

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 3 November 2010

Public Authority: Chief Constable of Merseyside Police
Address: Police Headquarters
PO Box 59
Canning Place
Liverpool
L69 1JD

Summary

The complainant made two requests for information relating to a 1993 murder conviction that followed an investigation carried out by the public authority; first, a report produced by an officer of the public authority covering the earliest stages of its investigation and, secondly, a report compiled under the supervision of the Police Complaints Authority covering the entirety of the investigation carried out by the public authority. The public authority initially refused the request on cost grounds and cited section 12(1) (cost of compliance). Following internal review, the public authority cited the exemptions provided by sections 36(2)(b)(ii) (inhibition to the free and frank exchange of views for the purposes of deliberation) and 36(2)(c) (other prejudice to the effective conduct of public affairs) in response to the first request and section 44(1)(c) (contempt of court) in response to the second request. Following the involvement of the Commissioner the public authority disclosed some of the information falling within the scope of the request. In relation to the majority of the remainder of the information, the Commissioner has considered the exemption provided by section 40(2) (personal information), which the public authority did not cite in relation to the majority of the information, and concluded that this is engaged. In relation to a small part of the information falling within the scope of the second request, the Commissioner finds that section 40(2) is not engaged, but that the exemption provided by section 44(1)(c) does apply. The Commissioner has also found that the public authority failed to comply with the procedural requirements of sections 1(1)(a), 17(1), 17(3)(b) and 17(5) in its handling of the request.

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. The first request was made on 20 March 2008 and was worded as follows:

"Information concerning the Review of the Initial Police Response to the Death of Paula Gilfoyle, a review carried out by D/Supt Humphreys.

This information to include, but not be limited to: the Review document, drafts of the Review document, communications concerning the Review, notes, transcripts, audio and video tape recordings and photographs including notes, transcripts, audio and video tape recordings of interviews with police officers and others as part of the Review."

3. The second request was made on 1 April 2008 and was worded as follows:

"The report by Detective Superintendent G Gooch of Lancashire Constabulary into an investigation of a complaint against Merseyside Police made by the complainants [names redacted]. Also, the supporting 79 documents and 312 statements to the report."

4. The public authority responded to the first request initially on 22 April 2008 and informed the complainant that it had been unable to respond to the request within twenty working days. The public authority sent a similar initial response to the second request on 1 May 2008.
5. The public authority also responded to the complainant on 1 May 2008 with a substantive response to both requests. The requests were refused under section 12(1), although this section was not cited specifically, as the public authority estimated that the cost of compliance with these requests would exceed the appropriate limit of

- £450. The public authority estimated the total cost of compliance with both of these requests at £24,533.33.
6. The complainant responded to this on 1 May 2008 and asked for a breakdown of the cost estimate and advice on how the request could be refined in order to bring it within the cost limit. The complainant also asked for a list of all the information held by the public authority that fell within the scope of his requests and stated that he did not believe the requests should have been aggregated for the purposes of the cost estimate, instead they should have been treated as two separate requests.
 7. The public authority responded to this on 13 May 2008 and provided an indication of the volume of documentation held that fell within the scope of the requests and a breakdown of the cost estimate. The public authority also made reference to the complainant having referred to part of the information in question in a newspaper article and suggested that if the complainant had been able to access this information from elsewhere, this may indicate that section 21(1) (information accessible by other means) was engaged.
 8. The complainant responded to this on 16 May 2008 and again asked the public authority to provide a list of the documents held that fell within the scope of his request. The complainant also believed that the public authority could provide a copy of the interview notes associated with the report requested on 20 March 2008 (the "Humphreys report"). The complainant believed that it would be possible for the public authority to provide this information without exceeding the cost limit.
 9. The public authority responded to this on 24 June 2008 and stated that a list of documents would not be provided as this information was believed to be exempt by virtue of sections 30 (information relating to investigations), 38 (health and safety) and 40 (personal information). The public authority did not cite any subsections of these exemptions. The public authority also stated that no notes of interviews associated with the Humphreys Report were held.
 10. The complainant responded on 24 June 2008 and requested an internal review. The complainant specified that this review should cover the entire process of responding to each of his requests and noted that he was dissatisfied with the decision to aggregate his two requests, the refusal on cost grounds, the citing of exemptions in response to his request for a list of documents and the statement that no interview notes were held.

