

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 30 August 2007

Public Authority: Department for Culture Media and Sport
Address: 2-4 Cockspur Street
London
SW1Y 5DH

Summary

The complainant asked the public authority for information about meetings with the Chairman of the BBC and related expenses. The public authority referred part of the request to the BBC and stated that it did not have the information covered by the remainder. On review it identified an email which it held but refused disclosure on the grounds of section 35(1)(a) or, 'in the alternative', section 36 of the Freedom of Information Act 2000 ('the Act'). The Commissioner decided that section 35 was not engaged, but that section 36(2)(b)(ii) was. He went on to conclude that the public interest favoured maintaining this exemption in relation to the email. Accordingly, the Commissioner decided that the public authority was not in breach of section 1(1) of the Act.

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 Freedom of Information Act 2000 (the 'Act'). This Notice sets out his decision.

The Request

2. On 13 May 2005 the complainant requested information from the Department for Culture, Media and Sport (DCMS) relating to five items of expenses incurred by Mr Michael Grade, Chairman of the BBC. Items 2, 3 and 4 related to meetings on 18 and 19 January 2005 and 3 December 2005. In its response on 9 June 2005 DCMS stated that it had referred these requests to the BBC, since they did not involve DCMS officials. Of the two remaining items, item 1 was for information relating to a business lunch on 8 June 2004 between Mrs Sue Street, Permanent Secretary at DCMS, and Michael Grade, including *the reason and justification for*

this hospitality...details of the meeting, including the purpose and the subject of the meeting...a copy of the notes made at this meeting...a copy of the meeting notes arising', and details of Mrs Street's job description. Item 5 requested information about a banquet on 9 November 2004.

3. In relation to item 1, DCMS stated in its letter of 9 June 2005 that:

'no notes of the meetings were taken. The invitations were made orally between the two offices and there are no records of these conversations, nor is there an agenda. We do not retain copies of invitations'.

It referred the complainant to a job description and responsibilities for Sue Street on its website.

4. Regarding item 5, DCMS stated that neither the Secretary of State nor her officials had attended a state banquet in November of the previous year. DCMS informed the complainant of its internal review procedure and of his right to complain to the Information Commissioner.
5. The complainant requested a review on 13 June 2005. He stated that it was *'not credible'* that no record had been taken of the meeting between Sue Street and Michael Grade.
6. DCMS informed the complainant on 27 June 2005 of the result of its internal review. It reported that it had now located an internal email summarising the discussion at the business lunch referred to in item 1, apologising for the oversight. Using this email DCMS gave the complainant a summary of what had been discussed at the meeting.
7. On the same day the complainant requested a hard copy of the email countersigned by the Secretary of State and Sue Street, and date stamped with *'the official DCMS seal'*. He also objected to what he considered to be the informal nature of the review notice, which took the form of an email.
8. DCMS replied on 20 July 2005 that, if the complainant wished to pursue a complaint, he should approach the Information Commissioner.

The Investigation

Scope of the case

9. On 26 July 2005 the complainant contacted the Commissioner to complain about the way his request for information had been handled. He objected that DCMS had failed to provide him with a hard copy of the email itself as requested, and expressed his view that DCMS had been deliberately obstructive.
10. DCMS had decided that the information requested by the complainant as items 2, 3 and 4 did not involve DCMS officials, and it therefore referred the request to the

BBC. Regarding item 5, it concluded that no information was held because the Secretary of State and her officials had not attended any such state banquet. The complainant has not made any complaint about the DCMS' response in relation to these items and the Commissioner does not propose to address the matter any further.

Chronology

11. The Information Commissioner asked DCMS on 9 August 2006 to provide a copy of the original email and clarification why it had not been provided to the complainant.
12. As a result of this contact, DCMS wrote to the complainant on 7 September 2006. It explained that it had taken the view that the complainant had wanted it:

'to create a signed and sealed version...of the source email in order to verify the correctness of the information which we had already provided....rather than because you wanted additional information which such a version might contain'.

It indicated that the complainant should contact it again if he wanted any additional information from the email.

