

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

20 April 2009

**Public Authority:** Commissioner of the Metropolitan Police Service  
**Address:** New Scotland Yard  
Broadway  
London  
SW1H 0BG

### Summary

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The complainant requested all Special Branch information relating to John Lennon. The public authority refused to confirm or deny whether it held information falling within the scope of this request, citing the exemptions provided by sections 23(5) (information supplied by or relating to security bodies) and 24(2) (national security) in conjunction, as well as sections 31(3) (investigations), 38(2) (health and safety) and 40(5)(b)(i) (personal information). In the absence of any explanation from the public authority, either at the refusal notice or internal review stage, or in its correspondence with the Commissioner, as to its reasoning for why these exemptions are engaged or, in relation to sections 24(2), 31(3) and 38(2), why the public interest favours the maintenance of these exemptions over compliance with the requirement of section 1(1)(a), the Commissioner concludes that these exemptions are not engaged. The Commissioner also finds that the public authority failed to comply with the procedural requirements of sections 17(1)(b), 17(1)(c) and 17(3)(b) through its inadequate handling of the request. The public authority is required, in accordance with section 1(1)(a), to provide a confirmation or denial of whether it holds information falling within the scope of the request. For any information that is held, this should either be disclosed in accordance with the requirement of section 1(1)(b), or a reason valid under the Act given for why this information will not be disclosed.

### 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. The request was dated 11 September 2006 and was worded as follows:

*"I would like to request under the Freedom of Information Act the disclosure of all files relating to John Lennon."*

3. The public authority responded to this on 27 September 2006. The public authority refused to confirm or deny whether it held information falling within the scope of the request and cited the exemptions provided by sections 23(5), 24(2), 31(1), 38(1) and 40(2). No explanation as to why these exemptions were believed to be engaged or, where relevant, why the public interest was believed to favour the maintenance of these exemptions was given. Given that the response from the public authority was that it neither confirmed nor denied whether it held information falling within the scope of the request, it appears that its intention was to cite sections 31(3), 38(2) and 40(5)(b)(i) rather than subsection (1) of these exemptions.
4. The complainant requested an internal review on 4 October 2006 and the public authority responded with the outcome to this on 5 December 2006. The refusal was upheld and the public authority clarified that it wished to cite subsections 38(2) and 40(5)(b)(i), as well as 23(5) and 24(2). No mention of section 31 was made at that stage. Again no explanation for the citing of these exemptions or of the balance of the public interest was given.

## The Investigation

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### Scope of the case

5. The complainant contacted the Commissioner initially on 15 March 2007. The complainant disagreed with the exemptions cited by the public authority.
6. The wording of the request above is clear in that it is for all information held by the public authority that relates to John Lennon. However, the position of the public authority was that this request was restricted to Special Branch information relating to John Lennon. In support of this stance the public authority provided to the Commissioner a copy of a response it had received from the complainant in reply to it seeking clarification of the request. In this the complainant confirmed that she wished to access Special Branch files.
7. Given that the complainant was clear in her response to the request for clarification that she wished to access Special Branch files, and the complainant specified Special Branch related information in her letter to the Commissioner of 15 March 2007, the Commissioner accepts as accurate the position of the public authority that the request was for Special Branch related information. The Commissioner comments further on this issue in the Other matters section below.

## Chronology

8. The Commissioner contacted the public authority initially on 31 October 2008. It was noted that neither the refusal notice nor the internal review had given any explanation for the exemptions cited. In connection with this the public authority was asked to be specific as to whether its stance was that section 17(4) applied as it believed that to provide an explanation as to why the exemptions were engaged would, in itself, disclose exempt information.
9. The public authority was also asked for further explanations in connection with the exemptions it had cited. As an overall point, the public authority was asked to bear in mind that any information relating to John Lennon would presumably have been at least 25 years old at the time of the request. It was also noted that there is information available in the public domain about investigations carried out by the public authority relating to John Lennon.
10. In connection with each exemption cited, the public authority was asked to respond to the following.

- Section 23 / 24

The public authority was asked to provide its reasoning for why sections 23(5) and / or 24(2) are engaged and, if relevant, to state why the balance of the public interest favoured the maintenance of the exemption provided by section 24(2).

- Section 31

The public authority was asked to confirm which of the matters mentioned in subsection 31(1) it believed would, or would be likely to, be prejudiced through confirming or denying whether information falling within the scope of the complainant's request was held and to explain why. It was also asked to address why the public interest favoured the maintenance of this exemption.

