

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 8 February 2010

Public Authority: London Borough of Tower Hamlets
Address: Town Hall
Mulberry Place
5 Clove Crescent
E14 2BG

Summary

The complainant requested information about the details of empty homes within the borough of Tower Hamlets including their addresses. The public authority explained that it felt that sections 31(1)(a) and 38(1)(b) applied to all the relevant information. During the course of the Commissioner's investigation the public authority also claimed that section 40(2) applied. The Commissioner considered the case and during the course of his investigation all of the relevant information except for the addresses was disclosed. He has determined that section 31(1)(a) can be applied correctly to those addresses. He has not been required to go on to consider sections 38(1)(b) or 40(2). He found some procedural breaches of sections 1(1)(b) and 10(1) as the information that was provided during his investigation was not provided within twenty working days. He requires no remedial steps to be taken in this case.

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 23 March 2009 the complainant requested the following information from the public authority:

'Please supply me with details of empty homes both council and non council in Tower Hamlets from January 1 2007 to date, with the number of empty properties, details of the number of bedrooms, type of property ie

flat or house, address and details of when the property first became vacant...

I would be interested in any information held by your organisation regarding my request. I understand that I do not have to specify particular files or documents and that it is the department's responsibility to provide the information that I require.

I would like to receive the information in electronic format'

3. On 15 April 2009 the public authority issued its response. It withheld the requested information under section 31(1)(a) and explained the reasons why it believed the public interest favoured maintaining this exemption.
4. On 15 May 2009 the complainant requested an internal review to be conducted. She explained her reasons for believing that the public interest favoured disclosure of the requested information and referred to a decision made by the Information Tribunal in *Mr C P England and London Borough of Bexley v the Information Commissioner* (EA/2006/0060 and EA/2006/0066) which she believed supported her case.
5. On 2 June 2009 the public authority communicated the results of its internal review to the complainant. It explained that it was upholding its position for the same reasons it relied on previously. In relation to *Bexley* it said that the two cases could be distinguished from each other on their facts.

The Investigation

Scope of the case

6. On 16 July 2009 the complainant contacted the Commissioner to complain about the way her request for information had been handled. The complainant specifically asked the Commissioner to consider the following points:
 - That this case was analogous to *Bexley* and in that case the Tribunal considered further information should have been supplied.
 - That the public authority had erred as it has withheld all the information that was asked for, while the Council in *Bexley* provided more information proactively.
 - That she had contacted other London Boroughs and the information was available elsewhere.
 - That there are now 22,000 people on the waiting list for properties in Tower Hamlets and that it is one of the most disadvantaged boroughs in the country and full disclosure is therefore in the public interest.

- That the Council owes a duty to provide accommodation to those on waiting lists and it is in the public interest to learn how many properties are vacant and where they are.
 - That there are countervailing significant health and safety concerns about those individuals who are on housing waiting lists and are living in overcrowded accommodation.
 - Squatting is not a criminal offence.
 - That empty properties could be identified in any event, from the grills that are often found in their windows and/or by estate agents' signs.
7. On 28 August 2009 the Commissioner seeking an informal resolution asked that all the information that would not identify the properties be disclosed to the complainant. This was because its arguments about section 31 and 38 were each connected to being able to identify individual properties for specified consequences to occur. The public authority agreed to revise its position and provide all the information on its list except all of the addresses. It therefore provided:
- The number of empty properties that Tower Hamlets is responsible for. This showed there were 230 properties.
 - How long each of those properties had been empty in years.
 - How long the public authority was itself responsible for each property.
 - The ward area where each property was situated.
 - The type of property that was on the list.
 - The information it holds about the number of bedrooms each property has.
8. On 30 September 2009 the complainant agreed that the outstanding information constituted just the addresses of all of the properties and that she would want the Commissioner to determine whether they were correctly withheld.

Chronology

9. On 27 August 2009 the Commissioner telephoned the public authority. He discussed the application of *Bexley* and asked to receive a copy of the withheld information for the purposes of his investigation. He received a copy of the withheld information on the same day.
10. On 28 August 2009 the Commissioner wrote to the complainant. The purpose of this email was to explain the result of the Information Tribunal's decision in *Bexley*, to set the scope of the investigation and to ask what would be necessary for an informal resolution.

11. Also on 28 August 2009 the Commissioner telephoned the public authority. He explained his view that the other information on the list (without the addresses) could not be withheld under the exemptions cited. The public authority agreed to provide the information outlined in paragraph 7 above and provided it to the complainant the same day. Later that day the Commissioner wrote to the complainant to ask whether, given the information disclosed, she wished for the investigation to continue.
12. On 11 September 2009 the complainant telephoned the Commissioner. She explained that she wanted all of the addresses and wanted the Commissioner's investigation to continue. She said that she would provide the Commissioner with further arguments about why this was so.
13. On 17 September 2009 the Commissioner emailed the complainant and asked to be sent the further arguments that had previously been mentioned. He also explained exactly what information had been provided previously.
14. On 30 September 2009 the complainant wrote to the Commissioner. She stated that she still wished to receive the addresses and provided further arguments.. The Commissioner acknowledged this email on the same day.
15. On 5 October 2009 the Commissioner addressed detailed enquiries to the public authority about its application of the exemptions in this case. On 3 November 2009 the Commissioner sent a reminder.
16. On 19 November 2009 the public authority provided the Commissioner with a detailed response explaining its position in detail. It also provided further evidence concerning potential prejudice.