11. After a lengthy delay, the public authority responded with the outcome of the review on 22 December 2008 and stated that, for the purposes of the review, the requests would not be aggregated and no consideration would be given to the time or cost of complying with the requests. The initial refusal under section 12(1) was, therefore, retracted. The public authority now refused to disclose the Humphreys report on the grounds that the exemptions provided by sections 36(2)(b)(ii) and 36(2)(c) were engaged. However, some documents disclosed to the Court of Appeal that included information from the Humphreys report were disclosed to the complainant. This response made no reference to an opinion on the citing of sections 36(2)(b)(ii) (inhibition to the free and frank exchange of views for the purposes of deliberation) and 36(2)(c) (other prejudice to the effective conduct of public affairs) having been sought from the Chief Constable. The public authority also again stated that no notes connected to the Humphreys report were held.
12. In connection with the information requested by the complainant on 1 April 2008 (the "Gooch report"), the public authority now stated that this information was exempt by virtue of section 44(1)(c) (statutory prohibition). The reasoning of the public authority for the citing of this exemption was that the release of this information was prohibited due to a direction made by the Judge in an appeal court direction from 1995.

The Investigation

Scope of the case

13. The complainant contacted the Information Commissioner on 4 February 2009. The complainant produced evidence that notes associated with the Humphreys report did exist and asked that the Commissioner investigate the denial from the public authority that such notes existed. The complainant also specified within the grounds for his complaint the citing of exemptions in response to the other aspects of his request.
14. After receiving this complaint and the evidence that the public authority did hold notes relating to the Humphreys report, the Commissioner carried out an investigation with a view to ascertaining whether an offence under section 77 of the Act had been committed in connection with this part of the complainant's request. The outcome of this investigation was that there was insufficient evidence to prove that any such offence had been committed. This Notice is separate from

that investigation in that it is concerned with the citing of exemptions from Part II of the Act by the public authority, save where the procedural breach through denying that this information was held is recorded below. The conclusion of this Notice has no bearing upon the completed section 77 investigation.

15. In addition to the request quoted above, on 23 February 2009 the complainant made a further request to the public authority for related information. The complainant confirmed at the outset of this case that this request was not within the scope of his complaint. Further information was also disclosed during the course of the Commissioner's investigation. The Commissioner has made no findings in relation to this information.

Chronology

16. The Commissioner contacted the public authority initially on 13 August 2009. The scope of the complaint was set out and the public authority was asked to respond with a copy of the information withheld from the complainant and with further explanations for its use of exemptions.
17. The public authority responded to this on 8 October 2009. In relation to the first request, the public authority supplied to the Commissioner a copy of all the relevant information which it held. In relation to the second request, the public authority sent a copy of the Gooch report, but not the supporting documents as these numbered around 5,000 pages. The Commissioner accepted that, due to the volume of these documents, an attempt would be made to reach a conclusion without viewing this information. In most cases the Commissioner would wish to view disputed information in full in order to reach a fully informed decision. In this case, however, he was able to gain a clear indication of the content of the supporting documents from both a schedule of documents that he was provided with, and references to the content of the supporting documents that were included in the Gooch report itself.
18. In connection with the first request the public authority cited section 36, but confirmed that the Chief Constable had not given an opinion about the citing of this exemption. The public authority also suggested that subsections from section 31 were engaged in relation to this information.
19. In connection with the second request, the public authority maintained that section 44(1)(c) was engaged and provided Court of Appeal documents in support of this. It also suggested that section 30(1)(a) may have been engaged in relation to this information.