13. The complainant replied to DCMS on 10 September 2006 expressing his view that he had already made a clear request for a hard copy of the email, and that the matter was therefore one for the Information Commissioner to address.
14. The Commissioner wrote to DCMS on 18 September 2006. He suggested that the terms of the complainant's original request could be regarded as including a copy of the email, and sought clarification as to why DCMS had not provided that to the complainant.
15. DCMS wrote back on 28 September 2006. It explained that it had taken the view that the contents were not within the scope of the complainant's request, although it accepted that that interpretation could be disputed. It stated that it would have to assess the exemptions and public interest test if it was to consider the complainant's entitlement to the rest of the email.
16. The Commissioner indicated to DCMS on 2 October 2006 that it should now proceed on this basis. On 30 October DCMS sent a refusal notice to the complainant. It stated that the requested information was exempt from disclosure under section 35(1)(a) of the Act. It required up to fifteen additional working days to consider the public interest test.
17. The complainant complained to the Commissioner on 14 November 2006, requesting that the information now be provided to him on the grounds that the section 35 exemption did not apply.
18. DCMS sent its conclusions regarding the public interest test to the complainant on 21 November 2006, apologising for the delay in responding. It decided that the

information was exempt by virtue of section 35 or, in the alternative, section 36(2)(b)(i) or (ii). It stated that a Minister of the Crown as the relevant qualified person had confirmed that the information would meet the criteria under section 36. In relation to both exemptions, DCMS concluded that the balance of the public interest lay in withholding the information. DCMS informed the complainant of its internal review procedure, and of his right to complain to the Commissioner.

19. The complainant sent a letter of complaint to the Commissioner on 2 December 2006.
20. The Information Commissioner's Office asked the complainant and DCMS to comment on 5 February 2007. DCMS replied on 5 March 2007, expressing the view that it should now be given the opportunity to conduct an internal review of the request.
21. The Information Commissioner's Office replied on 15 March 2007. It noted that it could be argued that there had in fact already been an internal review reported in the email of 27 June 2005, that a considerable time had elapsed since the complainant had made his complaint to the Commissioner, and that in all the circumstances the Commissioner had decided to proceed with the investigation. The Information Commissioner's Office reminded DCMS that it could in any event disclose some or all of the information requested at any time, and again asked it to comment on various points.
22. DCMS provided the Commissioner with its comments on 3 April 2007. It again objected that it should have been given the opportunity to conduct an internal review.

Analysis

Procedural matters

23. The complainant complained to the Commissioner on 14 November 2006 that no rational explanation had been given for *'the fact that DCMS lied to me about the existence of the 'Street' email'*. DCMS had explained on 27 June 2005 in response to the complainant's request for an internal review that it had only now located the internal email. It apologised for the oversight. The Commissioner takes the view that DCMS did in fact provide a reasonable explanation of why it had not originally identified the email, and he notes that no evidence has been provided to suggest that DCMS suppressed the existence of the email during its initial trawl for information.
24. The complainant has complained that DCMS did not provide him with a full copy of the email dated 9 June 2004. The Commissioner has considered the nature of the complainant's original request, which amongst other things was for *'a copy of the meeting notes arising'*. The Commissioner considers that it should therefore have been apparent to DCMS at the outset that the complainant wanted a copy of the email.

25. The Commissioner has been provided with a copy of the disputed email which was sent from the Permanent Secretary to a senior colleague and copied to five others. Printed as a single A4 sheet, it consists of a short introduction and six brief bullet-pointed paragraphs. The summary provided to the complainant on 27 June 2005 (see para 6 above) stated that *'[in the email] the Permanent Secretary notes the following as having been discussed with the Chairman of the BBC:*

- *The role of the independent panel (chaired by Lord Burns) advising Ministers on the Charter Review;*
- *The BBC's position on the Charter Review, noting that the process was an ongoing debate;*
- *The BBC's role in contributing to digital switchover (DSO) objectives, particularly educating the public about what DSO will mean;*
- *The BBC's internal review of corporate governance and personnel/internal structure; and*
- *Mr Grade's views on multiple operators of the National Lottery.'*

These five bullet points do not correspond exactly to the six in the original email and the original obviously contains more substance. Nevertheless, the Commissioner is satisfied that this was a fair summary of the topics which were recorded as having been discussed.

26. However, the Commissioner does not consider that it amounted to a comprehensive summary of the contents of the email, and that it therefore did not satisfy the scope of the complainant's request. It is therefore necessary for the Commissioner to consider the reasons which DCMS subsequently put forward to justify its decision not to provide a full copy of the email.

27. DCMS' letters to the complainant of 30 October and 21 November 2006, and its further explanation to the Commissioner dated 3 April 2007, put forward its view that the information in the email was exempt from disclosure under section 35(1)(a) of the Act or, *'in the alternative'*, section 36(2)(b)(i) and (ii).

Exemption – section 35(1)(a)

28. Section 35(1)(a) of the Act provides that:

'Information held by a government department or by the National Assembly for Wales is exempt information if it relates to-

(a) the formulation or development of government policy'.

