

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 26 August 2010

Public Authority: Ministry of Defence
Address: Whitehall
London
SW1A 2HB

Summary

The complainant requested details of the contributions received by the public authority in support of two published reports relating to the Armed Forces (Service Command Paper and The National Recognition Study Report). The public authority withheld the requested information on the basis of the exemptions at sections 40(2) (personal data), 41 (information provided in confidence) and 36(2)(b)(ii) (free and frank exchange of views for purposes of deliberation). The Commissioner decided that contributions in support of the Service Command Paper were correctly withheld on the basis of section 40(2) and those in support of the National Recognition Study were correctly withheld on the basis of section 36(2)(b)(ii). The Commissioner however finds the public authority in breach of section 17(1) (refusal of 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.

Background

2. On 18 March 2008 during a Parliamentary Question session (PQ), the complainant requested that the government should '.....place in the library responses to the Draft Internal brief of 11th March 2008 - Views

invited for the Service Personnel Command Paper (Command Paper) in full or redacted to protect individual's confidentiality.'

3. On 28 March 2008, following the government's response, the complainant requested the copies of the contributions made by individuals to the Command Paper and the National Recognition Study. The Command paper is a report of a study conducted by the Labour government to review the government's support for service personnel. The National Recognition Study was targeted at increasing the recognition afforded to the Armed Forces.
4. The requests were subsequently treated as requests for information under the Act. However, in line with the High Court's ruling in the *Office of Government Commerce v Information Commissioner & The Attorney General* [2008] EWHC 737, the Commissioner decided on 30 January 2009 that the requests were not valid under the Act because they stemmed from the PQ of 18 March.
5. On 13 February 2009 the complainant made the same requests to the public authority but this time the requests were explicitly made outside of the parliamentary framework and the resulting complaint was therefore accepted by the Commissioner.
6. It is however against that backdrop that the chronology of the requests and the public authority's responses (below) needs to be understood. The public authority refused to disclose the requested information for the same reasons as when the requests were made within the PQ framework. Therefore, although the reasons for refusal are the same, the dates of the public authority responses reflect the period in which the requests were made within the PQ framework and not directly in response to the valid requests under the Act.

The Request

7. On 13 February 2009 the complainant requested the following information:
 - The raw materials (i.e. contributions) redacted to protect individuals' privacy, provided in support of the Service Command Paper Cm 7424
 - The raw materials (i.e. contributions) redacted to protect individuals' privacy, provided in support of the National Recognition Study

8. The public authority issued the same refusal notice on 03 March 2009 and presumably because it did not consider that there was a need to also duplicate the internal review process, it advised the complainant that he could complain directly to the Commissioner if he was still dissatisfied with the response.
9. It is unclear why the public authority issued two refusal notices to the complainant dated 17 July 2008 and 23 August 2008 in response to the requests made within the PQ framework. In both notices, the public authority relied on the exemptions at sections 40(2) and 41 (for broadly similar reasons) to withhold the disputed information. However, the public authority informed the complainant (in a letter dated 18 December 2008) that it considered its letter of 17 July 2008 as the formal refusal notice for the purposes of the Act.
10. On 29 July 2008 the complainant wrote to the public authority requesting a review of the decision not to disclose the disputed information.
11. On 18 December 2008 the public authority wrote to the complainant with details of the outcome of the internal review. The public authority upheld the original decision not to disclose the disputed information on the basis of the exemptions at sections 40(2) and 41.

The Investigation

Scope of the case

12. On 13 March 2009 the complainant contacted the Commissioner to complain about the way his requests for information had been handled. The complainant specifically argued that the assertions made by the Command Paper and the National Recognition Study could not be tested without making the raw data publicly available.

Chronology

13. On 15 October 2009 the Commissioner wrote to the complainant. He outlined the scope of the investigation as above and invited the complainant's comments if any. The complainant did not write back with any comments or disagreements about the scope of the case.
14. On 30 October 2009 the Commissioner wrote to the public authority. He asked it to provide him with copies of the disputed information and

also invited the public authority to make any additional representations on the application of the exemptions at sections 40(2) and 41.

