

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

Date 19 February 2008

**Public Authority:** Cabinet Office  
**Address:** 70 Whitehall  
London  
SW1A 2AS

### Summary

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The complainant appealed to the Commissioner about the Cabinet Office's refusal to supply him with the second part of a report produced for the Prime Minister by Lord Birt on the subject of crime. The Cabinet Office stated that the information was exempt from disclosure under sections 35 (Formulation of government policy) and to the extent that the information is not exempt by virtue of section 35, section 36 (Prejudice to effective conduct of public affairs). However, it confirmed that much of the withheld information is in the public domain as the information is derived from statistics published by the Home Office.

The Commissioner has decided that all the information (aside from the statistical information contained within the report) is exempt under section 35, but that the balance of the public interest test favours the disclosure of this information. This led the Commissioner to further decide that section 36 cannot be engaged in respect of this information. This is because section 36(1)(a) provides that section 36 can only apply to information held by a government department which is not exempt by virtue of section 35. In addition, although the Commissioner does not consider the statistical information contained within the report to be exempt by virtue of section 35, he does not consider that prejudice to the effective conduct of public affairs could be caused by its disclosure. The Commissioner therefore requires the Cabinet Office to supply the withheld information to the complainant.

### The Commissioner's Role

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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

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2. On 26 April 2005 the complainant requested the following information from the Cabinet Office:
  - i. Complete copies of all the correspondence between Lord Birt and the prime minister regarding the advice, research and analysis provided by Lord Birt which was reflected in the government's strategy document "criminal justice: the way ahead" (Cm 5074) which was published on 26 February 2001.
  - ii. A schedule of documents which are relevant to the above request, including a brief description of each relevant document, the date of the document and whether or not the document is being released.
3. The Cabinet Office replied to the request on 27 May 2005, in which it confirmed that the Prime Minister's Office holds information relevant to the request but does not hold a schedule of the documents that are relevant to the request. However, it refused to disclose any of the information held, by stating that it is covered by the exemption in section 35(1)(a) of the Act (Formulation or development of government policy). It then set out public interest arguments to support the maintenance of the exemption.
4. On 6 June 2005 the complainant requested an internal review of the Cabinet Office's decision. In his request, the complainant stated that: "there is a clear public interest in releasing this information. The government has published very little information about the activities of Lord Birt, the Prime Minister's strategy adviser....I see that these documents relate to events around four years ago....the sensitivity of the material is likely to have faded."
5. The Cabinet Office responded to the complainant on 1 July 2005, stating that the only document held which is relevant to his request is a report submitted by Lord Birt to the Prime Minister in December 2000 entitled: "Reducing Crime: A new vision for the criminal justice system" ("the report"). It stated that the report was produced in two phases: "Phase 1 of the report was devoted to scoping the issues and key challenges and setting out the evidence base. Phase 2 of the report provided policy advice and recommendations.
6. The Cabinet Office remained satisfied that the information contained within the report falls under the section 35 exemption. It also stated that section 36 applies. However, it reconsidered the public interest test and came to the conclusion that release of the material in Phase 1 of the report (with the exception of one slide) should be disclosed as the balance of the public interest under section 35 was considered to favour disclosure. It stated that this was because:
  - The release of this material will contribute to public understanding of some of the issues relating to crime and the criminal justice system.

- The material contained in this report is not an official account of government policy.
  - This report was intended to provoke discussion and contribute to debate.
  - As confirmed by the then Home Secretary in the House of Commons on 27 March and 2 May 2001, this report was considered alongside other contributions in preparing the paper "Criminal Justice: The Way Ahead" which was published in February 2001.
7. The Cabinet Office continued to withhold the remainder of the material (one slide in Phase 1 and all of Phase 2 of the report) under section 35 of the Act and to the extent that the information is not exempt by virtue of section 35, section 36 (Prejudice to effective conduct of public affairs). However, it confirmed that much of the withheld information is in the public domain as the information is derived from statistics published by the Home Office.
8. The Cabinet Office made the following points in its letter of 1 July 2005 setting out its view as to why the public interest favours the withholding of the remaining information:
- The slide in Phase 1 of the report which we are withholding sets out in considerable detail the instances of crime in one particular neighbourhood. We consider that it would not be in the public interest for this particular information to be released as disclosure of this information could potentially be prejudicial to the welfare of the residents of that particular neighbourhood.
  - The advice and analysis contained in the report was provided in confidence directly to the Prime Minister and relevant Secretaries of State to inform policy development.
  - There is a strong public interest in Ministers being able to receive free and frank advice to inform their policy decisions. They need to be able to discuss and debate the pros and cons of particular policy options in private before their final decision comes under public scrutiny.
  - The Prime Minister and his colleagues also need to be able to commission advice on subjects of their choosing and at the time of their choosing, without fear that the terms of the requests for such advice will be disclosed. Disclosure of this confidential material would significantly inhibit the commissioning and provision of such advice in the future to the detriment of the policy development process.
  - In particular, Ministers and their advisers need the free space to use imagination and consider radical policy options, without concern that every detail of their consideration will be publicly disclosed. This is particularly the case at the highest levels of Government. Disclosure of such material would undermine the policy making process in the future and this would not be in the public interest.

