

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 21 September 2011

Public Authority: Scarborough Borough Council
Address: Town Hall
St Nicholas Street
Scarborough
North Yorkshire
YO11 2HG

Summary

The complainant requested copies of reports produced by consultants on the financial savings the public authority could achieve over a period of time. The public authority identified two reports as falling within the scope of the request and subsequently withheld the reports on the basis of the exemptions at sections 36(2)(b)(i) and (ii) (free and frank provision of advice and exchange of views for the purposes of deliberation). The Commissioner found that one of the reports was exempt on the basis of sections 36(2)(b)(i) and (ii) but that, apart from a small amount of information, the public interest in maintaining the exemption did not outweigh the public interest in disclosure. The second report was not exempt on the basis of sections 36(2)(b)(i) or (ii). The Commissioner therefore ordered the public authority to disclose the reports excluding the information he found to be exempt.

The Commissioner also found the public authority in procedural breach of the Act.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

The Request

2. On 20 September 2010 the complainant wrote to the public authority and phrased his request as follows:
 - a. The total amount of money paid by Scarborough Borough Council (the council) to private companies and/or individuals whose job it has been to identify potential ways in which the council could save money. I would like to know the total amount charged to the council in the financial year 2010/11 to date, as well as the totals for the previous four years.
 - b. Copies of any reports on potential savings which have been provided to the council by these individuals and/or companies for the 2009/10 and 2010/11 financial years to date.
3. On 11 November 2010 the public authority responded. It disclosed the information held within the scope of item A of the request and withheld the information (the disputed information) within the scope of item B on the basis of the exemptions at sections 36(2)(b)(i) and (ii).
4. On 18 November 2010 the complainant requested a review of the decision to withhold the disputed information.
5. On 22 December 2010 the public authority wrote back with details of the outcome of the internal review. The decision to withhold the disputed information on the basis of the exemptions at sections 36(2)(b)(i) and (ii) was upheld.

The Investigation

Scope of the case

6. On 7 January 2011 the complainant contacted the Commissioner to complain about the way his request for information had been handled.
7. The complainant specifically asked the Commissioner to consider whether the public authority had correctly withheld the disputed information on the basis of the exemptions at sections 36(2)(b)(i) and (ii).
8. He also asked the Commissioner to take into account the following factors before reaching a decision on the application of exemptions:

The information requested is needed to inform public participation in the important issue of cuts to council services. The public will be able to make a more valuable contribution to the debate.

Since the consultation exercised was carried out, "it has transpired that cuts to SBC's (Scarborough Borough Council) budget will be worse than predicted (£2.5m rather than expected £2.1m for 2011/12 and £1.7m rather than £1.3m for 2012/13). This makes the request even more pertinent and strengthens the public interest in favour of disclosure."

There is no clear, specific and credible evidence that the substance or quality of deliberations or advice would be materially altered for the worse by the threat of disclosure.

The comments made and the principles outlined by the Information Tribunal in *Export Credit Guarantee Department and Information Commissioner v Campaign Against Arms Trade* (EA/2009/0021- at paragraphs 77,79,80,82, and 86) are equally relevant to the request.

Chronology

9. On 14 April 2011 the Commissioner wrote to the complainant. He outlined the scope of his investigation above, and invited the complainant to comment if necessary. The complainant did not respond.
10. On 19 April 2011 in response to the Commissioner's request, the public authority provided copies of the disputed information.
11. On 27 April 2011 the Commissioner wrote to the public authority and requested submissions on the application of the exemptions at sections 36(2)(b)(i) and (ii).
12. On 21 May 2011 the public authority responded.
13. On 25 May 2011 the Commissioner wrote back to specifically request copies of documents which were not enclosed in the letter of 21 May.
14. On 2 June 2011 the public authority provided the Commissioner with copies of the documents he requested.

Analysis

Substantive Procedural Matters

Exemptions

Disputed Information

15. The disputed information consists of the following documents:
- Northgate report: Review of Corporate Improvement Initiatives for Scarborough Borough Council – 29 January 2010, and
 - Northgate report: Scarborough Borough Proposal for a Customer First and Revenues and Benefits Performance Partnership – February 2010.