15. On 12 November 2009 the public authority responded. In terms of the disputed information relating to the first request (i.e. contributions to Command Paper), the public authority explained that there were 500 web based responses in a similar style format. The public authority provided the Commissioner with a substantial number of sample copies of the contributions made which the public authority explained was broadly reflective of the general nature of the contributions from individuals in support of the Command Paper.
16. The public authority also explained that there had been over 100 individual meeting records in support of the National Recognition Study and provided the Commissioner with 5 sample copies of the contributions made by a number of high profile individuals.
17. The public authority also made additional representations in relation to the application of the exemptions at sections 40(2) and 41.
18. On 24 November 2009 the Commissioner wrote to the public authority. He asked the public authority to clarify why the sample contributions provided in support of the Command Paper were from only service and ex-service personnel. He also asked for clarification in respect of the application of section 40(2) to the contributions made in respect of the National Recognition Study (NRS).
19. The Commissioner also asked the public authority to provide him with complete copies of the contributions to the NRS because unlike the contributions to the Command Paper, he did not consider that the samples were broadly reflective of the general contributions made in support of the NRS.
20. On 26 November 2009 the public authority sent an initial response regarding the information within the scope of the request relating to the Command Paper. The public authority explained that the PQ on which the request was based specifically referred to responses to the internal brief of 11 March 2008. The internal brief (a copy of which was provided to the Commissioner) specifically covered the survey of service personnel, their families and veterans. The Commissioner therefore accepts that the information within the scope of the request in relation to the Command Paper was correctly restricted to the contributions of service and ex-service personnel.
21. On 27 January 2010 the public authority responded to the Commissioner's queries regarding the NRS. The public authority

provided the Commissioner with copies of all the contributions in support of the NRS and additionally sought to rely on the exemption at section 36(2)(ii) to withhold the contributions in support of the NRS.

Analysis

Exemptions

22. A text of all the statutory provisions referred to below can be found in the legal annex to this notice.

Section 40(2)

23. Information is exempt on the basis of the section 40(2);

- If it constitutes the personal data of which the applicant (i.e. individual requesting information under the Act) is not the data subject (commonly referred to as third party personal data), and
- Either the first or the second condition in section in sections 40 (3) and (4) is satisfied.

24. The first condition partly stipulates that the disclosure of third party personal data to a member of the public would contravene any of the data protection principles or section 10 of the DPA.

Is the disputed information in relation to contributions in support of the Command Paper personal data?

25. Section 1(1) of the Data Protection Act 1998 (DPA) defines personal data as;

'data which relate to a living individual who can be identified from those data, or from those data and other information which is in the possession of, or is 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.'

26. The public authority explained that the responses provided generally included the names, contact details and descriptions of personal and family experiences of service life. It argued that the risk of identifying contributors would not be fully eliminated even if information such as the names and contact details of contributors were redacted.

27. The Commissioner has carefully reviewed the samples provided and he is persuaded that the information therein constitutes the personal data of third parties as it is information which relates to them and from which they can be identified. The Commissioner agrees that even without the names and contact details of the contributors, there was a risk of individuals still been identified from the information provided in relation to their experiences of service life. The experiences are very specific to the individuals to which they relate and are consequently of an extremely personal nature. In the Commissioner's view, the information could easily be combined with additional information in the hands of third parties including the different units in the armed forces that the contributors had interactions with, to identify individual contributors.
28. The Commissioner is also satisfied the information in the samples broadly reflects the nature of the contributions made in support of the survey for the Command Paper and for that reason he finds that all of the contributions in response to the internal brief of 11 March 2008 constitutes personal data within the meaning of section 1(1) of the DPA.

Would the disclosure of the disputed information also contravene any of the data protection principles?

29. The first data protection principle partly states that personal data shall be processed fairly and lawfully. The Commissioner therefore first considered whether the disclosure of the disputed information under the Act would have been unfair to the contributors.
30. In considering the fairness element of the first data protection principle the Commissioner takes into account a number of factors including the reasonable expectations of the data subject (including their right to privacy), and the circumstances in which the personal data was provided.
31. The public authority explained that the surveys for the service personnel were conducted in the spirit of confidentiality. According to the public authority, the confidential element was reiterated in its response to concerns raised in the Army Rumour Service website regarding the confidentiality of the contributions.¹ Given the nature of the contributions, the Commissioner is persuaded that there was at least an implicit obligation that the information provided would be held in confidence. It is also pertinent to point out that some of the

¹ www.arrse.co.uk/cpgn2/Forums/viewtopic/t=91677.html

contributors did indicate explicitly that they had provided their contributions in confidence.

