

## ***Freedom of Information Act 2000***

### **Decision Notice**

**Date: 29 June 2011**

**Public Authority:** The London Borough of Camden  
**Address:** Camden Town Hall  
Judd Street  
London  
WC1H 9JE

### **Summary**

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The complainant asked the Council to disclose information relating to surveys carried out on particular Council properties which were being sold off. The Council responded to the complainant's request and disclosed some of the requested information, However it refused to disclose the remainder ("the withheld information") citing sections 40 and 43 of the Act. The Commissioner considered the withheld information and the Council's application of the exemptions and concluded that some of the withheld information was exempt from disclosure under section 40(2) by virtue of section 40(3)(a)(i) of the Act. In respect of the remaining withheld information he did not consider that the exemption under section 43(2) was engaged. The Commissioner has ordered disclosure of the remaining withheld information. He has also identified some procedural breaches on the part of the Council.

### **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 29 March 2010, the complainant made the following request for information to the London Borough of Camden (the "Council"). The Commissioner has added numbers to the request for ease of reference.

1. *"I would request that the details of the addresses of all of the sales of Council owned properties sold under the General Housing Consent A.3.2?"*
2. *I would request to know what steps were taken in respect of the sales of Council owned properties sold under the General Housing Consent A.3.2 to ascertain whether they required "substantial works or repair, improvements or conversion" in each particular case of sale?*
3. *I would request to know what steps were taken in respect of the sales of Council owned properties sold in respect of 1 Rondu Road, 145 Iverson Road, 54 Chester Road, 56 Cherster Road, 205-207 Queen's Crescent, 337 Finchley Road, 50 Tavistock Place, 12 Maple House, 13 Glenilla Road, 24 Roderick Road, 51 Agar Grove, 154 Agar Grove and 72 Marchmont Street, to ascertain whether they required "substantial works or repair, improvements or conversion" in each particular case of sale?*
4. *I would request to know the details and information supplied to the Council of the sales of Council owned properties sold under the General Housing Consent A.3.2 to ascertain whether they required "substantial works or repair, improvements or conversion" in each particular case of sale?*
5. *I would request to know the details and information supplied to the Council of the sales of Council owned properties sold at 1 Rondu Road, 145 Iverson Road, 54 Chester Road, 56 Cherster Road, 205-207 Queen's Crescent, 337 Finchley Road, 50 Tavistock Place, 12 Maple House, 13 Glenilla Road, 24 Roderick Road, 51 Agar Grove, 154 Agar Grove and 72 Marchmont Street, to ascertain whether they required "substantial works or repair, improvements or conversion" in each particular case of sale?*
6. *I would request to know whether surveyors or other professionally engaged experts and consultants were engaged in order to provide the Council with information concerning whether Council owned properties sold under the General Housing Consent A.3.2 required "substantial works or repair, improvements or conversion" in each particular case of sale?*
7. *If so, I would request to know the names of the surveyors or other professionally engaged experts and consultants who provided these reports to the Council, and be provided with copies in each particular case?*

8. *I would request to know whether surveyors or other professionally engaged experts and consultants were engaged in order to provide the Council with information concerning whether Council owned properties at Council owned properties sold at 1 Rondou Road, 145 Iverson Road, 54 Chester Road, 56 Cherster Road, 205-207 Queen's Crescent, 337 Finchley Road, 50 Tavistock Place, 12 Maple House, 13 Glenilla Road, 24 Roderick Road, 51 Agar Grove, 154 Agar Grove and 72 Marchmont Street, required "substantial works or repair, improvements or conversion" in each particular case of sale?*
9. *If so, I would request to know the names of the surveyors or other professionally engaged experts and consultants who provided these reports to the Council, and be provided with copies in each particular case?"*
3. On 26 April 2010, the Council provided a response to the complainant in which it disclosed the information in parts 1-3 and 6-8 of the request and partially disclosed the information in part 9 of the request. It cited the exemptions as set out in sections 40(2) and 43(2) of the Act as a basis for non-disclosure of the remaining information ("the withheld information").
4. On 26 April 2010 the complainant requested an internal review of the Council's decision not to disclose the withheld information. The Council wrote to the complainant on 12 May 2010 with the outcome of that internal review. That letter stated that the reviewer upheld the original decision not to disclose the withheld information under the provisions of the specified exemptions.