Sections 36(2)(b)(i) and (ii)

16. Information is exempt from disclosure on the basis of section 36(2)(b)(i) if in the reasonable opinion of a qualified person, disclosure of the information under the Act would, or would be likely to, prejudice the free and frank provision of advice.
17. Information is exempt from disclosure on the basis of section 36(2)(b)(ii) if in the reasonable opinion of a qualified person, disclosure of the information under the Act would, or would be likely to, prejudice the free and frank exchange of views for the purposes of deliberation.

Qualified Person

18. According to the public authority, the monitoring officer, Ian Anderson was the designated qualified person at the time of the request. Article 12 (specifically, 12.03(j)) of the public authority's constitution at the time of the request (a copy of which was provided to the Commissioner) confirmed that the monitoring officer was the designated qualified person for the purposes of sections 36(2)(b) (i) and (ii) of the Act.
19. The Commissioner is satisfied that Ian Anderson, the monitoring officer was the designated qualified person.¹

¹ The Secretary of State has designated Monitoring Officers for local authorities as qualified persons. A list of qualified persons for public authorities can be found at; <http://webarchive.nationalarchives.gov.uk/20100512160448/http://www.foi.gov.uk/guidance/exguide/sec36/index.htm>

Was opinion of the qualified person reasonably arrived at?

20. A draft letter to the complainant was sent to the qualified person for his approval on 3 November 2010. Following an exchange of emails between an official and the qualified person, a final draft of the letter was approved by the qualified person on 8 November 2010. The disputed information was withheld on the basis of the exemptions at sections 36(2)(b)(i) and (ii). Copies of the emails and the draft letter were provided to the Commissioner for the purpose of his investigation.
21. It is evident from the emails and the draft letter that factors relevant to the application of the exemptions were taken into account by the qualified person. The Commissioner has noted that the argument set out at paragraph 25 below relates to circumstances that did not exist as at the date of the request. Although he considers this to be a flaw in the qualified person's opinion he does not consider that it is significant enough to render the overall opinion unreasonable.

The Qualified Person's Opinion

22. In summary, the qualified person gave his opinion that disclosure of the disputed information "would, or would be likely to prejudice" both the free and frank provision of advice and the free and frank exchange of views for the purpose of deliberation.
23. According to the qualified person, as part of the ongoing process of identifying ways to make savings, it had engaged external consultants to review its services. The substantial period of time spent by consultants speaking to officers of the Council heavily informs the content of the reports and is an invaluable part of the process. Officers are interviewed concerning present practices and are expected to express themselves openly, honestly and comprehensively. Identifying savings is an ongoing process and the disclosure of the disputed information would be likely to impact upon the willingness of officers to participate freely and frankly in the process.
24. The qualified person also pointed out that once reports are complete they are presented to senior management for discussion. The discussions naturally involve full and frank debates including consideration of extreme options. Therefore, in the qualified person's opinion, if reports were placed in the public domain prior to or during discussions, members of the public may raise queries and objections which would distract and divert resources from the issues at hand and would be likely to inhibit the free and frank debate over how savings are to be made, including increasing pressure over decisions concerning potentially difficult and wide ranging savings measures.

25. In terms of public participation in the process, the qualified person noted that a report in relation to the findings by the external consultants was presented to each of the public authority's Overview and Scrutiny Committees in November (presumably in 2010) to facilitate public debate. The qualified person pointed out that the Overview and Scrutiny Committees have an inclusive public speaking scheme to allow members of the public (including the media) to speak on any matter or agenda. In his view therefore, the appropriate balance had been struck between, on the one hand, the need for free and frank private debate regarding the proposals and on the other hand, the provision of information to inform public debate.

Was the Qualified Person's opinion reasonable in substance?