32. In light of the above, the Commissioner is persuaded that the disclosure of the disputed information would have been unfair to the contributors and consequently contravened the fairness element of the first data protection principle.
33. The Commissioner therefore finds that the disputed information was correctly withheld on the basis of the exemption at section 40(2) and by extension section 40(3)(a)(i).

Section 36(2)(b)(ii)

34. The Commissioner next considered whether the contributions in support of the NRS were correctly exempt on the basis of the above exemption.
35. Information is exempt on the basis of section 36(2)(b)(ii) if, in the reasonable opinion of a qualified person (QP), disclosure would or would be likely to inhibit the free and frank exchange of views for the purposes of deliberation. A Minister of the Crown is recognised as a QP under section 36(5)(a).
36. As noted above, the exemption at section 36(2)(b)(ii) was first relied on by the public authority during the course of the Commissioner's investigation. Generally, it is at the Commissioner's discretion to accept the late reliance on any exemption(s). This point was recently revisited in detail in the decision handed down by the Information Tribunal (Tribunal) in *Crown Prosecution Service v Information Commissioner (EA/2009/0077)* at paragraphs 15 – 28. In summary, the Tribunal reiterated the position established by previous Tribunals that neither the Commissioner nor the Tribunal was under an obligation to accept the claiming of late exemptions.
37. Specifically in respect of the application of section 36 exemptions where the reasonable opinion of the QP determines whether the exemptions are engaged or not, it is extremely important that the opinion was given at the time of the applicant's request so that only those factors which were relevant at the time would have been taken into consideration by the QP.
38. In the circumstances of this case however, the Commissioner has exercised his discretion to accept the late application of section 36(2)(b)(ii) because in his opinion, the potential risk associated with disclosure as argued by the public authority justified an investigation of

the application of section 36(2)(b)(ii). There is also no evidence to suggest that in providing his opinion, the QP took account of factors which were not relevant at the time of the requests.

39. The Commissioner notes that the opinion to withhold the disputed information was given by the former Minister for Veterans and Under – Secretary of State, a position which as noted above automatically made him a QP under the Act.
40. The Commissioner next considered whether the QP's opinion was reasonable in substance and had been reasonably arrived at. In *McIntyre v MOD (EA/2007/0068)*, the Tribunal recommended that in cases where a section 36(2) exemption had been applied, the Commissioner should require to see more evidence in relation to the QP's opinion such as civil servants' submissions to ministers and their responses (paragraph 47). In *Guardian & Brooke v The Information Commissioner & the BBC (EA/2006/0011 & EA/2006/0013)*, the Tribunal also pointed out that the QP's opinion must be objectively reasonable but rejected any suggestion that the opinion had to be verified by evidence, in the sense that it is not possible to prove that something might happen in the future (paragraph 60).
41. The opinion was sought on 18 January 2010 and the final opinion was provided on 26 January 2010. A detailed submission was presented to the QP recommending that the disputed information should be withheld because disclosure could in effect have a chilling effect on the frankness and candour of individuals participating in similar surveys in the future. Having considered the submission, the QP concluded that the disputed information should be withheld because disclosure would be likely to inhibit the free and frank and exchange of views for the purposes of deliberations as envisaged under section 36(2)(b)(ii).
42. Having considered the disputed information and the submissions the QP relied on to reach his opinion, the Commissioner is satisfied that in the circumstances of the case, the opinion was reasonable in substance and reasonably arrived at and the exemption was therefore correctly engaged.
43. Although the opinion was only given after the complaint to the Commissioner, in the circumstances of this case, the Commissioner is satisfied that the failure to reach the opinion at the time of the request was not prejudicial to the reasonableness of the opinion subsequently reached by the QP.

44. The Commissioner therefore finds that the exemption at section 36(2)(b)(ii) was correctly engaged in respect of the contributions in support of the NRS.

Public Interest Test

45. The exemptions at section 36 of the Act are qualified. Therefore, the Commissioner has to also decide 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

46. The default setting of the FOIA is in favour of disclosure. This is based on the underlying assumption that disclosure of information held by public authorities is in itself of value and in the public interest in order to promote better government through transparency, accountability, public debate, better public understanding of decisions and informed and meaningful participation by the public in the democratic process.
47. The public authority explained that it recognised the broader public interest of disclosing information which informs public debate thereby increasing trust in government and increasing confidence in the decision making process. The public authority also specifically recognised that the disclosure of the disputed information would demonstrate the extent to which the views of the contributors helped shape the published NRS report.