For information to fall within section 35 it must relate to 'government' rather than 'departmental' or any other type of policy. The Commissioner takes the view that government policy is therefore likely to be a political process which requires Cabinet input, or applies across government, or represents the collective view of ministers. The Commissioner has decided that the content of the disputed email does not relate to the formulation or development of government policy. Some topics in themselves fell entirely outside this rubric – notably those relating to internal BBC matters. Although some of the other topics were relevant to

government policies, it is clear that the information as recorded in the email was not 'about' or otherwise concerned with the formulation or development of government policy as such. The email records an exchange of information and views with someone outside government in a non-governmental environment. Although some of the substance might have some influence on government policy, it is neither necessary nor helpful to de-construct each paragraph or sentence. The Commissioner is satisfied that, taken as a whole, and reflecting the context of an informal lunch, the contents of this email did not 'relate' (except in the most indirect way) to the formulation or development of government policy.

Exemptions – section 36(2)(b)(i) and (ii)

29. DCMS claimed that section 36(2)(b)(i) and (ii) applied to any information to which section 35 did not. As section 35 is not engaged, the Commissioner has considered whether all the information recorded in the email is exempt from disclosure by virtue of section 36. Section 36(2)(b) states:

'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-

...(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...'

Engagement of the exemption

30. Section 36 is only activated if, *'in the reasonable opinion of a qualified person'*, disclosure of the information would have the specified consequences. DCMS confirmed that the qualified person was a government Minister whose opinion was obtained on 20 November 2006. The Commissioner is satisfied that the person making the decision was the appropriate 'qualified person'.
31. DCMS stated that the prejudicial effect of disclosure on DCMS' senior officials would consist in hindering:
- *'their ability to obtain high quality specialist advice...in a candid and open way to enable them to take into account a full consideration of all the options and facts that might impact on emerging government policy';*
 - *'providing and exchanging opinions openly and candidly';*
 - *'the ongoing relationship between the Department and the BBC and, more generally, the public bodies which we sponsor';*
 - *'the Permanent Secretary (or others) to...record in an accountable and informative form the impressions gained and points made at such high level meetings'.*

32. In the case of *Guardian & Brooke v The Information Commissioner & the BBC* (EA/2006/0011 and EA 2006/0013), the Information Tribunal decided that *'the opinion must be both reasonable in substance and reasonably arrived at'*. In relation to 'reasonable substance' the Tribunal stated that *'the opinion must be **objectively reasonable***, and not simply *'an opinion within a range of reasonable opinions'*, albeit that *'there may (depending on the facts) be room for conflicting opinions, both of which are reasonable'*. In considering whether an opinion was reasonably arrived at it proposed that the qualified person should only take into account relevant matters and that the *process* of reaching a reasonable opinion should be supported by evidence, although it also accepted that materials which may assist in the making of a judgement will vary from case to case and that conclusions about the future are necessarily hypothetical.
33. Having considered DCMS's arguments the Commissioner is satisfied that it has provided sufficient evidence to show that the opinion given by the qualified person – that disclosure would, or would be likely to, inhibit the free and frank exchange of views – is an objectively reasonable one. The Commissioner is therefore satisfied that the exemption at section 36(2)(b)(ii) is engaged for the entirety of the disputed email.
34. The Commissioner is less confident that disclosure of this email would, or would be likely to, inhibit the free and frank provision of advice. Nothing in the disputed email directly relates to advice, or is likely to feed directly into the provision of advice except in the most general sense. Although the Commissioner therefore has doubts whether the section 36(2)(b)(i) exemption is engaged, it is not necessary for him to decide this point for the reasons which follow.

Public interest test

35. Since section 36 is a qualified exemption it is subject to the public interest test set out in section 2 of the Act. DCMS did not make any distinction between section 35 and section 36 in its assessment of the public interest test, and concluded that the balance of the public interest lay in maintaining both (or either) of the exemptions. The DCMS' public interest argument was identical for both exemptions, though some of the points made fall away given the non-engagement of section 35.
36. DCMS' assessment of the public interest test, provided to the complainant on 21 November 2006 and to the Commissioner on 3 April 2007, was that the balance of the public interest lay in withholding the information. It accepted that there is a legitimate public interest in understanding the way in which government operates, particularly in areas of strong public interest and interaction such as the BBC and National Lottery, and that greater transparency makes government more accountable, increases trust and understanding, and maintains public confidence in the impartiality of the advice being given on the formulation and development of government policy. In addition, disclosure would encourage participation in public debate on the issues of the day, and would allow more informed discussion of the policies under consideration.