## **The Investigation**

### **Scope of the case**

5. On 29 July 2010 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the Council's application of the exemptions in sections 40(2) and 43(2) of the Act.

### **Chronology**

6. On 29 July 2010 the Commissioner wrote to the Council requesting a copy of the withheld information and specific details as to which exemption applied to each part of the withheld information. The Commissioner wrote to the complainant on the same date to acknowledge receipt of his complaint.

7. On 2 August 2010 the Commissioner wrote to the Council again requesting a copy of the withheld information and further explanatory details regarding its application of the specified exemptions and its refusal to provide the complainant with the withheld information.
8. The Council replied to the Commissioner on 1 September 2010 providing its detailed explanation and arguments as to its application of the exemptions as set out in sections 40(2) and 43(2) of the Act. It did not provide the withheld information but the Commissioner felt that the information had been sufficiently described to enable him to make his decision.
9. The Commissioner contacted the Council on 11 March 2011 in order to ascertain whether it had any further submissions to make regarding the matter. The Council replied stating that it had no further submissions to make.

## Analysis

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### Exemptions

#### Section 40(2)(a) and (b) – personal data of third parties

##### Third party data

10. Generally, the provisions of section 40(1-4) exempt “personal data” from disclosure under the Act. A full text of section 40 of the Act is available in the Legal Annex at the end of this Notice.
11. Personal data is defined by section 1(1) of the DPA. It states that:  
*“personal data means data which relate to a living individual who can be identified -*
  - (a) from those data,*
  - (b) from those data and other information which is in the possession of, or likely to come into the possession of, the data controller,**and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual”.*
12. Personal data is exempt from disclosure if either of the conditions set out in section 40(3) or 40(4) are met. The relevant condition in this case is at section 40(3)(a)(i), where disclosure would breach any of the data protection principles as set out in Schedule 1 to the DPA.

13. The Council applied the exemption under section 40(2) to part of the withheld information, which consists of the names of individual internal and external surveyors.
14. The Commissioner is satisfied that all of the withheld information falls within the definition of personal data as set out in the DPA. It contains information about living individuals that the public could directly identify from those data. The information consists of, as stated in paragraph 13, names of individual internal and external surveyors, who could obviously be identified from the information.
15. The Council stated that the first data protection principle would be breached by disclosing the information requested in Part 2 of the complainant's request.

**Would disclosure of the information breach the first data protection principle?**

16. The first data protection principle states that:

*"Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless-*

*(a) at least one of the conditions in Schedule 2 is met, and*

*(b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met".*

**Would disclosure of the information be fair?**

17. The Commissioner's guidance on section 40 suggests a number of matters that should be considered when assessing whether the disclosure of personal data would be fair. In this case the Commissioner has taken into account a range of factors including the potential consequences of disclosing the information, ie what damage or distress would the individuals suffer if the information was disclosed?
18. The Commissioner's guidance suggests that when assessing fairness, it is also relevant to consider whether the information relates to the public or private lives of the individuals. The guidance suggests that:

*"Information which is about the home or family life of an individual, his or her personal finances, or consists of personal references, is likely to deserve protection. By contrast, information which is about someone acting in an official or work capacity should normally be provided on request unless there is some risk to the individual concerned."*

19. Furthermore, notwithstanding a data subject's reasonable expectations or any damage or distress caused to them by disclosure of their personal information, the Commissioner believes that it may still be fair to disclose that information if it can be argued that there is a compelling public interest in doing so. Therefore, when assessing fairness under the first data protection principle, the Commissioner will balance the rights and freedoms of the data subjects with the legitimate interests in disclosure of the withheld information.