- Section 38

The public authority was asked to confirm whether its stance was that health (section 38(1)(a)) and / or safety (section 38(1)(b)) would be endangered through confirmation or denial of whether it held information falling within the scope of the complainant's request. The public authority was also asked to address why it believed that the public interest favoured the maintenance of this exemption.

- Section 40

The public authority was asked to explain how confirmation or denial in response to the request would constitute the disclosure of personal data, including specifying to whom this personal data would relate. The public authority was also asked to state which of the data protection principles it believed would be breached through disclosure and to explain how this breach would occur.

11. The public authority responded to this on 4 December 2008. The public authority

stated firstly that its stance was not that section 17(4) applied and it acknowledged that the complainant should have been given an explanation of the reasoning for the exemptions cited.

12. The public authority went on to refer to some general concerns that it had about disclosure and presented this part of its letter as its consideration of the balance of the public interest. The concerns set out by the public authority were as follows.

*“To confirm or deny whether or not information pertinent to this request or in fact, in respect of any individual or organisation is held by MPS Special Branch, would clearly indicate the nature and scale of police involvement in areas of preventing and detecting crime, the apprehension or prosecution of offenders and the administration of justice.”*

*“It is also our contention that certain individuals and or organisations may have direct or potential links to matters concerning national security or where they have any form of involvement with or linkage to the security services.”*

*“Confirming or denying whether information is held would also enable anyone, particularly those who have the requisite knowledge, to piece together what investigations or subject areas are subject to sensitive techniques, or where an activity exists which is still too sensitive to be released, for example any information relating to covert human sources.”*

*“Equally pertinent is the fact that if the MPS were to [confirm or deny] in respect of a request about an individual, group or an organisations involvement with Special Branch, but then [did not confirm or deny] to another request, clearly that would give rise to the possibility of deducing who and what organisations are of interest to police, thereby having the likely effect of prejudicing ongoing or future police operations / investigations and enabling those individuals with the necessary intent to subvert police in their efforts to combat crime.”*

13. The public authority did not link the arguments above to the specific confirmation or denial in question here and did not explain to which of the cited exemptions it believed these arguments were relevant.
14. By way of explanation for the citing of sections 23(5) and 24(2), the public authority appeared to be suggesting that it wished to avoid setting a precedent for either confirming or denying whether it holds Special Branch related information about any named individual or organisation. The public authority did not, however, explain how confirmation or denial of whether Special Branch related information is held that relates to a named individual or organisation would reveal the involvement of a section 23(3) body or would prejudice national security.
15. In connection with section 31, the public authority did not state which of the functions referred to in subsection 31(1) it believed would, or would be likely to, be prejudiced through confirmation or denial of whether information falling within the scope of the request is held.

16. On the issue of section 38, the public authority did not specify which of the effects set out at subsection 38(1) it believed would, or would be likely to, result through confirmation or denial.
17. Similarly to its stance on sections 23(5) and 24(2), the public authority indicated that the concern that had led it to cite section 40(5)(b)(i) was that it did not wish to set a precedent for confirming or denying whether information was held by Special Branch that related to any individual. It did not, however, explain why it believed that confirmation or denial in this case would constitute the disclosure of personal data, to whom this personal data would relate or why disclosure of this personal data would breach any of the data protection principles.
18. The Commissioner contacted the public authority again on 27 January 2009 and asked it to respond to the following.

- Sections 23/24

The Commissioner noted that whilst citing sections 23(5) and 24(2) in conjunction can be a valid approach, it would be necessary for the public authority to provide to the Commissioner a full explanation of its reasoning for citing these exemptions together.

- Section 31

The Commissioner explained to the public authority that section 31(3) removes the obligation to confirm or deny where to do so would, or would be likely to, prejudice any of the matters specified in subsection 31(1). The public authority was again asked to specify which of the matters specified in subsection 31(1) it believed would, or would be likely to, be prejudiced through confirmation or denial. The public authority was also again asked to address why it believed that the public interest favoured the maintenance of this exemption.

- Section 38

It was noted that section 38(2) provides an exemption from the duty to confirm or deny where to do so would, or would be likely to, endanger health and / or safety. The public authority was asked to state whether it believed that confirmation or denial would, or would be likely to, endanger health, safety, or both and to explain how this endangerment would, or would be likely to, occur. The public authority was again asked to state why it believed that the public interest favoured the maintenance of this exemption.

- Section 40

The Commissioner set out the exemption provided by section 40(5)(b)(i); that this removes the obligation to confirm or deny where the confirmation or denial constitutes the disclosure of personal data and where the disclosure of this personal data would breach any one of the data protection principles. The public authority was again asked to explain how confirmation or denial would constitute personal data, including to whom this personal data would relate. It was noted

that, given that for information to constitute personal data it must relate to a living individual, the confirmation or denial in this case would not constitute the personal data of John Lennon.