Public interest arguments in favour of maintaining the exemption

48. The public authority however argued that contributors to similar surveys in future are less likely to be frank and open in sharing their experiences and views if they believed that their contributions might be published. Disclosure would therefore prejudice the usefulness of future surveys for the purposes of deliberation and decision making.
49. The public authority further argued that the analysis of the raw data (i.e. the contributions) could be misleading and open to misinterpretation in some cases 'since any disclosure would not show how individual views were synthesised in the final report.'
50. The public authority consequently concluded that the public interest in transparency had been served by the publication of the outcome of the study in the NRS report.

Balance of the public interest arguments

50. The Commissioner disagrees with the public authority that because the contributions would have been open to misinterpretation, it would not have been in the public interests to disclose them. The Commissioner is not persuaded by this argument because the public authority could have provided an explanation to accompany any parts of the disputed information it considered would have been open to misinterpretation.
51. The Commissioner agrees that there is a significant public interest in the public being able to use the disputed information to determine the extent to which the contributions had an impact on the final recommendations in the NRS report. This would have enhanced the transparency of the process and consequently the findings, outcomes, and recommendations of the study report.
52. The Commissioner however also agrees that disclosure has to be balanced against the need to maintain the candour and frankness of individuals when making similar contributions in the future. Given the short period of time that had passed between the time of the requests in February 2009 and when the NRS report was published (March 2008), the Commissioner considers that there was a significant public interest in ensuring that disclosure would not send out the wrong message to contributors to similar studies or research in the future. There is a strong likelihood that if individuals felt that their opinions would be made public soon afterwards, they would be less candid and frank in putting forward their views in future studies conducted by the public authority.
53. The calibre of contributors² to NRS also makes even more important in the public interest that such individuals are not discouraged from providing candid opinions which could help inform key government decisions. In order not to discourage a similar calibre of individuals from providing their candid opinions in future studies, it was in the public interest at the time of the request not to disclose their contributions. The disputed information is also clearly linked to individual contributors and cannot therefore be redacted to anonymise the contributors. Conversely, the Commissioner recognises that the high profile of some of the contributors arguably suggests that there was a public interest in knowing the views of these influential individuals regarding the recognition afforded to Armed Forces personnel. It would also enable the public to assess how much of their views were taken into account and incorporated in the NRS report. However, in the circumstances of this case, the Commissioner considers that the risk

² The list of individuals consulted is available at Appendix 2 of the NRS report, pages 30 - 37

posed by disclosure justified the decision to withhold the disputed information.

54. The Commissioner is by no means suggesting that such contributions should never be made public. Rather, he considers that the passage of time would be among the crucial factors to take into account.
55. The Commissioner therefore finds that in all the circumstances of the case, the public interest in maintaining the exemption at section 36(2)(b)(ii) outweighed the public interest in disclosure.

Procedural Requirements

56. Section 17(1) states that a public authority is required to issue a refusal notice within 20 working days of a request stating the exemption(s) the public authority is relying on to withhold requested information.
57. The Commissioner finds the public authority in breach of section 17(1) for the late reliance on the exemption at section 36(2)(b)(ii).

The Decision

58. The Commissioner's decision is that the public authority dealt with the request for information in accordance with the Act.
59. The Commissioner finds that the public authority correctly withheld the contributions in support of the Command Paper and the NRS report on the basis of sections 40(2) and 36(2)(b)(ii) respectively.

Steps Required

60. The Commissioner requires no steps to be taken.

Right of Appeal

61. 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 26th day of August 2010

Signed

**Gerrard Tracey
Principal Policy Adviser**

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

Legal Annex

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 -

- (a) states that fact,
- (b) specifies the exemption in question, and
- (c) states (if that would not otherwise be apparent) why the exemption applies."

Section 17(2) states -

"Where-

- (a) in relation to any request for information, a public authority is, as respects any information, relying on a claim-
 - (i) that any provision of part II which relates to the duty to confirm or deny and is not specified in section 2(3) is relevant to the request, or
 - (ii) that the information is exempt information only by virtue of a provision not specified in section 2(3), and

- (b) at the time when the notice under subsection (1) is given to the applicant, the public authority (or, in a case falling within section 66(3) or (4), the responsible authority) has not yet reached a decision as to the application of subsection (1)(b) or (2)(b) of section 2,

the notice under subsection (1) must indicate that no decision as to the application of that provision has yet been reached and must contain an estimate of the date by which the authority expects that such a decision will have been reached."