- It is also the case that where experts have been consulted in the formulation of advice and have provided their views on a private basis that should this material be disclosed; such experts would be reluctant to be so frank and candid in providing similar ideas and thoughts in the future. This, again, would be prejudicial to the public interest.
- In regard to the information which is exempt by virtue of section 35(1)(a) of the Act, regard has been had to the particular public interest in disclosure of factual information which has been used to provide an informed background to decision taking.
- We are continuing to withhold some factual and statistical information, which is closely linked to the policy advice and recommendations, contained in Phase 2 of the report. The selection of factual and statistical information for use in the context of policy recommendations is part of a deliberative process. Disclosure of this information could reveal the content or nature of particular policy recommendations which we consider should be withheld for the reasons set out above.
- It is in the public interest that advisers are able to select and use appropriate analytical and factual information when setting out their advice and recommendations and we consider that this deliberative process should be protected. However, I can confirm that much of this information is in the public domain as the information is derived from statistics published by the Home Office.

## The Investigation

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### Scope of the case

9. On 19 July 2005 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to investigate whether the rest of the report should have been withheld. He did however state that he did not wish to request the disclosure of the remaining slide in phase one of the report and accepted the Cabinet Office's justification for its non-release. The Commissioner agreed to investigate the complaint on this basis.

### Chronology

10. On 26 September 2006, the Commissioner contacted the Cabinet Office to inform it of his intended course of action and request the following:
  - Copies of all information withheld from the complainant (excluding the slide previously mentioned);

- Clarification about the qualified person and their involvement and reasoning in the application of section 36;
  - Any additional explanations of its public interest test reasoning.
11. The Cabinet Office responded to the Commissioner on 6 November 2006, in which it supplied the Commissioner with a copy of phase two of the requested report and provided the following details in respect of its application of section 36 to the requested information:

**i. Application of section 36**

- At the internal review stage it was determined that some of the relevant information within Phase two of the report came within section 36 of the Act.
- A number of similar requests for strategy reports have been received by the Cabinet Office, and a submission was put to the Minister on 22 March 2005 seeking his agreement that in his opinion disclosure of that information within the reports which did not fall within section 35 would or would be likely to prejudice the effective conduct of public affairs and consequently fell within section 36.
- It was put to the Minister that the analytical sections of the report relied on factual information, which while in itself were not controversial, was of a piece and led naturally to those parts of the report which provided advice. In particular it was argued that routine release of this information would prejudice the way in which facts were presented and used in future reports. The matter was also discussed with the Minister orally. No record of that discussion exists.
- The relevant qualified person was David Miliband (the then Minister for the Cabinet Office). The Minister indicated on 22 March 2005 that he agreed to the use of section 36 in the circumstances set out in the submission.

**ii. Public interest reasoning**

- Our reasoning was set out in some detail in the letter to the complainant of 1 July 2005.
- Similar public interest considerations were considered in relation to s35 and s36 for this request so these will be dealt with together.
- The analysis and advice in this phase of the report was provided in confidence directly to the Prime Minister and the relevant Secretaries of State to inform policy development. This analysis and advice is at the core of the confidential relationship that exists between the Prime Minister, his ministerial colleagues and their key advisors when discussing and formulating policy.

- The Prime Minister and his ministerial colleagues need to be able to commission advice on the formulation or development of government policy in areas of their choosing and at the time of their choosing without fear that the terms of such requests will be disclosed.
  - It is particularly important that the Prime Minister and his ministerial colleagues are freely able to seek ideas and opinions from those who can contribute expertise or wider knowledge without those ideas and opinions being disclosed publicly.
  - The Prime Minister and his ministerial colleagues must also be able to consider all the ideas and opinions put to them before reaching a collective decision.
  - If the Prime Minister and his colleagues were unable to rely on the understanding of confidentiality between them that attaches to the commissioning and provision of such advice there is a risk that the advice would not be sought, given without inhibition or possibly recorded fully.
  - In particular it is extremely important that the Prime Minister, ministerial colleagues and their key advisers are able to discuss key issues without fear that every detail of those discussions is disclosed.
  - Disclosure of internal deliberation about the development of policies and the analysis that underpinned such deliberation and which will retain relevance over the coming years would not be in the public interest.
  - Key advisers should be able to select and use appropriate analytical and factual information when setting out their advice and recommendations for the development of Government policy. Disclosure of this information could reveal the content of nature of particular policy recommendations. We consider that it is in the public interest that this deliberative process should be protected.
  - We therefore consider that the public interest in disclosure to be strongly outweighed by the need to keep this information confidential.
12. In response to the submissions supplied by the Cabinet Office, the Commissioner was satisfied that he had sufficient information relating to its handling of the Complainant's request in order to reach a decision on the case.