### **Consequences of disclosure on the data subjects**

20. In considering whether disclosure would cause any unnecessary or unjustified damage or distress, the Commissioner has concluded that the individuals would be distressed if their personal details, ie their names, were placed in the public domain. The Council has stated to the Commissioner that disclosure of those names would mean that the individuals would be publicly associated with assisting in the selling off of Council properties, a subject which was, at the time of the request, a topic of major interest and controversy in both local and national press. This would mean that the individuals would suffer distress due to the unwarranted invasion of their privacy which would be likely to occur.

### **Reasonable expectations of the data subject**

21. The Commissioner has also considered the reasonable expectations of the individuals in terms of what would happen to their personal data. These expectations can be shaped by factors such as the individuals' general expectation of privacy, the purpose for which they provided their personal data and whether that personal data relates to their private or public lives.
22. In *The Corporate Officer of the House of Commons v IC (additional party Norman Baker)* (EA/2006/0015 and 0016), the Information Tribunal (the "Tribunal") commented on the distinction between a data subject's private and public life, observing that:

*"...where data subjects carry out public functions, hold elective office or spend public funds they must have the expectation that their public actions will be subject to greater scrutiny than would be the case in respect of their private lives..."* (para 78) and further that *"... the interests of data subjects....are not necessarily the first and paramount consideration where the personal data being processed relate to their public lives"* (para 79).

23. The withheld information consists of names of individual internal and external surveyors of properties being sold by the Council. The

Commissioner notes that those individuals would have been acting in their capacity as people employed by the Council, which relates to their public rather than their private lives. Therefore, the Commissioner believes that they would have had more of an expectation of their names being released than individuals would have in respect of information regarding their private lives. However, this does not necessarily mean that it would be fair to disclose their names and, given the likelihood of damage and/or distress being caused to those individuals by disclosure of their names, the Commissioner has gone on to consider whether there is any legitimate interest in disclosing them.

### **Legitimate interests**

24. The Commissioner has considered whether there is a legitimate interest in the public accessing the names of the individuals. The Commissioner notes that the complainant has personal reasons for requesting the information, as it is specific to a process in which he has an interest. The Commissioner accepts that there is a wider public interest in transparency of public sector organisations, also a more specific public interest in knowing that surveys of Council-owned properties are being properly carried out. However, these interests would not be served by the disclosure of the individuals' names. As the Council has disclosed the name of the organisation to which the individual surveyors belong, it believes that this is sufficient to fulfil the public interest as it argues that anyone wishing to enquire about the surveys can contact the organisation directly. Disclosure of the individuals' names would not inform the public any better than disclosure of the name of the said organisation and could leave the individuals open to public animosity for assisting in selling off Council homes. The Commissioner accepts the Council's arguments in this case.
25. Therefore, the Commissioner does not believe that any legitimate interest in the public accessing the individuals' names would outweigh the potential damage and distress caused by disclosure of that information. Therefore the Commissioner is unable to conclude that disclosure of that information is necessary to meet a legitimate public, rather than personal, interest.
26. In view of all of the above, the Commissioner is satisfied that the withheld information which consists of the names of individual internal and external surveyors is personal data and that disclosure of any of it would breach the first data protection principle as it would be unfair.

### **Exemption: Section 43 - Commercial Interests**

27. The Commissioner has also considered whether the exemption under section 43(2) of the Act would be engaged in relation to the remainder

of the withheld information. Section 43(2) states that information is exempt if its disclosure would, or would be likely, to prejudice the commercial interests of any person, including the public authority holding it.