Section 17(3) provides that -

"A public authority which, in relation to any request for information, is to any extent relying on a claim that subsection (1)(b) or (2)(b) of section 2 applies must, either in the notice under subsection (1) or in a separate notice given within such time as is reasonable in the circumstances, state the reasons for claiming -

(a) that, in all the circumstances of the case , the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether the authority holds the information, or

(b) that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.”

Section 17(4) provides that -

“A public authority is not obliged to make a statement under subsection (1)(c) or (3) if, or to the extent that, the statement would involve the disclosure of information which would itself be exempt information.

Section 17(5) provides that -

“A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1(1), give the applicant a notice stating that fact.”

Section 17(6) provides that -

“Subsection (5) does not apply where -

- (a) the public authority is relying on a claim that section 14 applies,
- (b) the authority has given the applicant a notice, in relation to a previous request for information, stating that it is relying on such a claim, and
- (c) it would in all the circumstances be unreasonable to expect the authority to serve a further notice under subsection (5) in relation to the current request.”

Section 17(7) provides that -

“A notice under section (1), (3) or (5) must -

- (a) contain particulars of any procedure provided by the public authority for dealing with complaints about the handling of requests for information or state that the authority does not provide such a procedure, and
- (b) contain particulars of the right conferred by section 50.”

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.”

Section 40(4) provides that –

“The second condition is that by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1)(c) of that Act (data subject's right of access to personal data).”

Section 40(5) provides that –
“The duty to confirm or deny-

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

Section 40(6) provides that –
“In determining for the purposes of this section whether anything done before 24th October 2007 would contravene any of the data protection principles, the exemptions in Part III of Schedule 8 to the Data Protection Act 1998 shall be disregarded.”

Section 40(7) provides that –
In this section-

"the data protection principles" means the principles set out in Part I of Schedule 1 to the Data Protection Act 1998, as read subject to Part II of that Schedule and section 27(1) of that Act;
"data subject" has the same meaning as in section 1(1) of that Act;
"personal data" has the same meaning as in section 1(1) of that Act.

Prejudice to effective conduct of public affairs.

Section 36(1) provides that –
“This section applies to-

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

Section 36(2) provides that –

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

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

Section 36(3) provides that –

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

Section 36(4) provides that –

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

Section 36(5) provides that –

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

- (a) in relation to information held by a government department in the charge of a Minister of the Crown, means any Minister of the Crown,
- (b) in relation to information held by a Northern Ireland department, means the Northern Ireland Minister in charge of the department,
- (c) in relation to information held by any other government department, means the commissioners or other person in charge of that department,
- (d) in relation to information held by the House of Commons, means the Speaker of that House,

- (e) in relation to information held by the House of Lords, means the Clerk of the Parliaments,
- (f) in relation to information held by the Northern Ireland Assembly, means the Presiding Officer,
- (g) in relation to information held by the National Assembly for Wales, means the Assembly First Secretary,
- (h) in relation to information held by any Welsh public authority other than the Auditor General for Wales, means-
 - (i) the public authority, or
 - (ii) any officer or employee of the authority authorised by the Assembly First Secretary,
- (i) in relation to information held by the National Audit Office, means the Comptroller and Auditor General,
- (j) in relation to information held by the Northern Ireland Audit Office, means the Comptroller and Auditor General for Northern Ireland,
- (k) in relation to information held by the Auditor General for Wales, means the Auditor General for Wales,
- (l) in relation to information held by any Northern Ireland public authority other than the Northern Ireland Audit Office, means-
 - (i) the public authority, or
 - (ii) any officer or employee of the authority authorised by the First Minister and deputy First Minister in Northern Ireland acting jointly,
- (m) in relation to information held by the Greater London Authority, means the Mayor of London,
- (n) in relation to information held by a functional body within the meaning of the Greater London Authority Act 1999, means the chairman of that functional body, and
- (o) in relation to information held by any public authority not falling within any of paragraphs (a) to (n), means-
 - (i) a Minister of the Crown,
 - (ii) the public authority, if authorised for the purposes of this section by a Minister of the Crown, or
 - (iii) any officer or employee of the public authority who is authorised for the purposes of this section by a Minister of the Crown."

Section 36(6) provides that –

"Any authorisation for the purposes of this section-

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

Section 36(7) provides that –

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

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