19. The public authority responded on 16 February 2009 and stated the following:

*"I have considered this matter very carefully and have come to the conclusion that the arguments put forward in my previous correspondence dated 4 December 2008, sufficiently details the MPS position on the use of NCND in this case in respect of the following exemptions; 23(5), 24(2), 31(3), 38(2) and 40(5)."*

## Analysis

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### Procedural matters

#### Section 17

20. The public authority failed to provide any explanation of its reasoning for the exemptions cited at either the refusal notice or internal review stage and in so doing did not comply with the requirement of section 17(1)(c), the wording of which is set out in full in the attached Legal Annex, as are all other sections of the Act referred to in this notice.
21. The public authority failed to provide any explanation as to why it believed that the public interest in maintenance of the exemptions provided by sections 24(2), 31(3) or 38(2) outweighed the public interest in confirmation or denial at either the refusal notice or internal review stage and in so doing did not comply with the requirement of section 17(3)(b).
22. The public authority failed at either the refusal notice or internal review stage to cite the correct subsection (3) of section 31 and in so doing did not comply with the requirement of section 17(1)(b).

### Exemptions

#### Sections 23/24

23. In the case of *Baker v the Information Commissioner and the Cabinet Office* (EA/2005/0002), the Tribunal accepted the public authority's justification for claiming sections 23(5) and 24(2) simultaneously. The public authority pointed out that the requested information – which concerned the telephone tapping of MPs – could, if it were held, relate to the bodies specified in section 23(3) or to other bodies (such as the police or Defence Intelligence Staff). The Tribunal agreed with the public authority that a response to a request should not allow any deduction to be made as to the involvement of a section 23 body or any other body, and that:

*"if the Cabinet Office were to rely solely on either section 23(5) or on*



*section 24(2) in neither confirming or denying that information was held, in those cases where section 23(5) was relied upon alone that reliance could itself reveal that one of the bodies listed in section 23(3) was involved. That in itself would constitute the release of exempt information. Thus it is necessary to rely on both sections 23(5) and 24(2) consistently in order not to reveal exempt information in a particular case”*

24. Accordingly, where the holding of information is neither confirmed nor denied for the purpose of safeguarding national security, the use of section 23(5) and section 24(2) in conjunction can be upheld.
25. Although this has not been set out clearly by the public authority at any stage, the position of the public authority appears to be that it would not wish to confirm or deny whether Special Branch related information is held about any specified individual or organisation. The contention of the public authority appears to be that sections 23(5) and 24(2) would generally be engaged in any circumstance where a request for Special Branch related information is made. The public authority has not, however, provided any explanation as to how the confirmation or denial in this case would have any connection to the bodies listed in section 23(3); or why withholding this confirmation or denial would be necessary for the purposes of national security; or for why a confirmation or denial of whether Special Branch information relating to a named individual or organisation should in general be withheld under sections 23(5) and 24(2).
26. The conclusion of the Commissioner is that the exemptions from the duty to confirm or deny provided by sections 23(5) and 24(2) are not engaged. The public authority has had four opportunities to explain its reasoning for citing these exemptions; the refusal notice, the response giving the outcome to the internal review, the response to the Commissioner's first letter and the response to the Commissioner's second letter. This conclusion is based on the absence at any of these four stages of an explanation from the public authority as to why it believed that either or both of these exemptions were engaged. The Commissioner would stress that the mere fact that Special Branch related information has been requested is not a sufficient basis on which to conclude that sections 23(5) and 24(2) are engaged.

### **Section 31**

27. Section 31(3) provides an exemption from the duty to confirm or deny where to do so would, or would be likely to, prejudice any of the matters mentioned in subsection 31(1) and where the public interest in the maintenance of this exemption outweighs the public interest in disclosure. When citing this exemption the first step for a public authority is to identify which of the matters mentioned in subsection 31(1) it believes to be relevant. The public authority has failed to do this, either at the refusal notice or internal review stages or when twice asked to do so by the Commissioner.
28. The Commissioner concludes that the exemption from the duty to confirm or deny provided by section 31(3) is not engaged. This conclusion is based on the failure

of the public authority to specify which of the matters mentioned in subsection 31(1) it believes would, or would be likely to, be prejudiced through confirmation or denial.