20. The Commissioner responded to this on 12 October 2009. The public authority was advised that if it wished to cite sections 30 and 31, it should provide full reasoning for this. The public authority was also advised that section 36 could only be cited by a police force where an opinion had been provided by the Chief Constable as the qualified person and that it should seek the opinion of the Chief Constable if it wished to cite this exemption.
21. The public authority responded to this on 6 November 2009. In connection with the first request it now confirmed it was citing sections 31(1)(a), 31(1)(b) (prejudice to the apprehension and prosecution of offenders) and 31(1)(g) / 31(2)(b) (prejudice to the ability of the public authority to exercise its functions in relation to ascertaining whether any person is responsible for improper conduct) and provided its arguments in connection with these exemptions. The public authority also stated it was now citing sections 36(2)(b)(ii) (inhibition to the free and frank exchange of views for the purposes of deliberation) and 36(2)(c) (other prejudice to the effective conduct of public affairs). It was confirmed that these exemptions were cited on the basis of the reasonable opinion of the Chief Constable and the reasoning for this opinion was provided.
22. In connection with the second request, the public authority now confirmed that it cited section 30(1)(a)(i) (information relating to an investigation conducted with a view to it being ascertained whether a person should be charged with an offence) and provided its arguments in relation to this. The public authority also stated that it cited section 31(1)(g) / 31(2)(b) in relation to any information in connection with which the Commissioner did not believe that section 30(1)(a)(i) was engaged. The public authority stated that it believed that section 40(2) was also engaged in relation to information within the scope of both requests from which individuals could be identified and that it believed that this material should be redacted from any information disclosed.
23. The Commissioner contacted the public authority again on 11 November 2009 and noted that the response of 6 November 2009 had referred to information that the public authority now believed could be released. The public authority was asked to disclose to the complainant any information that it did not believe was exempt.
24. The public authority responded initially on 18 November 2009 and now stated that it was citing sections 32(1)(a) and 32(1)(c) (court records) in relation to specified documents falling within the scope of the second request. It responded further on 20 November 2009 and confirmed that the information identified previously had been disclosed to the complainant and that he had been directed to the information believed

to be exempt by virtue of section 21(1). The public authority also disclosed further information to the complainant that it no longer maintained was exempt on 16 August 2010.

Background

25. On 4 June 1992 Paula Gilfoyle was found dead. Her husband, Eddie Gilfoyle, was later convicted of her murder.
26. The complainant made two requests, first for the Humphreys report and secondly for the Gooch report. The Humphreys report records a review carried out by a Merseyside police officer in 1992 into the initial police response to the death of Mrs Gilfoyle. The Gooch report records an investigation carried out under the auspices of the Police Complaints Authority by an officer from Lancashire Constabulary following a number of complaints made about Merseyside Police concerning its actions relating to the death of Mrs Gilfoyle.

Analysis

Exemptions

Section 40

27. The public authority has cited section 40(2) in relation to any content within the information in question that identifies individuals. Section 40(2) provides an exemption for any information that constitutes the personal data of an individual other than the requester and where the disclosure of that personal data would be in breach of any of the data protection principles. The first step in considering whether this exemption is engaged is to establish whether the information in question constitutes personal data. If this information is personal data, the next step is to consider whether the disclosure of this would breach any of the data protection principles. This analysis covers the majority of the information originally withheld. The information not covered here is that which the public authority has identified as within the scope of the request, but which are general documents rather than relating specifically to the Gilfoyle case, or were publicly available. These documents have been identified to the public authority and disclosed to the complainant.

28. Whilst the public authority has not made the case that the information in question constitutes the personal data of Eddie Gilfoyle, given the content of the information in question the Commissioner considers it appropriate to exercise his discretion to consider whether this does constitute the personal data of Mr Gilfoyle. In general, where it appears that information may be personal data and that the disclosure of this may be in breach of any of the data protection principles, the Commissioner will consider whether to exercise his discretion to consider section 40(2) even if this has not been cited by the public authority, or has been cited but in relation to different information. This approach is considered appropriate given the Commissioner's twin responsibilities under the Freedom of Information and Data Protection Acts.
29. Moving to whether the information in question, or any part of it, constitutes the personal data of Mr Gilfoyle, section 1(1) of the Data Protection Act 1998 (the DPA) provides the following definition of personal data:
- "'personal data' means data which relate to a living individual who can be identified-*
- (a) from those data, or*
- (b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller."*
30. This provides two criteria that must be fulfilled for information to constitute personal data; the information must relate to an individual, and that individual must be identifiable either from that information directly, or from that information combined with other information available to the holder of that information. The Commissioner considers it clear that the majority of the information in question here relates to Mr Gilfoyle in that it relates to an investigation that led to his conviction.
31. As to whether Mr Gilfoyle is identifiable from this information, in much of this information he is named. There are other documents in relation to which it could be argued that, viewed in isolation, Mr Gilfoyle would not be directly identifiable. However, as noted above, information will be personal data where, if combined with other information, it would be possible to identify an individual. The Commissioner's opinion is that, in relation to any of the documents in question here from which it may be arguable that Mr Gilfoyle is not directly identifiable, sufficient information is publicly available about the Gilfoyle case that it would be

possible for any person in possession of this information to relate it to Mr Gilfoyle.

