile of the issue is a relevant factor in this case. While it may not be overwhelmingly in the public interest to release information created as part of the drafting process, the test under the Act is to see whether the public interest in maintaining the exemption outweighs that in disclosure in all the circumstances of the particular case. In this case, the drafting process itself has been and remains a matter of considerable public debate.

41. The Commissioner has considered the FCO's arguments put forward in paragraph 21 above. The Commissioner recognises the importance of a space for officials in which to draft documents, but does not accept that disclosure of these drafts would necessarily have a wide-ranging 'chilling effect' on the drafting process. However, officials will still be required to produce such drafts as part of their roles, and the timing of any disclosure is always likely to be an important consideration when weighing up the public interest in a particular case. In this case, a great deal of information, including drafts of the dossier, is already in the public domain about this issue, not least as a result of the Hutton Inquiry. Again it is relevant in relation to the dossier that the drafting process itself has been and remains a subject of considerable public debate.
42. The FCO have further argued that the principle of protecting draft documents is recognised in other legislation, namely the EIR. It considers that exception 12(4)(d) applies to information still in the course of completion, which includes draft documents and argues that both the European Commission and Parliament therefore appreciate the importance of protecting the drafting process. The Commissioner does not consider that the wording of the EIR is relevant to this case and in any event the Commissioner does not consider that this regulation can apply to completed draft documents, given that the wording of exception 12(4)(d) refers to "...material which is still in the course of completion, to unfinished documents or to incomplete data;...". In any event, the exception in the EIR is subject to a public interest test which in this instance would take into account very similar relevant factors as are under consideration in this present decision.
43. The Commissioner considered the arguments put forward by the FCO in paragraph 22. The Commissioner considers it to be similar to the arguments put forward in paragraph 21 and dealt with in paragraphs 41 and 42 above. Again, the Commissioner recognises the importance of the drafting process and that officials will require a space in which to consider options in a full and frank manner. As above, timing would appear to be an important factor to consider and the Commissioner notes that the drafting process for this document was completed more than two years before the information request was made. In addition, the Commissioner is aware that a number of draft documents and information about the drafting process is already in the public domain. Releasing further information about this would therefore appear unlikely to create a chilling effect on the drafting of future documents.

44. The arguments put forward in paragraph 23 have been considered by the Commissioner. The FCO considers that disclosure of this type of information would have an inhibiting effect on the drafting process in future. The Commissioner has considered this type of issue in the past and believes that there is a public interest in ensuring the drafting process continues to allow officials to freely and frankly exchange of views for the purposes of deliberation. However, he does not accept that disclosure of draft documents would always require protection nor that their disclosure would damage the drafting process. In every case the specific factors need to be carefully considered. This is what the Act requires.
45. In assessing the arguments relating to a potential chilling effect, the Commissioner has taken into account some of the public interest arguments considered in a decision of the Information Tribunal, EA/2006/0006 *The Department for Education and Skills v The Information Commissioner and The Evening Standard*. This considered a potential chilling effect caused by disclosure of information relating to the formulation of policy under section 35 of the Act, but some of the principles are relevant to the consideration of potential detriment to the drafting process through disclosure of the information. The Tribunal considered whether disclosure of information would affect the frankness of the provision of policy advice and concluded that it is important to consider the content of the particular information and pay heed to the facts and circumstances of each case.
46. The issue of timing was raised by the Tribunal as highly relevant to such considerations. In paragraph 43 above, the Commissioner noted that time has passed since the drafting of the document and this is likely to reduce the sensitivity of the information in question. As a period of time had elapsed between the production of the draft document and the request for information being made, the thinking space for officials has been protected by not disclosing the information prematurely, and this reduces the likelihood that the drafting process in future cases would be approached with any less vigour.
47. In this case, a great deal of information has been put into the public domain as the FCO submitted in paragraph 20 above. The Commissioner considers that further disclosure of an earlier part of the drafting process, whether this is considered by the FCO to be integral to the final version or not, would be unlikely to harm the drafting process. The Commissioner does recognise that the disputed information is not substantial in its content in as much as it adds very little to what is already in the public domain. He regards this as an important factor, although it cuts both ways, adding weight to both the argument in favour of disclosure and the argument in favour of maintaining the exemption. Its disclosure would simply add to the body of information in the public domain about this issue by filling the gap between the versions of the draft which have already been published.