26. The Commissioner agrees with the Information Tribunal² (the Tribunal) that the substance of the qualified person's opinion must be objectively reasonable but there may be room for conflicting opinions which are also reasonable.
27. Furthermore, in the Commissioner's opinion, the term 'would be likely to inhibit' in section 36(2)(b) means that the possibility of prejudice should be real and significant, and certainly more than hypothetical or remote. On the other hand, 'would inhibit' places a much stronger evidential burden on a public authority and must be at least more probable than not.
28. Although the qualified person did not specifically state that he was relying on the lower level of prejudice (i.e. 'would be likely to inhibit'), the opinion itself did in fact clearly suggest that he was. The Commissioner has therefore considered the substance of the opinion in the context of the lower level of prejudice.
29. There is no doubt that, viewed solely against the background in which the reports were produced, the qualified person's opinion was broadly reasonable. It is likely that in an atmosphere of cuts in public spending, officials could be less candid in expressing their opinions in future considerations of options to achieve financial savings if their views were made public. However, as always, the starting point has to be with the disputed information. It is the nature and content of the reports which must be considered against the rationale for applying the exemptions.

² In *Guardian & Brooke v The Information Commissioner & The BBC* EA/2006/0011 & EA/2006/0013 at paragraph 60

Northgate report: Review of Corporate Improvement Initiatives for Scarborough Borough Council – 29 January 2010.

30. The report of January 2010 was produced following a high level review of the public authority's organisational structures, processes and procedures, information technology and the general capability of managers and staff by an external consultant (Northgate Public Services). As pointed out by the qualified person, the primary aim of the review was to identify ways by which the public authority could make financial savings over a period of time. This is generally in tandem with the government's requirement for the public sector to achieve efficiency savings in order to reduce the overall budget deficit.
31. The report is forthright and detailed in its findings which include input from staff in the relevant departments. The report substantively reflects the observations and opinions of the consultant including its independent assessment of the intelligence obtained from members of staff. The report is heavily informed by the consultant's interaction with staff and although it is, in most parts, not written in such a way that findings or observations and recommendations could be clearly attributed to specific members of staff the Commissioner accepts that it was reasonable for the qualified person to conclude that its disclosure would be likely to result in members of staff being less candid when contributing to similar discussions in the future.
32. The Commissioner also notes that a list of the members of staff who were interviewed during the process is available at Appendix 1 of the report, and that there is also an instance in the report whereby comments are attributed to a staff by reference to their job title. The Commissioner has already accepted that it was reasonable for the qualified person to conclude that staff would be likely to be less candid even if they weren't specifically identified or linked to comments. It follows that he also accepts that this would be a reasonable conclusion where staff are linked to specific comments or listed as interviewees.
33. In view of the above, the Commissioner finds that the qualified person's opinion in relation to the information contained in the report of 29 January 2010 was reasonable in substance. In reaching this conclusion the Commissioner has noted that the argument set out at paragraph 25 above relates to circumstances that did not exist as at the date of the request. Although he considers this to be a flaw in the qualified person's opinion he does not consider that it is significant enough to render the overall opinion unreasonable.
34. The Commissioner therefore finds that the public authority correctly engaged the exemptions at sections 36(2)(b)(i) and (ii).

Public Interest Test

35. The exemptions at section 36 are qualified. Therefore, if information is caught by any exemption under section 36, the public authority must also consider whether in all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosure.

Public interest arguments in favour of disclosing the requested information

36. The public authority acknowledged that the public have an interest in ensuring that any cost saving decisions made by the local authority are appropriate and that the impact of such decisions has been considered and debated properly.
37. It recognised that disclosing the report of January 2010 would further satisfy the public interest in accountability and transparency.
38. The public authority noted the strong public interest in improving public understanding of decisions which impact upon their lives. Disclosing the report of January 2010 may therefore further their understanding of why particular savings were identified, and also enable the public to have a greater influence in relation to any future savings to be made.