28. In order for the Commissioner to agree that section 43 of the Act is engaged, the Council would first need to demonstrate that prejudice would or would be likely to occur to the Council and/or the individuals concerned if the information were disclosed, and that the prejudice claimed is real and of substance. This view is taken from the Tribunal hearing of *John Connor Press Associates Ltd v Information Commissioner (EA/2005/005)* and its decision, which outlined the Tribunal's interpretation of "likely to prejudice". The Tribunal confirmed that "*the chance of prejudice being suffered should be more than a hypothetical possibility; there must be a real and significant risk*". Secondly and once the prejudice test is satisfied, the Council would then need to apply the public interest test weighing up the arguments for and against disclosure.
29. The information being withheld under this exemption consists of information relating to the survey reports and the extent of repairs, improvements or conversion required on each individual property. It is important to note that the properties had already been sold off by the Council at the time of the request.
30. The Council has explained to the Commissioner that it commissions independent surveys of properties for two reasons:
  - To establish whether the cost of repair exceeds the affordability threshold for the Council for retaining the property.
  - To provide the information for the purchaser to know what is needed in order to bring the property up to the appropriate standard prior to any future sale.
31. If the information in the survey does determine that the cost of the repair exceeds the affordability threshold, then the property is listed at auction for sale. If the property is purchased, the survey information is used to inform the purchaser of the minimum requirements that are needed to bring the properties up to a decent and safe condition, before this property can be used (rented or sold). The specifications of works that the purchaser must comply with (at a minimum) are not provided with the original estimates of work required that the Council received when it determined that the property was too costly to retain.
32. The Council considers that to provide the surveys would impact on both the commercial interests of the Council and those of the purchaser of



the property. The Council informed the Commissioner that it is under a duty to achieve the best sale price for property and, were the cost estimates and surveys of work to be disclosed, the Council considers that this would impact negatively upon the price purchasers are willing to pay for property at auction.

33. The Council also considers that the commercial interests of those purchasers would be harmed were the details of costs of works to the properties to be disclosed as this would affect the future re-sale value of the properties.
34. As stated by the Council the works required are to a minimum standard required by the Council to ensure that properties are habitable before future use. The Council considers that disclosure of the details of those works would limit the discretion of purchasers to carry out additional works or works to a higher specification and they may base their offer to the Council upon carrying out improvements and upgrades to the property beyond the requirements of the Council in order to achieve a higher sale price at subsequent sale.
35. When considering the application of a prejudice-based exemption, the Commissioner adopts the three step process laid out in the Tribunal case of *Hogan v the ICO and Oxford City Council* (Appeal no EA/2005/0026 and EA/2005/0030). In that case the Tribunal stated that:

*"The application of the 'prejudice' test should be considered as involving a numbers of steps. First, there is a need to identify the applicable interest(s) within the relevant exemption.....Second, the nature of 'prejudice' being claimed must be considered .....A third step for the decision-maker concerns the likelihood of occurrence of prejudice"* (paragraphs 28 to 34).

The Commissioner has followed the test set out above when considering the representations put forward by the Council.

### **Relevant applicable interest**

36. The Commissioner has considered the wording of the exemption under section 43(2) which refers to "commercial interests". The Council has informed the Commissioner that it believes disclosure of the relevant information would cause prejudice to the commercial interests of both the Council and prospective purchasers of the properties. The Commissioner is satisfied that the Council has demonstrated that any prejudice occurring would be to those commercial interests, which are obviously relevant and applicable to the exemption in question.

## Nature of the prejudice

37. When considering the nature of the prejudice, the Commissioner has noted the Tribunal's comments in *Hogan v the ICO and Oxford City Council* ("*Hogan*") (paragraph 30):

*"An evidential burden rests with the decision maker to be able to show that some causal relationship exists between the potential disclosure and the prejudice and that the prejudice is, as Lord Falconer of Thoronton has stated, "real, actual or of substance" (Hansard HL, Vol. 162, April 20, 2000, col. 827). If the public authority is unable to discharge this burden satisfactorily, reliance on 'prejudice' should be rejected. There is therefore effectively a de minimis threshold which must be met."*