In favour of disclosure of the information

48. The Commissioner has considered the public interest factors in favour of disclosure.

49. There is a strong public interest in disclosure of the information requested in order to better inform the public as to the full process used in the drafting of the finished Iraq's Weapons of Mass Destruction dossier. A great deal of information is already in the public domain both relating to the content of the information and the drafting process. Given the public debate surrounding the production of the dossier and the background to the matter, the Commissioner believes that there is significant public interest in the disclosure of the requested information.
50. The Commissioner also considers that there is a significant public interest in furthering the transparency of the drafting process in the particular circumstances of this case. Disclosure of the requested information is likely to further public understanding of the process. In turn, disclosure of this sort of information should increase public confidence in the process as it will become clear that finalised documents are subject to numerous checks and balances and that a range of available options are considered before the final version is published.
51. The Commissioner believes that there is a public interest in the demonstration of accountability and of the development of the collective thought process through tracking the drafting process. In this case, the Commissioner recognises that a number of bodies have already looked at the drafting process in the production of the dossier, but that there is still a public interest in details of this part of the process being released into the public domain. Disclosure of this type of information should ensure that the drafting process is thorough and that all of the necessary information is carefully considered and marshalled before the final version of an important document published to its audience.
52. During the course of the investigation, it came to the Commissioner's attention that the particular author of the document in question has gone on record as being unconcerned by the disclosure of the information. Whilst this is of some minor relevance when considering whether the information should be disclosed, the Commissioner is also aware that the author, is no longer employed in the position he occupied so has not accorded significant weight to this point.

Balancing the public interest considerations

53. The Commissioner believes that the public interest in disclosure is not outweighed by that in favour of maintaining the exemption in this case. In reaching this assessment, the Commissioner has taken into account the nature of the draft, which appears primarily focussed on stylistic factors rather than substantive ones. The FCO's arguments in favour of maintaining the exemption appear, in the main, to be generic arguments under section 36 rather than case-specific arguments. The wording of section 2 of the Act provides that the public interest should be assessed "in all the circumstances of the case", which means that any arguments should be relevant to the case in hand. In any event, the arguments provided by the FCO do not outweigh the significant public interest in disclosure of the requested information.

The Decision

54. The Commissioner's decision is that the FCO did not deal with the request for information in accordance with the Act. The FCO:
- i) breached section 17 of the Act by failing to respond to the complainant's information request of 9 February 2005 within 20 working days and by failing to inform the complainant which exemption was being applied to the information when it informed him that it was extending the time for compliance with the request in order to consider the public interest, and
 - ii) breached section 1 of the Act by failing to provide the information requested by the complainant having incorrectly concluded that the public interest in maintaining the exemption under section 36(2)(b)(ii) of the Act outweighed the public interest in disclosure.

Steps Required

55. The Commissioner requires the public authority to take the following steps to ensure compliance with the Act:
- supply a copy of the information requested on 9 February 2005 to the complainant.
56. The public authority must take the steps required by this notice within 35 calendar days of the date of this notice.

Failure to comply

57. Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Other matters

58. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matters of concern:
59. The Commissioner notes that it took almost three months for an internal review to be conducted. While the Act does not provide a timeframe in which reviews

should be conducted, a review should be carried out as promptly as possible. The Commissioner has issued a good practice note on conducting internal reviews and he considers that a reasonable timeframe for conducting internal reviews would be 20 working days from the time that a review is requested.

60. However, the Commissioner recognises that some internal reviews will be more complex than others and that, in some cases; it will take longer to conduct the review. In these circumstances, the Commissioner believes it would be reasonable to conduct the internal review within 40 working days of the point at which the review is requested.
61. The Commissioner hopes that future internal reviews of the FCO will be conducted in line with this guidance, which is based on the code of practice issued by the Secretary of State under section 45 of the Act.

Right of Appeal

62. 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

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 3rd day of May 2007

Signed

**Graham Smith
Deputy Commissioner**

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

Legal Annex

Refusal of Request

Section 17(1) provides that -

“A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which -

- (a) states that fact,
- (b) specifies the exemption in question, and
- (c) states (if that would not otherwise be apparent) why the exemption applies.”

Section 17(2) states –

“Where–

- (a) in relation to any request for information, a public authority is, as respects any information, relying on a claim-
 - (i) that any provision of part II which relates to the duty to confirm or deny and is not specified in section 2(3) is relevant to the request, or
 - (ii) that the information is exempt information only by virtue of a provision not specified in section 2(3), and
- (b) at the time when the notice under subsection (1) is given to the applicant, the public authority (or, in a case falling within section 66(3) or (4), the responsible authority) has not yet reached a decision as to the application of subsection (1)(b) or (2)(b) of section 2,

the notice under subsection (1) must indicate that no decision as to the application of that provision has yet been reached and must contain an estimate of the date by which the authority expects that such a decision will have been reached.”