Public interest arguments in favour of maintaining the exemption

39. The public authority submitted that it is important that options on efficiency savings are properly debated and considered prior to implementation. There is a strong public interest in ensuring that it made fully informed and appropriate decisions that could impact on services.
40. According to the public authority, given that a large part of the process involves consultations with staff, it is particularly important and in the public interest that they are willing to participate freely and frankly in the process. Future reports would be less informed without staff input and therefore inhibiting staff from contributing would not be in the public interest.

Balance of the public interest arguments

41. The Commissioner agrees with all of the public interest arguments by the public authority in favour of disclosure.. He also gives due weight to the qualified person's opinion that a chilling effect on free and frank provision of advice, and exchange of views for the purposes of deliberation, would be likely to occur. However, in balancing the public interest arguments he has also considered the extent and severity of

the chilling effect that would be likely to occur. At the time of the request in September 2010, the public authority pointed out it was more than likely that additional reports would be produced by the consultant to inform the development of its efficiency savings agenda. Given the nature of the partnership arrangement the public authority was intending to enter into (see paragraph 45 below), and for which it had already invited tenders, the Commissioner agrees it was more than likely that additional reports (relating to efficiency savings) with input from staff would have been produced in the future.

42. The Commissioner has already noted above that a list of the members of staff interviewed by the consultants can be found at Appendix 1 to the January 2010 report. There is an instance in the report whereby comments are attributed to a member of staff by reference to their job title. The Commissioner accepts that if this specific information were to be disclosed then, because individuals are identified and in some cases linked with particular views, the extent and severity of the resulting chilling effect would be considerable. He accepts that if they thought that their identity and contribution to future processes would be likely to be revealed, then a significant number of staff would tone down their contributions to the extent that they would be of reduced benefit to the underlying deliberation process.
43. In relation to the rest of the report however, whilst the Commissioner accepts the qualified person's view that some inhibition would be likely to result from disclosure, he considers that the extent and severity of the inhibition would be much less if names and other identifying details were not released. As noted above, the report substantively reflects the observations and opinions of the consultant including its independent assessment of the intelligence obtained from members of staff. It does not in most parts attribute any comments to the specific members of staff. The Commissioner accepts that disclosure of the rest of the report would be likely to make staff more careful about how they phrase their comments in the future. However, he does not accept that it would inhibit them to the extent that they would fail to contribute constructively to such an important debate. In his view there is a considerable incentive for staff to take part in discussions which could potentially affect their jobs. He accepts that the fear of being personally linked to specific views in a publicly available report might be sufficient to outweigh this consideration. However, his view is that if individual contributors were not identifiable, then the severity of the inhibition would not be enough to materially affect the quality of the underlying deliberation process.
44. In view of the above, the Commissioner finds that on balance, the public interest in maintaining the exemptions at sections 36(2)(b)(i) and (ii) outweighs the public interest in disclosure for the names at

Appendix 1 and the instance where comment are attributable to an individual by context. However the public interest in maintaining the exemptions at sections 36(2)(b)(i) and (ii) does not outweigh the public interest in disclosure in relation to the rest of the report. He considers disclosure of a redacted version of the report to be a proportionate response in the circumstances of this case.

Northgate report: Scarborough Borough Proposal for a Customer First and Revenues and Benefits Performance Partnership – February 2010.

45. The disputed information above is a proposal by the consultant (Northgate Public Services) for a partnership with the public authority to deliver the recommendations made in the January 2010 report. In other words, a proposed partnership with the public authority to, among other things, achieve part of the savings targets recommended in the January 2010 report.
46. The proposal covers the terms of the partnership including the methodology, outcomes, as well as the charges to be incurred by the public authority.
47. However, there is nothing in the proposal to suggest that the views of members of staff were canvassed or indeed that any part of the proposal reflects the opinions of staff. It is, strictly speaking, a proposal from the consultant regarding the terms under which it would be willing to enter into a contractual relationship with the public authority (i.e. a tender document). As previously noted, the exemptions are broadly designed to prevent officials from becoming less candid or too circumspect in expressing their opinions when considering options including those options which the public might consider unpalatable.
48. In view of the above, the Commissioner finds that the qualified person's opinion in relation to the application of the exemptions to the information in the proposal above of February 2010 was not reasonable in substance.
49. The Commissioner therefore finds that the proposal of February 2010 was not correctly withheld on the basis of the exemptions at sections 36(2)(b)(i) and (ii).
50. In view of his decision above, the Commissioner did not carry out a public interest test.