29. The Commissioner would note that identifying which of the matters mentioned in subsections 31(1)(a) to (i) the public authority believes would be relevant is only the first step in citing section 31(3). Having identified at least one of the matters mentioned in subsections 31(1)(a) to (i) it would be necessary for the public authority to go on to provide a convincing explanation of how and why prejudice would, or would be likely to, result through confirmation or denial and to address in detail why it believed that the public interest favoured the maintenance of this exemption. The public authority has failed to fulfil any of the conditions necessary for the Commissioner to conclude that section 31(3) is engaged.

### Section 38

30. Section 38(2) provides an exemption from the duty to confirm or deny where to do so would, or would be likely to, result in endangerment to health and / or safety and where the public interest in the maintenance of this exemption outweighs the public interest in disclosure. The first step for a public authority when citing this exemption is to identify whether confirmation or denial would, or would be likely to, endanger health and / or safety. The public authority has failed to do this at any stage during the Commissioner's investigation or prior to that investigation when it issued its refusal notice and internal review outcome.
31. The conclusion of the Commissioner is that the exemption from the duty to confirm or deny provided by section 38(2) is not engaged. This conclusion is based on the failure of the public authority to at any stage identify whether confirmation or denial would, or would be likely to, endanger health and / or safety.
32. Had the public authority fulfilled this first condition for citing section 38(2), it would have been necessary for it to go on to specify how and why endangerment would, or would be likely to occur. This explanation would need to include specific reference to who would be the subject of this endangerment, and to detail why it believed that the public interest favours the maintenance of this exemption. The public authority has fulfilled none of the conditions necessary for the Commissioner to conclude that this exemption is engaged.

### Section 40

33. Section 40(5)(b)(i) provides an exemption from the duty to confirm or deny where confirmation or denial constitutes the disclosure of personal data and where the disclosure of that personal data would breach any one of the data protection principles. The first step for a public authority to take when citing this exemption is to identify to whom the personal data in question relates. The public authority has failed to identify to whom it believes the personal data in question here relates.
34. The Commissioner concludes that this exemption is not engaged. This conclusion is based on the failure by the public authority to identify at any stage to whom it



believes the personal data disclosed through confirmation or denial would relate. Had the request been for information relating to a living individual the stance of the public authority may have been stronger. The Commissioner raised with the public authority the issue of the subject of the request not being a living individual, but the public authority provided no response on this point.

35. Had it identified the data subject, it would have been necessary for the public authority to go on to explain how confirmation or denial constitutes the disclosure of personal data. Following this, it would have been necessary for the public authority to identify which of the data protection principles it believed would be breached through disclosure and to explain how this breach would occur. The public authority has provided none of the explanations necessary for the Commissioner to conclude that the exemption provided by section 40(5)(b)(i) is engaged.

## The Decision

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36. The Commissioner's decision is that the public authority did not deal with the request for information in accordance with the Act in that it did not comply with the requirement of section 1(1)(a) on the basis of the exemptions provided by sections 23(5) / 24(2), 31(3), 38(2) and 40(5)(b)(i), all of which the Commissioner finds are not engaged. The Commissioner also finds that the public authority failed to comply with sections 17(1)(b), 17(1)(c) and 17(3)(b) as covered above at paragraphs 20 - 22.

## Steps Required

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37. The Commissioner requires the public authority to take the following steps to ensure compliance with the Act.

- Provide to the complainant a response that complies with the requirement of section 1(1)(a) to provide a confirmation or denial of whether information falling within the scope of the request is held. For any information that is held, the public authority should either disclose this in line with the requirement of section 1(1)(b), or provide a valid refusal notice that explains why this information will not be disclosed.

The public authority must take the steps required by this notice within 35 calendar days of the date of this notice.

## Other matters

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38. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matters of concern:

As covered above at paragraphs 6 and 7, the Commissioner accepts that the complainant wished to access Special Branch related information. However, he would note that, given that the initial request was entirely clear in its scope, it was not necessary for the public authority to seek clarification about this from the complainant and that it could have responded to the request without this clarification. It also appears that responding to the original wording of the request may have resolved the concern of the public authority about the request being for Special Branch related information. The Commissioner would also stress that in any case where it appears that a public authority has requested clarification about the scope of a request with anything less than good faith he would not accept that it was legitimate for the public authority to seek clarification of the request.