32. The Commissioner has concluded that the information in question relates to Mr Gilfoyle and that he would be identifiable from this information either directly, or via this information combined with other information that is publicly available. This information is, therefore, the personal data of Mr Gilfoyle according to the definition given in section 1(1) of the DPA. Given the nature of this information, the Commissioner has also gone on to consider whether this information is sensitive personal data.
33. Section 2(g) of the Data Protection Act provides that personal data consisting of information as to the commission or alleged commission by the subject of an offence is sensitive. The Commissioner considers it clear that this description applies to the information in question and so this is, therefore, sensitive personal data.
34. Turning to whether the disclosure of this information would breach any of the data protection principles, the Commissioner has focused here on the first data protection principle, which requires that personal data be processed fairly and lawfully. On the issue of whether disclosure would be, in general, fair, disclosure via the Act effectively renders information publicly available. This means that the first data protection principle will be satisfied only if it is fair to Mr Gilfoyle to disclose this sensitive personal data into the public domain. This information would be disclosed into the public domain, rather than only to Mr Gilfoyle or only to any other specified party. Therefore, any argument that disclosure would be fair on the basis that this would be necessary to assist Mr Gilfoyle to challenge his conviction would not be valid. The Commissioner does, however, acknowledge the more general public interest in the public being able to question the safety of criminal convictions.
35. The information in question here is sensitive personal data. As such, by its very nature, this has been deemed to be information that individuals regard as the most private information about themselves. Due to the sensitivity of this information, the Commissioner believes that disclosure of this into the public domain would be likely to have a distressing impact upon Mr Gilfoyle. He also considers that it would not be fair to Mr Gilfoyle to put information into the public domain that could, potentially, prejudice any future appeal against his conviction. The Commissioner considers that there is an important difference between limited disclosure of information to affected parties and the wider disclosure of information under the Act. Therefore, the

Commissioner concludes that disclosure of this information would be unfair and in breach of the first data protection principle.

36. The Commissioner is aware of the recent decision of the Information Tribunal in the case of *Bryce vs the Information Commissioner and Cambridgeshire Constabulary* (EA/2009/008). In the Bryce case the Tribunal concluded that it was fair to release a report into a murder investigation under the Act. In reaching its decision it accepted that the defendant in that case had taken deliberate steps to place some information in the public domain, when he pleaded mitigating circumstances in an attempt to reduce his sentence. Respectfully, the Commissioner considers that a defendant may have little choice but to reveal details in their own defence that that they would otherwise wish to remain private. He would also rely upon the comments of a differently constituted Information Tribunal, in *Armstrong vs the Information Commissioner and The Commissioners for Her Majesty's Revenue and Customs* EA/2008/0026, that "*even if the disputed information had entered the public domain by virtue of having been referred to during the... trial, it does not necessarily follow that it remains in the public domain*". The Commissioner would not, therefore, accept the Tribunal's contention in Bryce that relying upon something in court amounts to taking deliberate steps to put information into the public domain.
37. The Commissioner considers that most, if not all, of the information in question is the personal data of Mr Gilfoyle and that disclosure of this information would be unfair and in breach of the first data protection principle. The exemption provided by section 40(2) is, therefore, engaged in relation to this information.
38. As noted above, the Commissioner has concluded that the majority of the information considered here is the personal data of Mr Gilfoyle. He has also considered whether any of the disputed information is the personal data of any other individuals.
39. The Commissioner has considered first whether any of this information constitutes the personal data of witnesses. Some of the information in question does record the contributions of witnesses. This information includes the names of witnesses and so it is clear that witnesses are identifiable from this information. The Commissioner also considers it clear that this information relates to these witnesses. In accordance with the definition in section 1(1) of the DPA this information is, therefore, the personal data of these witnesses.
40. Turning to whether it would be in breach of any of the data protection principles to disclose this information, the Commissioner has again

focused here on the first data protection principle and whether it would be in general fair to the subjects of this information to disclose this information into the public domain. On this point the Commissioner believes that the data subjects would have a high expectation of confidentiality in relation to information provided to the public authority to assist with this investigation. Whilst there are situations in which it is reasonable to assume that the data subjects would have held an expectation that this information would be disclosed, in a court proceeding for example, it would not be reasonable to assume that the data subjects would have an expectation that this information would be disclosed into the public domain via the Act.