Procedural Requirements

51. By virtue of section 17(1), a public authority is required to issue a refusal notice within 20 working days.

52. The Commissioner finds the public authority in breach of section 17(1) for the late refusal of the request of 20 September 2010.
53. Sections 1(1)(b) and 10(1) combine to impose a duty on a public authority to disclose requested information within 20 working days.
54. The Commissioner finds the public authority in breach of sections 1(1)(b) and 10(1) for failing to disclose the disputed information, excluding the information at Appendix 1 and the instance where comments are attributable to an individual by context, within 20 working days.

The Decision

55. The Commissioner's decision is that the public authority did not deal with the request in accordance with the requirements of the Act.
 - It incorrectly withheld the Northgate report of 29 January 2010, excluding Appendix 1 of the report and the instance where comments are attributable to an individual by context (specifically at paragraph 5.3 – sub paragraph 3), on the basis of the exemptions at sections 36(2)(b)(i) and (ii).
 - It incorrectly withheld the Northgate report of February 2010 on the basis of the exemptions at sections 36(2)(b) (i) and (ii).
 - It breached sections 17(1) for failing to issue a refusal notice within 20 working days.
 - It breached sections 1(1)(b) and 10(1) for failing to disclose the information the Commissioner found was not exempt within 20 working days.
56. The Commissioner however finds that the names listed at Appendix 1 and the instance where comments are attributable to an individual by context should have been withheld on the basis of the exemption at section 36(2)(b)(i) and (ii).

Steps Required

57. The Commissioner requires the public authority to take the following steps to ensure compliance with the Act:
 - Disclose the document entitled: Northgate report: Review of Corporate Improvement Initiatives for Scarborough Borough Council –

29 January 2010 other than the names listed at Appendix 1 and the instance where comments are attributable to an individual by context.

- Disclose the document entitled: Northgate report: Scarborough Borough Proposal for a Customer First and Revenues and Benefits Performance Partnership – February 2010.

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

Failure to comply

59. 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

60. 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,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

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

Website: www.informationtribunal.gov.uk

61. 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.
62. 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 21st day of September 2011

Signed

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

Legal Annex

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."

Section 10(2) provides that –

"Where the authority has given a fees notice to the applicant and the fee paid is in accordance with section 9(2), the working days in the period beginning with the day on which the fees notice is given to the applicant and ending with the day on which the fee is received by the authority are to be disregarded in calculating for the purposes of subsection (1) the twentieth working day following the date of receipt."

Section 10(3) provides that –

"If, and to the extent that –

- (c) section 1(1)(a) would not apply if the condition in section 2(1)(b) were satisfied, or
- (d) section 1(1)(b) would not apply if the condition in section 2(2)(b) were satisfied,

the public authority need not comply with section 1(1)(a) or (b) until such time as is reasonable in the circumstances; but this subsection does not affect the time by which any notice under section 17(1) must be given."

Section 10(4) provides that –

“The Secretary of State may by regulations provide that subsections (1) and (2) are to have effect as if any reference to the twentieth working day following the date of receipt were a reference to such other day, not later than the sixtieth working day following the date of receipt, as may be specified in, or determined in accordance with the regulations.”

Section 10(5) provides that –

“Regulations under subsection (4) may –

- (e) prescribe different days in relation to different cases, and
- (f) confer a discretion on the Commissioner.”

Section 10(6) provides that –

“In this section –

“the date of receipt” means –

- (g) the day on which the public authority receives the request for information, or
- (h) if later, the day on which it receives the information referred to in section 1(3);

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.”