37. On the other hand DCMS claimed that, although policy considerations on the future of the BBC charter had now been concluded, it was important that its senior officials and those with executive and management responsibility for public bodies sponsored by it should have the free space to discuss in an open and candid way their assessments of the government's policies and programmes, since allowing free and frank discussion would enable them to consider all of the relevant issues and therefore make for better decision making. It claimed that the recording and communication of such discussions was likely to be inhibited by disclosure, as well as severely undermining the ongoing relationship between DCMS and the BBC and other sponsored public bodies. It explicitly stated its view that these factors applied despite the time which had elapsed since the meeting took place.
38. Having considered the nature, content and context of the information, the Commissioner does not consider that there is a strong public interest in disclosure of the disputed email. A summary of the topics discussed has already been disclosed to the complainant. The full content of the email does not contain anything beyond the sort of exchanges between these two individuals which might have been expected at that time at a lunch of this nature. The record of the exchanges can be broadly be characterised as 'routine' given what was topical at the time of the lunch. The record does not contain any content which suggests a pressing public interest arguments for disclosure of that content.
39. By contrast there is a public interest in not inhibiting the 'free and frank exchange of views for the purposes of deliberation'. Although the 'routine' character of the exchanges in this particular case might suggest that the content could be disclosed without detriment to the topics which were discussed, the Commissioner believes that the public interest argument for non-disclosure is wider. Strong public interest considerations apply if a fear were to grow that records of informal lunches and meetings were to be disclosed on a routine basis. Such exchanges 'oil the wheels' of government and good administration and neither they – nor a record of them – should be lightly discouraged.
40. The Commissioner accepts that in principle the possibility of disclosure may have a 'chilling effect' in some circumstances. In this case, the recorded information arose – as the email itself stated – from 'a friendly informal lunch' the previous day. There would manifestly have been some expectation of privacy and candour on both sides at a lunch of this nature. Politicians, officials and public figures may well be less willing exchange and record views on this basis if what they have said could well be disclosed. It is true that, in the case of *DfES v the Commissioner and the Evening Standard* (EA/2006/0006) the Information Tribunal (in the context of the section 35 exemption) rejected the argument that the threat of disclosure of civil servants' advice would cause them to be less candid when offering their opinions, The tribunal concluded that '*we are entitled to expect of [civil servants] the courage and independence that...[is]...the hallmark of our civil service*', since civil servants are '*highly educated and politically sophisticated public servants who well understand the importance of their impartial role as counsellors to ministers of conflicting convictions*' and should not be easily discouraged from doing their job properly. But this reasoning does not apply with the same force to an informal lunch as to formal advice to ministers or

a record of an internal meeting more directly related to government policy or other government affairs.

41. The Commissioner recognises that, in this case, it was the Permanent Secretary's note of the meeting rather than the discussion itself that was most likely to be affected by the possibility of disclosure. It is therefore the risk of no record, or an incomplete record, which is the crucial issue in this case. It is important for the conduct of public affairs that appropriate records are kept of discussions, of both formal and informal meetings. In informal meetings such as this one there was legitimately an expectation of 'private space' for discussions. The Commissioner therefore accepts that where disclosure of information might legitimately inhibit the making and keeping of records of similar meetings there is a strong public interest in withholding the information.
42. There is one further specific consideration. In the case mentioned above the Information Tribunal stated that *'The timing of a request is of paramount importance'*. It decided that while policy is in the process of formulation it is highly unlikely that the public interest would favour disclosure, and both ministers and officials are entitled to hammer out policy without the *'threat of lurid headlines depicting that which has been merely broached as agreed policy'*. In relation to some matters recorded in the email the Commissioner accepts that, although the information itself did not directly relate to its formulation or development, relevant policy was still being formulated and developed – within both DCMS and the BBC - at the time of the request.
43. To summarise, the Commissioner has concluded that the public interest in maintaining the exemption in this case is powerful. The factors in favour of withholding the information include:
 - not discouraging effective meetings of the same sort in the future
 - not inhibiting the free and frank exchange of views;
 - reducing the risk of no record, or an incomplete record;
 - allowing public affairs to be conducted without the threat of destructive publicity;
 - (for some of the information) the timing of the request.
44. The Commissioner has weighed the competing public interest arguments as set out above. His conclusion is that, in all the circumstances of this case, the public interest in maintaining the section 36(2)(b)(ii) exemption outweighs the public interest in disclosure of the full email.

The Decision

45. The Commissioner's decision is that the public authority dealt with the request for information in accordance with the Act.