41. The expectation of confidentiality held by the witnesses does not automatically mean that it would be unfair to disclose this information. The Commissioner has also considered the possible effect of the disclosure upon the witnesses. He considers that a consequence of disclosure might be to submit the witnesses to renewed interest in their connection to the circumstances of the murder which, in itself, might well cause distress. In addition some of the witness statements reveal details about the personal lives of the witnesses. The Commissioner considers that it would be an unwarranted intrusion into the lives of the witnesses to reveal these details and re-focus public attention on such matters. Weighing against these considerations are the principles of accountability and transparency to which the public authority is subject. There is also a strong public interest in the public being informed about the adequacy of police investigations. However, the Commissioner concludes that the expectation of confidentiality held by the witnesses, and the distress and potential intrusion into their private lives that they might suffer, is likely to be sufficiently strong that disclosure would be unfair to those individuals and, therefore, in breach of the first data protection principle. The exemption provided by section 40(2) is, therefore, engaged in relation to this information.
42. The Commissioner has considered secondly whether any of the withheld information is the personal data of police officers. The Commissioner's analysis here is similar to that above in relation to witnesses: where police officers are recorded by name within this information they are clearly identifiable and this information also clearly relates to these individuals. This information does, therefore, constitute the personal data of the police officers identified.
43. As to whether disclosure of this information would be in breach of any of the data protection principles, the Commissioner has again focused on the first data protection principle and the issue of fairness.

44. In general, where personal data relates to an individual in their solely professional capacity, rather than their private capacity, it will be less likely to be unfair to the subject to disclose this information. In this case, however, the Commissioner believes that there will be a heightened expectation of confidentiality held by the police officers given that this information records their contributions to an investigation that remains of some controversy. The Commissioner has also taken into account that some of the information relates to disciplinary matters, where ultimately no formal disciplinary action was taken, or to the alleged commission of offences where no charges were brought. As stated above, information as to the alleged commission of an offence is sensitive personal data. As such, by its very nature, it is deemed to be information that individuals regard as the most private information about themselves. The Commissioner considers that disclosure of the withheld information in this case would draw renewed attention to disciplinary and performance matters which are arguably of little relevance to the current performance of those officers involved and which would consequently cause those officers unwarranted distress. This is even more the case in relation to information about the alleged commission of an offence. Given this, the Commissioner concludes that the adverse effects of disclosure and the expectation of confidentiality held by the police officers are sufficient to outweigh counter arguments and, therefore, it would be unfair to disclose this information. The exemption provided by section 40(2) is, therefore, engaged in relation to that part of the information that is the personal data of police officers.
45. In summary, the Commissioner concludes that the majority of the withheld information comprises the personal data of Eddie Gilfoyle and/or witnesses to the investigation and/or named police officers. He finds that disclosure of this information would breach the first data protection principle in that it would be unfair to the data subjects, and that therefore the information is exempt under section 40(2) of the Act.
46. The remaining information that has not been disclosed to the complainant and that is not covered in the section 40(2) analysis above consists of general recommendations to the public authority made at the end of the Gooch Report. As this information relates to the public authority, rather than to any individual, the view of the Commissioner is that this information does not constitute the personal data of any individual. The exemption provided by section 40(2) is not, therefore, engaged in relation to this information. The public authority has also cited the exemptions provided by sections 30(1)(a)(i), 31(1)(g) / 31(2)(b) and 44(1)(c) in relation to this information. The Commissioner's analysis of these exemptions is as follows.

Section 44

47. The public authority has cited section 44(1)(c), which provides an exemption for information the disclosure of which would constitute or be punishable as a contempt of court, in relation to the general recommendations to the public authority made at the end of the Gooch Report. Section 44(1)(c) is a class based exemption; if the information conforms to the class described in this section, the exemption is engaged.
48. The reasoning for the citing of this exemption was that a direction given by the Court of Appeal on 25 August 1995 in connection with an appeal against the conviction of Mr Gilfoyle restricted the disclosure of this information when ordering disclosure of a redacted version of the Gooch report to Mr Gilfoyle's legal representatives. The public authority believed that disclosure in response to the complainant's request would breach this order and that this would constitute contempt of court. The task for the Commissioner here is to consider whether disclosure of the information in question would breach the order made by the Court of Appeal and, if so, whether this would constitute, or be punishable as, contempt of court.
49. The Commissioner accepts that breaching this order by disclosing those parts of the report that the Court ordered to be redacted would constitute contempt of court. The exemption provided by section 44(1)(c) is, therefore, engaged in relation to this information. As the Commissioner has reached this conclusion on this exemption it has not been necessary to also go on to consider the other exemptions cited in relation to this information.