Refusal of Request

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 -

- (i) states that fact,
- (j) specifies the exemption in question, and
- (k) states (if that would not otherwise be apparent) why the exemption applies.”

Prejudice to effective conduct of public affairs.

Section 36(1) provides that –

“This section applies to-

- (a) information which is held by a government department or by the National Assembly for Wales and is not exempt information by virtue of section 35, and
- (b) information which is held by any other public authority.

Section 36(2) provides that –

“Information to which this section applies is exempt information if, in the reasonable opinion of a qualified person, disclosure of the information under this Act-

- (a) would, or would be likely to, prejudice-
 - i. the maintenance of the convention of the collective responsibility of Ministers of the Crown, or
 - ii. the work of the Executive Committee of the Northern Ireland Assembly, or
 - iii. the work of the executive committee of the National Assembly for Wales,
- (b) would, or would be likely to, inhibit-
 - i. the free and frank provision of advice, or
 - ii. the free and frank exchange of views for the purposes of deliberation, or
- (c) would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.

Section 36(3) provides that –

“The duty to confirm or deny does not arise in relation to information to which this section applies (or would apply if held by the public authority) if, or to the extent that, in the reasonable opinion of a qualified person, compliance with section 1(1)(a) would, or would be likely to, have any of the effects mentioned in subsection (2).”

Section 36(4) provides that –

"In relation to statistical information, subsections (2) and (3) shall have effect with the omission of the words "in the reasonable opinion of a qualified person".

Section 36(5) provides that –

"In subsections (2) and (3) "qualified person"-

- (a) in relation to information held by a government department in the charge of a Minister of the Crown, means any Minister of the Crown,
- (b) in relation to information held by a Northern Ireland department, means the Northern Ireland Minister in charge of the department,
- (c) in relation to information held by any other government department, means the commissioners or other person in charge of that department,
- (d) in relation to information held by the House of Commons, means the Speaker of that House,
- (e) in relation to information held by the House of Lords, means the Clerk of the Parliaments,
- (f) in relation to information held by the Northern Ireland Assembly, means the Presiding Officer,
- (g) in relation to information held by the National Assembly for Wales, means the Assembly First Secretary,
- (h) in relation to information held by any Welsh public authority other than the Auditor General for Wales, means-
 - i. the public authority, or
 - ii. any officer or employee of the authority authorised by the Assembly First Secretary,
- (i) in relation to information held by the National Audit Office, means the Comptroller and Auditor General,
- (j) in relation to information held by the Northern Ireland Audit Office, means the Comptroller and Auditor General for Northern Ireland,

- (k) in relation to information held by the Auditor General for Wales, means the Auditor General for Wales,
- (l) in relation to information held by any Northern Ireland public authority other than the Northern Ireland Audit Office, means-
 - i. the public authority, or
 - ii. any officer or employee of the authority authorised by the First Minister and deputy First Minister in Northern Ireland acting jointly,
- (a) in relation to information held by the Greater London Authority, means the Mayor of London,
- (b) in relation to information held by a functional body within the meaning of the Greater London Authority Act 1999, means the chairman of that functional body, and
- (c) in relation to information held by any public authority not falling within any of paragraphs (a) to (n), means-
 - i. a Minister of the Crown
 - ii. the public authority, if authorised for the purposes of this section by a Minister of the Crown, or
 - iii. any officer or employee of the public authority who is authorised for the purposes of this section by a Minister of the Crown."

Section 36(6) provides that –

"Any authorisation for the purposes of this section-

- (a) may relate to a specified person or to persons falling within a specified class,
- (b) may be general or limited to particular classes of case, and
- (c) may be granted subject to conditions."

Section 36(7) provides that –

A certificate signed by the qualified person referred to in subsection (5)(d) or (e) above certifying that in his reasonable opinion-

- (a) disclosure of information held by either House of Parliament, or

- (b) compliance with section 1(1)(a) by either House, would, or would be likely to, have any of the effects mentioned in subsection (2) shall be conclusive evidence of that fact.

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-

- (c) 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
- (d) 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.”