Steps Required

46. The Commissioner does not require DCMS to take any steps to ensure compliance with the Act.

Other matters

47. The Commissioner wishes to record his view that it was unfortunate that DCMS sought initially to rely upon section 35 alone and then upon that section and 36 in the alternative as grounds for non-disclosure. It then used the same public interest arguments for both. The Commissioner encourages public authorities to rely upon the most appropriate exemption from the outset whenever possible and to ensure that their arguments are as focused as possible.
48. In its responses to the Information Commissioner's Office DCMS expressed its desire on several occasions to conduct an internal review of the complainant's application before the Commissioner went on to consider the complaint. The Information Commissioner's Office explained in its letter to DCMS dated 15 March 2007 why the Commissioner had decided to proceed with the investigation: it could be argued that there has in fact already been an internal review, and considerable time has elapsed since the complaint was made. Furthermore, the only practical benefit that an internal review could produce at this stage would be if DCMS decided to release some or all of the requested information, and as the Information Commissioner's Office has already pointed out, that is a step which DCMS could have taken at any stage after the complainant made his complaint regardless of whether there was a formal review or not.

Right of Appeal

49. 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 30th day of August 2007

Signed

**Richard Thomas
Information Commissioner**

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

Legal Annex

Section 1(1) provides that -

'Any person making a request for information to a public authority is entitled -

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.'

Section 1(2) provides that -

'Subsection (1) has the effect subject to the following provisions of this section and to the provisions of sections 2, 9, 12 and 14.'

Section 1(3) provides that -

'Where a public authority -

(a) reasonably requires further information in order to identify and locate the information requested, and

(b) has informed the applicant of that requirement,

the authority is not obliged to comply with subsection (1) unless it is supplied with that further information.'

Section 1(4) provides that -

'The information -

(a) in respect of which the applicant is to be informed under subsection (1)(a), or

(b) which is to be communicated under subsection (1)(b),

is the information in question held at the time when the request is received, except that account may be taken of any amendment or deletion made between that time and the time when the information is to be communicated under subsection (1)(b), being an amendment or deletion that would have been made regardless of the receipt of the request.'

Section 1(5) provides that -

'A public authority is to be taken to have complied with subsection (1)(a) in relation to any information if it has communicated the information to the applicant in accordance with subsection (1)(b).'

Section 1(6) provides that -

'In this Act, the duty of a public authority to comply with subsection (1)(a) is referred to as 'the duty to confirm or deny'.'

Section 35(1) provides that –

‘Information held by a government department or by the National Assembly for Wales is exempt information if it relates to-

- (a) the formulation or development of government policy,
- (b) Ministerial communications,
- (c) the provision of advice by any of the Law Officers or any request or the provision of such advice, or
- (d) the operation of any Ministerial private office.

Section 35(2) provides that –

‘Once a decision as to government policy has been taken, any statistical information used to provide an informed background to the taking of the decision is not to be regarded-

- (a) for the purposes of subsection (1)(a), as relating to the formulation or development of government policy, or
- (b) for the purposes of subsection (1)(b), as relating to Ministerial communications.’

Section 35(3) provides that –

‘The duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1).’

Section 35(4) provides that –

‘In making any determination required by section 2(1)(b) or (2)(b) in relation to information which is exempt information by virtue of subsection (1)(a), regard shall be had to the particular public interest in the disclosure of factual information which has been used, or is intended to be used, to provide an informed background to decision-taking.’

Section 35(5) provides that –

‘In this section-

‘government policy’ includes the policy of the Executive Committee of the Northern Ireland Assembly and the policy of the National Assembly for Wales;

‘the Law Officers’ means the Attorney General, the Solicitor General, the Advocate General for Scotland, the Lord Advocate, the Solicitor General for Scotland and the Attorney General for Northern Ireland;

‘Ministerial communications’ means any communications-

- (a) between Ministers of the Crown,
- (b) between Northern Ireland Ministers, including Northern Ireland junior Ministers, or
- (c) between Assembly Secretaries, including the Assembly First Secretary, and includes, in particular, proceedings of the Cabinet or of any committee of the Cabinet, proceedings of the Executive

Committee of the Northern Ireland Assembly, and proceedings of the executive committee of the National Assembly for Wales;

'Ministerial private office' means any part of a government department which provides personal administrative support to a Minister of the Crown, to a Northern Ireland Minister or a Northern Ireland junior Minister or any part of the administration of the National Assembly for Wales providing personal administrative support to the Assembly First Secretary or an Assembly Secretary;

'Northern Ireland junior Minister' means a member of the Northern Ireland Assembly appointed as a junior Minister under section 19 of the Northern Ireland Act 1998.'

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.