Procedural Requirements

Section 1

50. As noted above at paragraphs 9 and 11, the public authority stated that it did not hold notes relating to the Humphreys Report. The public authority later confirmed that this response was incorrect and that notes did, in fact, exist. In denying that it held notes relating to the Humphreys Report that it later transpired were held, the public authority failed to comply with the requirement of section 1(1)(a).

Section 17

51. In failing to respond to the first request within 20 working days of receipt with the section 12(1) refusal, the public authority failed to comply with the requirement of section 17(5).
52. In failing to cite within twenty working days of receipt of the request any of the exemptions from Part II of the Act that it subsequently specified, the public authority failed to comply with the requirements of sections 17(1) and 17(3)(b).

The Decision

53. The Commissioner's decision is that the majority of the information in question was exempt by virtue of section 40(2). In relation to the remaining information, the Commissioner finds that the exemption provided by section 44(1)(c) is engaged. The Commissioner also finds that the public authority failed to comply with the procedural requirements of sections 1(1)(a), 17(1), 17(3)(b) and 17(5).

Other matters

54. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matters of concern:
55. 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 the public authority failed to provide the outcome to the review within 20 working days. Neither did the public authority respond with the outcome to the review within 40 working days. The public authority should ensure that internal reviews are carried out promptly in future.
56. At various stages during the handling of this case the Commissioner's office encountered difficulties with the public authority, including the public authority seeking to question the authority of the Commissioner to conduct this investigation and repeated lengthy delays in the public authority responding to correspondence from the Commissioner's office, the lengthiest of which was several months. The public authority should note in future that decisions as to whether to carry out an investigation under section 50 of the Act, and how such an

investigation will be conducted, lie solely with the Commissioner. This includes in any case where an investigation into whether a breach under section 77 of the Act has occurred has already been carried out. It should also ensure that the delays in responding to correspondence from the Commissioner's office experienced in this case are not repeated.

Right of Appeal

57. Either party has the right to appeal against this Decision Notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.

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

Dated the 3rd day of November 2010

Signed

**Lisa Adshead
Group Manager**

**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 10

Section 10(1) provides that –

"Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

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 21

Section 21(1) provides that –

"Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information."

Section 30

Section 30(1) provides that –

“Information held by a public authority is exempt information if it has at any time been held by the authority for the purposes of-

- (a) any investigation which the public authority has a duty to conduct with a view to it being ascertained-
 - (i) whether a person should be charged with an offence,
 - or
 - (ii) whether a person charged with an offence is guilty of it,
- (b) any investigation which is conducted by the authority and in the circumstances may lead to a decision by the authority to institute criminal proceedings which the authority has power to conduct, or
- (c) any criminal proceedings which the authority has power to conduct.”

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 institutions where persons are lawfully detained,
- (g) 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(2) provides that –

"The purposes referred to in subsection (1)(g) to (i) are-

- (a) the purpose of ascertaining whether any person has failed to comply with the law,
- (b) the purpose of ascertaining whether any person is responsible for any conduct which is improper,
- (c) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise,
- (d) the purpose of ascertaining a person's fitness or competence in relation to the management of bodies corporate or in relation to any profession or other activity which he is, or seeks to become, authorised to carry on,
- (e) the purpose of ascertaining the cause of an accident,
- (f) the purpose of protecting charities against misconduct or mismanagement (whether by trustees or other persons) in their administration,
- (g) the purpose of protecting the property of charities from loss or misapplication,
- (h) the purpose of recovering the property of charities,
- (i) the purpose of securing the health, safety and welfare of persons at work, and
- (j) the purpose of protecting persons other than persons at work against risk to health or safety arising out of or in connection with the actions of persons at work."

Section 36

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 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 44

Section 44(1) provides that –

"Information is exempt information if its disclosure (otherwise than under this Act) by the public authority holding it-

- (a) is prohibited by or under any enactment,
- (b) is incompatible with any Community obligation, or
- (c) would constitute or be punishable as a contempt of court."