38. Therefore, the Commissioner takes the view that, for the exemption to be engaged, the disclosure of the information must have a causal effect on the applicable interest, this effect must be detrimental or damaging in some way, and the detriment must be more than insignificant or trivial.
39. If he concludes that there is a causal relationship between potential disclosure and the prejudice outlined in the exemptions *and* he concludes that the prejudice that could arise is not insignificant and is not trivial, the Commissioner will then consider the question of likelihood.
40. The Council has argued that disclosure of the withheld information in this case would prejudice the commercial interests of both the Council and prospective purchasers of the properties as it would have a negative impact upon the price that purchasers would be prepared to pay for the properties at auction. This would prejudice the commercial interests of both parties for the following reasons:
- i. It would undermine the Council's duty to obtain the best price for its properties at sale as prospective purchasers would offer a price at auction which would reflect any requirement to make further and more expensive repairs or alterations to the properties. The Council would therefore find it more difficult and costly to sell properties as potential purchasers would be aware of both the details of the Council's surveys, and that these details would still be available if they in turn wished to sell the property at a later date.
  - ii. It would negatively affect the re-sale value of Council properties already purchased as once the Council sells the property off, it is up to the purchaser to decide how they adhere to the survey. If

they choose to only complete the work that is required to a minimum then they are entitled to do so, however if they wish to complete the work to a higher standard and raise the quality and potential re-sale value of the property it is unlikely they will be in a position to recoup that expenditure because the survey and costing of the minimum work required would be available to potential purchasers of the property.

41. Having considered the arguments above, the content of the withheld information and the context in which the material was created the Commissioner accepts that a causal relationship has been established.
42. The Commissioner further considers that any harm caused to the commercial interests of the Council and the purchasers would not be trivial or insignificant. In view of this the Commissioner has gone on to consider the likelihood of such harm arising.

### **Likelihood of prejudice**

43. In *Hogan*, the Tribunal found that the prejudice test is not restricted to "would be likely to prejudice." It provides an alternative limb of "would prejudice". In this case the Council has indicated that it considers that the 'would prejudice' limb of the test is relevant. This obviously places a much greater evidential burden on any public authority. The Commissioner takes the view that, whilst it would not be possible for a public authority to prove that prejudice would occur beyond any doubt whatsoever, prejudice must be at least more probable than not.
44. An evidential burden rests with the public authority to be able to show that some causal relationship exists between the potential disclosure and the prejudice. Although unsupported speculation or opinion will not be taken as evidence of the nature or likelihood of prejudice, neither can it be expected that public authorities must prove that something definitely will happen if the information in question is disclosed. Whilst there will always be some extrapolation from the evidence available, the public authority must be able to provide some evidence (not just unsupported opinion) to extrapolate from.
45. In these circumstances, the Council believes that, if the relevant information were disclosed, prospective purchasers could use it in order to negotiate a lower purchase price for the properties than they would have otherwise paid. According to the Council, this would cause significant prejudice to the Council's commercial interests as it is under a duty to obtain the best possible sale price for its properties.