39. As referred to above at paragraph 4, when giving the outcome to the internal review, the public authority gave no explanation for concluding that the refusal of the request should be upheld. Paragraph 39 of the section 45 Code of Practice states the following:

*“The complaints procedure should provide a fair and thorough review of handling issues and of decisions taken pursuant to the Act, including decisions taken about where the public interest lies in respect of exempt information. It should enable a fresh decision to be taken on a reconsideration of all the factors relevant to the issue.”*

40. The internal review response from the public authority did not reflect that a reconsideration of the request conforming to the description above took place. The Commissioner would advise the public authority that a response giving the outcome to an internal review should state the reasoning for why the initial refusal was upheld and should reflect that there has been a genuine reconsideration of the request.
41. The Commissioner's published guidance on internal reviews states that a review should be conducted within 20 working days, unless there are exceptional circumstances, in which case the review period may be extended to 40 working days. In this case the Commissioner notes that there appeared to be no exceptional circumstances, but that the public authority failed to provide the outcome to the review within 20 working days. Neither did the public authority provide the outcome to the review within 40 working days. The public authority should ensure that internal reviews are carried out promptly in future. The Commissioner notes that the internal review in this case pre dated the publication of his guidance.

## **Failure to comply**

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42. 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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43. 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@tribunals.gsi.gov.uk](mailto:informationtribunal@tribunals.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 20<sup>th</sup> day of April 2009**

**Signed .....**

**Nicole Duncan  
Head of FOI Complaints**

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

## **Legal annex**

### **Section 1**

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 17**

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(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.”

### **Section 23**

Section 23(3) provides that –

“The bodies referred to in subsections (1) and (2) are-

- (a) the Security Service,
- (b) the Secret Intelligence Service,
- (c) the Government Communications Headquarters,
- (d) the special forces,
- (e) the Tribunal established under section 65 of the Regulation of Investigatory Powers Act 2000,
- (f) the Tribunal established under section 7 of the Interception of Communications Act 1985,
- (g) the Tribunal established under section 5 of the Security Service Act 1989,
- (h) the Tribunal established under section 9 of the Intelligence Services Act 1994,
- (i) the Security Vetting Appeals Panel,
- (j) the Security Commission,
- (k) the National Criminal Intelligence Service, and
- (l) the Service Authority for the National Criminal Intelligence Service.”

Section 23(5) provides that –

“The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would involve the disclosure of any information (whether or not already recorded) which was directly or indirectly supplied to the public authority by, or relates to, any of the bodies specified in subsection (3).”

### **Section 24**

Section 24(1) provides that –

“Information which does not fall within section 23(1) is exempt information if exemption from section 1(1)(b) is required for the purpose of safeguarding national security.”

Section 24(2) provides that –

“The duty to confirm or deny does not arise if, or to the extent that, exemption from section 1(1)(a) is required for the purpose of safeguarding national security.”

### **Section 31**

Section 31(1) provides that –

“Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice-

- (a) the prevention or detection of crime,
- (b) the apprehension or prosecution of offenders,
- (c) the administration of justice,
- (d) the assessment or collection of any tax or duty or of any imposition of a similar nature,
- (e) the operation of the immigration controls,
- (f) the maintenance of security and good order in prisons or in other

- (g) institutions where persons are lawfully detained, the exercise by any public authority of its functions for any of the purposes specified in subsection (2),
- (h) any civil proceedings which are brought by or on behalf of a public authority and arise out of an investigation conducted, for any of the purposes specified in subsection (2), by or on behalf of the authority by virtue of Her Majesty's prerogative or by virtue of powers conferred by or under an enactment, or
- (i) any inquiry held under the Fatal Accidents and Sudden Deaths Inquiries (Scotland) Act 1976 to the extent that the inquiry arises out of an investigation conducted, for any of the purposes specified in subsection (2), by or on behalf of the authority by virtue of Her Majesty's prerogative or by virtue of powers conferred by or under an enactment."

Section 31(3) provides that –

"The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice any of the matters mentioned in subsection (1)."

### **Section 38**

Section 38(1) provides that –

"Information is exempt information if its disclosure under this Act would, or would be likely to-

- (a) endanger the physical or mental health of any individual, or
- (b) endanger the safety of any individual."

Section 38(2) provides that –

"The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, have either of the effects mentioned in subsection (1)."

### **Section 40**

Section 40(2) provides that –

"Any information to which a request for information relates is also exempt information if-

- (a) it constitutes personal data which do not fall within subsection (1), and
- (b) either the first or the second condition below is satisfied."

Section 40(5) provides that –

"The duty to confirm or deny-



- (a) 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), and
- (b) does not arise in relation to other information if or to the extent that either-
  - (i) he giving to a member of the public of the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) contravene any of the data protection principles or section 10 of the Data Protection Act 1998 or would do so if the exemptions in section 33A(1) of that Act were disregarded, or
  - (ii) by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1)(a) of that Act (data subject's right to be informed whether personal data being processed)."