Section 17(3) provides that -

“A public authority which, in relation to any request for information, is to any extent relying on a claim that subsection (1)(b) or (2)(b) of section 2 applies must, either in the notice under subsection (1) or in a separate notice given within such time as is reasonable in the circumstances, state the reasons for claiming -

- (a) that, in all the circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether the authority holds the information, or

(b) that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.”

Prejudice to effective conduct of public affairs.

Section 36(1) provides that –

“This section applies to-

- (a) information which is held by a government department or by the National Assembly for Wales and is not exempt information by virtue of section 35, and
- (b) information which is held by any other public authority.

Section 36(2) provides that –

“Information to which this section applies is exempt information if, in the reasonable opinion of a qualified person, disclosure of the information under this Act-

- (a) would, or would be likely to, prejudice-
 - (i) the maintenance of the convention of the collective responsibility of Ministers of the Crown, or
 - (ii) the work of the Executive Committee of the Northern Ireland Assembly, or
 - (iii) the work of the executive committee of the National Assembly for Wales,
- (b) would, or would be likely to, inhibit-
 - (i) the free and frank provision of advice, or
 - (ii) the free and frank exchange of views for the purposes of deliberation, or
- (c) would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.

Section 36(3) provides that –

“The duty to confirm or deny does not arise in relation to information to which this section applies (or would apply if held by the public authority) if, or to the extent that, in the reasonable opinion of a qualified person, compliance with section 1(1)(a) would, or would be likely to, have any of the effects mentioned in subsection (2).”

Section 36(4) provides that –

“In relation to statistical information, subsections (2) and (3) shall have effect with the omission of the words "in the reasonable opinion of a qualified person".

Section 36(5) provides that –

“In subsections (2) and (3) "qualified person"-

- (a) in relation to information held by a government department in the charge of a Minister of the Crown, means any Minister of the Crown,

- (b) in relation to information held by a Northern Ireland department, means the Northern Ireland Minister in charge of the department,
- (c) in relation to information held by any other government department, means the commissioners or other person in charge of that department,
- (d) in relation to information held by the House of Commons, means the Speaker of that House,
- (e) in relation to information held by the House of Lords, means the Clerk of the Parliaments,
- (f) in relation to information held by the Northern Ireland Assembly, means the Presiding Officer,
- (g) in relation to information held by the National Assembly for Wales, means the Assembly First Secretary,
- (h) in relation to information held by any Welsh public authority other than the Auditor General for Wales, means-
 - (i) the public authority, or
 - (ii) any officer or employee of the authority authorised by the Assembly First Secretary,
- (i) in relation to information held by the National Audit Office, means the Comptroller and Auditor General,
- (j) in relation to information held by the Northern Ireland Audit Office, means the Comptroller and Auditor General for Northern Ireland,
- (k) in relation to information held by the Auditor General for Wales, means the Auditor General for Wales,
- (l) in relation to information held by any Northern Ireland public authority other than the Northern Ireland Audit Office, means-
 - (i) the public authority, or
 - (ii) any officer or employee of the authority authorised by the First Minister and deputy First Minister in Northern Ireland acting jointly,
- (m) in relation to information held by the Greater London Authority, means the Mayor of London,
- (n) in relation to information held by a functional body within the meaning of the Greater London Authority Act 1999, means the chairman of that functional body, and
- (o) in relation to information held by any public authority not falling within any of paragraphs (a) to (n), means-
 - (i) a Minister of the Crown,
 - (ii) the public authority, if authorised for the purposes of this section by a Minister of the Crown, or
 - (iii) any officer or employee of the public authority who is authorised for the purposes of this section by a Minister of the Crown.”

Section 36(6) provides that –

“Any authorisation for the purposes of this section-

- (a) may relate to a specified person or to persons falling within a specified class,
- (b) may be general or limited to particular classes of case, and
- (c) may be granted subject to conditions.”

Section 36(7) provides that –

A certificate signed by the qualified person referred to in subsection (5)(d) or (e) above certifying that in his reasonable opinion-

- (a) disclosure of information held by either House of Parliament, or
 - (b) compliance with section 1(1)(a) by either House,
- would, or would be likely to, have any of the effects mentioned in subsection (2) shall be conclusive evidence of that fact.