## Analysis

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13. The Commissioner notes that the complainant's request for a schedule of documents which are relevant to his request is no longer an issue. Given that by informing the complainant in its letter of 1 July that it held just one document and telling him what that was, it effectively complied with the request for a schedule.
14. The full provisions of the exemptions under sections 35 and 36 can be found in the legal annex.

### Section 35 – Formulation of government policy

15. The Commissioner notes the Cabinet Office's assertion in its letter to the complainant of 1 July 2005 that "This report was intended to provoke discussion and contribute to debate.....this report was considered alongside other contributions in preparing the paper: "Criminal Justice: The Way Ahead" which was published in February 2001."
16. The Cabinet Office stated that much of the withheld information is in the public domain as the information is derived from statistics published by the Home Office. However, it refused to identify or disclose this information, stating that it was exempt by virtue of section 35 as the information was used as part of a deliberative process and that disclosure of this information could reveal the content or nature of particular policy recommendations which it considers should be withheld.
17. Section 35(2) of the Act states that statistical information used to provide an informed background to the taking of a policy decision cannot be exempt by virtue of section 35 at all once that policy decision has been taken. The Commissioner takes the publication of the February 2001 to constitute the policy decision emanating from Lord Birt's report and therefore does not consider section 35 to apply to the statistical information contained within the report.
18. However, having reviewed the content of the remaining information in phase two of the report, the Commissioner is satisfied that the information is exempt by virtue of section 35(1)(a). This is because it is a document commissioned and presented to Government in order to inform policy making. It consists of an audit of the effectiveness of current government policy in the field of crime and policy recommendations to improve matters in this area.

### Public Interest Test under Section 35

19. As section 35 is a qualified exemption, it is subject to section 2(2)(b) of the Act which states that this exemption can only be maintained in respect of information where "in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information". The Commissioner therefore proceeded to decide whether the balance of the public interest test favours its disclosure under section 35 in relation to all the withheld information aside from the statistical information.

20. Against the factors favouring the withholding of the information, set out by the Cabinet Office in paragraph 8, the Commissioner took into account the following general factors favouring disclosure of information in the public interest:

- Promoting public participation in policy decisions
- Informing public debate
- Accountability
- Transparency

21. The Commissioner undertook to consider the above analysis by reference to the following specific factors:

22. **Timing of the request**

- i. The Commissioner recognises that there is a strong public interest in Ministers being able to receive free and frank advice to inform their policy decisions and that they need to be able to discuss and debate the pros and cons of particular policy decisions in private before their final decisions come under public scrutiny.
- ii. As a general rule the sensitivity of information is likely to reduce over time so that the age of the information may be relevant in determining where the public interest may lie. The Commissioner therefore considered the amount of time that had elapsed between the submission of the report to Government in December 2000 and the complainant's request in April 2005. In particular, he notes that Ministers had over four years between the presentation of the report and the request for information in order to use it to inform policy decisions.
- iii. In addition, the Commissioner notes the Cabinet Office's assertion that the report was considered alongside other contributions in preparing the paper "Criminal Justice: The Way Ahead" which was published in February 2001. The Commissioner considers this paper to constitute the outcome of the process of policy formulation in which Lord Birt's report was a part. As such, he does not consider that disclosure of the report will undermine policy development in this area, nor does he accept that the disclosure of this report will adversely affect policy development in other circumstances. Furthermore,
- iv. Further, given that the criminal justice system is a matter of great controversy and concern to the public there is a strong public interest in releasing this information as the Commissioner considers the information to aid understanding and increase accountability on the effectiveness of the criminal justice system at the time the report was produced.



## 23. Factual information

- i. The Commissioner considers the analysis contained within the report to have relied on factual information rather than opinion.
- ii. Furthermore, having reviewed this information, the Commissioner believes that it greatly aids understanding of the issue on which Lord Birt was asked to report as it enables published statistics to be better understood and permits an awareness of the scope and nature of the information used by Lord Birt to inform his recommendations.