46. The Council has also argued that those who have already purchased the properties would be at a disadvantage also as, if the costs of the works were to be made publicly available, this would negatively affect the future re-sale value of the properties, thereby causing significant prejudice to the commercial interests of the purchasers.
47. The Council has argued that disclosure of the relevant information, i.e. the survey reports, would mean that the Council, a public body, would find it more difficult and costly to sell its properties compared with private sellers as it would be detailing the faults of the property and cost of putting those repairs right while there is no expectation on a private seller to do this. The potential price that the Council would obtain for its properties is therefore lowered in an already competitive market because the survey details would be taken into account.
48. The Commissioner accepts this to a certain extent as he understands that in a private transaction it is the responsibility of the purchaser to have a survey carried out on the property he wishes to buy. However, he also understands that the purchaser can offer the seller a lower price to take into account any required repairs to the property, which would not be any different from the position of the Council. He is therefore not convinced by the Council's argument that disclosure of the survey reports would prejudice the commercial interests of the Council. The Commissioner also notes that, in this case, the relevant properties had already been sold off by the Council at the time of the request and therefore no possible prejudice could be caused to the commercial interests of the Council by the release of survey reports relating to those particular properties.
49. The Council has also put forward the argument that the commercial interests of purchasers of Council properties would be prejudiced by disclosure of the relevant information. It argues that if the purchaser chooses to only complete the work that is required to a minimum standard then they are entitled to do so, however if they wish to complete the work to a higher standard and raise the quality and potential re-sale value of the property, it is unlikely they will be in a position to recoup that expenditure because the survey and costing of the minimum work required would be available to potential subsequent purchasers of the property.
50. The Commissioner does not accept the above argument as he is of the view that any further works carried out by a purchaser of one of the Council properties above and beyond the survey requirements would be obvious to anyone at the point of re-sale as there is a significant difference between works carried out to bring a property up to a minimum habitable standard and those carried out in order to improve

the quality of the property, for example an extension, kitchen renovation or additional conservatory. Such a purchaser advertising his property for resale would also be able to produce documentation such as guarantees and invoices for additional works carried out over and above what was specified in the survey report. Therefore, the Commissioner is not satisfied that disclosure of the survey reports would cause prejudice to the commercial interests of the purchasers.

51. In order for the exemption under section 43(2) to be engaged, the possibility of prejudice must be more probable than not to satisfy the “would” test or should be real and significant to satisfy “likely to prejudice”. In this case, the view of the Commissioner is that the public authority has not convincingly set out how prejudice to commercial interests would or would be likely to occur to either the Council or prospective purchasers of the properties. The Commissioner’s conclusion is, therefore, that the exemption provided by section 43(2) is not engaged.

## **Procedural Requirements**

### **Sections 1 and 10 of the Act**

52. In failing to disclose the information withheld under section 43(2), which the Commissioner finds is not engaged, within 20 working days of receipt of the request, the Council did not comply with the requirements of sections 1(1)(b) and 10(1) of the Act.

## **The Decision**

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53. The Commissioner’s decision is that the Council dealt with the following elements of the request in accordance with the requirements of the Act:
- It correctly applied the exemption under section 40(2) by virtue of section 40(3)(a)(i) of the Act to some of the withheld information.

However, the Commissioner has also decided that the following elements of the request were not dealt with in accordance with the Act:

- it incorrectly applied section 43(2) to the remainder of the withheld information
- it breached section 1(1)(b) of the Act
- it breached section 10(1) of the Act.

## Steps Required

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54. The Commissioner requires the Council to take the following steps in order to ensure compliance with the Act:
  - To disclose that part of the information which was incorrectly withheld under section 43(2) to the complainant. The Commissioner notes that this consists of copies of survey reports, from which the names of the surveyors, which are exempt from disclosure under section 40(2) of the Act, must be redacted prior to disclosure.
55. The Council must take the steps required by this notice within 35 calendar days of the date of this notice.

## Right of Appeal

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56. 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](mailto:informationtribunal@tribunals.gsi.gov.uk).

Website: [www.informationtribunal.gov.uk](http://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 29<sup>th</sup> day of June 2011**

**Signed .....**

**Faye Spencer  
Group Manager  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**

## Legal Annex

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### Freedom of Information Act (2000)

#### General Right of Access

##### 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."

#### Time for Compliance

##### 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."

#### Personal information

##### Section 40(1) provides that –

"Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject."

##### 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(3) provides that –

"The first condition is-

(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of "data" in section 1(1) of the Data Protection Act 1998, that the disclosure of the



information to a member of the public otherwise than under this Act would contravene-

(i) any of the data protection principles, or  
(ii) section 10 of that Act (right to prevent processing likely to cause damage or distress), and

(b) in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded."

### **Commercial interests**

**Section 43(2)** provides that –

"Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it)."