## 24. Accountability

- i. The Commissioner also considered whether the prospect of release would put the government in the position of having to defend everything that has been raised (and possibly discounted) during deliberation. He has also reflected on the view outlined in the Cabinet Office's internal review that: "The Prime Minister and his ministerial colleagues also need to be able to commission advice on subjects of their choosing and at the timing of their choosing, without the fear that the terms of the requests for such advice will be disclosed."
- ii. The Commissioner took into account the author's expectations in respect of the publication of the report. As Lord Birt was specifically appointed by the Prime Minister, it is public knowledge that he carried out for the Prime Minister an analysis on the subject of crime, and there was no obligation on the part of the government to act upon the report's recommendations, the Commissioner believes that the prospect of the government having to defend the report is a weak argument for non-disclosure.
- iii. The Commissioner considers there to be a public interest the public being made aware of what proposals Lord Birt made to government in order to increase the public's understanding of the issue and be aware of the recommendations put to government.
- iv. The Commissioner is also of the view that the accountability for any policies implemented (or not implemented) in response to the report rests with Government and not the author. Therefore Lord Birt cannot be held responsible for the success or failure of Government policy in this area, regardless of whether the report is published. The disclosure of the advice provided in this context should not therefore put the author in the position of having to defend his recommendations.
- v. Taking into account the status and nature of the exempt information, the Commissioner does not therefore consider that the disclosure of the report will harm the government's relationship with Lord Birt. In addition, as the Commissioner's focused his analysis upon the circumstances of this particular report rather than the general commissioning of policy reports to government, he does not consider that disclosure of this report will affect

the government's relationship with other advisors who are called upon to produce reports.

**25. Comparison with Phase One**

- i. The Commissioner also considers the Cabinet Office's public interest arguments favouring its disclosure of phase one of the report (as set out in paragraph 6) to also favour the disclosure of phase two.
26. In summary, the Commissioner considers the public interest in disclosing the information under section 35 to outweigh that in withholding the material. The Commissioner's view is based on the content of this information and takes into account the context of the issues being debated, the age of the information and the status of the author.

**Section 36 – Prejudice to effective conduct of public affairs**

27. In the outcome of its internal review, the Cabinet Office stated that section 36 also applies to the information withheld. It clarified its position in its letter to the Commissioner of 6 November 2006, in which it explained that to the extent that the information is not exempt by virtue of section 35, section 36 applies.
28. In order for section 36 to apply, a public authority must obtain the reasonable opinion of a qualified person. The Cabinet Office confirmed to the Commissioner that the relevant qualified person in this case was David Miliband (the then Minister for the Cabinet Office). On 22 March 2005 he agreed to the use of section 36 in the circumstances set out in a submission put to him, which the Cabinet Office states contained the following points:
- Disclosure of the information which did not fall within section 35 would or would be likely to prejudice the effective conduct of public affairs and consequently falls within section 36.
  - The analytical sections of the report relied on factual information, which while in itself were not controversial.....led naturally to those parts of the report which provided advice.
  - Routine release of this information would prejudice the way in which facts were presented and used in future reports.
29. Section 2(2) of the Act (effect of the exemptions) provides that section 1(1)(b) (communication of information to the applicant) does not apply to information which is exempt information.

**Statistical Information**

30. As the Commissioner does not consider section 35 to be engaged in respect of the statistical information contained within the report, he proceeded to consider whether section 36 was engaged.

31. The Commissioner does not consider any prejudice to the effective conduct of public affairs to be caused by the release of the statistical information contained within the report. This is because:
- the Cabinet Office did not offer separate arguments in respect of the application of sections 35 and 36
  - such information does not relate to the 'formulation of government policy' for the purposes of the Act
  - the statistics are derived from previously published information which are already in the public domain
  - The report was commissioned in order to prepare a paper on the same subject which was published four years prior to the complainant's request.
32. As such, the Commissioner does not consider the opinion of the qualified person in relation to the statistical information to have been reasonable or reasonably arrived at. This is because his analysis contradicts the points put to the qualified person favouring the application of section 36 to which he agreed. The Commissioner does not therefore consider section 36 to be engaged in relation to this information.

### **Remaining withheld information**

33. Section 36(1)(a) states that it can only be applied to information held by a government department which is not exempt by virtue of section 35. However, as the Commissioner accepts that section 35 is engaged in relation to the information, section 36 cannot apply. (This information engages the exemption under section 35 regardless of whether the balance of the public interest favours its maintenance.)
34. The Commissioner therefore considers that the opinion of the qualified person was not reasonable as his analysis of section 35 leads him to conclude that section 36 cannot apply to any of the withheld information.

### **The Decision**

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35. The Commissioner's decision is that the public authority did not deal with the request for phase two of the report produced for the Prime Minister by Lord Birt on the subject of crime in accordance with the Act.

### **Steps Required**

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36. The Commissioner requires the public authority to disclose to the complainant phase two of the report submitted by Lord Birt to the Prime Minister in December 2000 entitled: "Reducing Crime: A new vision for the criminal justice system" within 35 calendar days of the date of this notice.

## Failure to comply

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37. 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.

## Right of Appeal

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38. 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 February 2008**

**Signed .....**

**Richard Thomas  
Information Commissioner**

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

## Legal Annex

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### **Formulation of Government Policy**

**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 for 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 36(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."

### **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.