Analysis

Exemptions

17. The public authority relied on sections 31(1)(a) and 38(1)(b) at the time of its internal review. In its additional arguments, it also explained that it believed that it was entitled to rely on section 40(2) as well. The Commissioner will consider each exemption in turn. If one exemption has been applied correctly then he will find that the information has been correctly withheld.

Section 31(1)(a)

18. Section 31(1) states that:

“Information which is not exempt information by virtue of Section 30 [information held for the purposes of investigations and proceedings conducted by public authorities] is exempt information if its disclosure under this Act would or would be likely to prejudice:

(a) the prevention or detection of crime ...”

19. Section 31(1)(a) constitutes both a prejudice based and qualified exemption. Therefore for it to be applied correctly it is necessary for the public authority to be able to demonstrate both that there would or would be likely to be prejudice to the prevention or detection of crime, and also that the public interest in maintaining the exemption outweighs the public interest in disclosure.

Would the release of this information be likely to prejudice the prevention and detection of crime?

20. In Hogan v the ICO and Oxford City Council (EA/2005/0026 and EA/20005/0030) the Information Tribunal stated that “The application of the ‘prejudice’ test should be considered as involving a number of steps. First there is a need to identify the applicable interest(s) within the relevant exemption....Second, the nature of the ‘prejudice’ being claimed must be consideredA third step for the decision-maker concerns the likelihood of occurrence of the prejudice.” (paragraphs 28 to 34).
21. The relevant applicable interest in this exemption is the prevention or detection of crime and the Commissioner accepts that the arguments made by the public authority directly address this prejudice.
22. When considering the second step as set out in the Hogan case, the Commissioner must be persuaded that the nature of the prejudice that has been argued is ‘real, actual or of substance’ and not trivial nor insignificant. He must also be satisfied that some causal relationship exists between the potential disclosure and the stated prejudice.
23. The nature of the prejudice argued by the public authority is that, if a list of the addresses of empty properties were to be disclosed then these properties would become more vulnerable to potential squatters and associated crime. It explained that its concern was that there was a possibility that the disclosure would have the effect of ‘advertising’ those properties and could lead to squatting and associated crime and disorder, with the social and economic costs that this implies.
24. It explained that it had evidence from its Empty Homes Officer who had advised it of possibilities of criminal damage and that the list would have an adverse impact in enhancing the ease of associated crime, which emanates from squatting. It also explained that a number of the properties on the list were in the process of being sold and there was a possibility that the potential criminal damage and associated issues could delay this process.
25. It did explain that it was aware that there are instances where squatting has had a positive impact. It cited the case of a builder whom redeveloped a squatted property within its borough and it acknowledged that the release of the list may assist homeless builders making equivalent progress. However, this did not alter its view that such incidents are isolated.

26. The complainant has indicated that the Tribunal in *Bexley* ordered the information to be disclosed and that the facts are analogous. She said that she did not believe that there would be prejudice to the prevention of crime because the houses could be identified without the list in any event and that lists have been disclosed in other geographical areas without there being a marked increase in crime.
27. The public authority explained that it believed that the prejudice that it experiences is also distinct from other public authorities and even those in London. It stated that it does have a large number of empty properties and considerable problems with dealing with squatting. It explained that the magnitude of the problem made the potential prejudice more severe than in other areas. It provided the Commissioner with confidential evidence about some of the problems it had experienced in relation to some of the properties on the list.
28. It explained that given its policy of not disclosing the list, it could not evidence categorically that the release of the list would lead to further prejudice to the prevention of crime. However it pointed to a series of incidents that occurred subsequent to the publicising of a compulsory purchase order and explained that it expected the same adverse effect. It has also provided confidential details of examples of fires, criminal damage, stripping of fixtures from properties and anti social behaviour related to empty properties that have been squatted within its area.
29. The Commissioner is satisfied that the public authority has adequately demonstrated a causal link between the disclosure of the addresses and a prejudice to the prevention of crime, and that the nature of the prejudice is 'real and of substance' in this instance. He therefore finds that the second stage of the test from Hogan is satisfied.
30. When considering the third step as set out in Hogan, the Commissioner notes that the public authority has claimed that the stated prejudice "would be likely to" occur. The Commissioner considers that this means that it is necessary for the public authority to persuade him that there is a 'real and significant' risk of prejudice in this case.
31. The public authority has argued that the risk of an adverse effect to the prevention of crime was 'real and significant.' The Commissioner has considered the evidence that he has been provided with and accepts that this is so. He believes that the list would create a real and significant risk of enhancing the ease of potential crimes being committed and that this effect is contrary to prevention of crime. The public authority has therefore satisfied all three stages of the prejudice test as set out in Hogan, and the Commissioner therefore finds that the exemption has been engaged.
32. The Commissioner considers that he is supported in his above finding by the Information Tribunal in *Bexley*. Paragraphs 31 to 63 of the *Bexley* decision provide a very detailed look at whether there would be prejudice to the prevention

of crime on the facts of that case. The Commissioner considers that although the housing situation in Bexley may not be completely analogous to that in Tower Hamlets (the public authority asserting that it has additional difficulties which make the prejudice greater than for Bexley), the public authority has demonstrated that the prejudice arguments in the *Bexley* case will equally apply in the circumstances of this case. In summary the Tribunal accepted that the disclosure would be likely to prejudice the prevention of crime because:

1. There is evidence that empty properties are associated with criminal activity from organised local gangs. In particular the Tribunal in paragraph 41 identified occasions of organised 'stripping' of empty properties. This was the removal of all things of value (such as pipes and floor boards) leaving an empty and inhabitable shell property.
2. There is evidence that while squatting is not a crime, it is associated with criminal activity. The Tribunal identified a number of instances in the evidence it heard between paragraphs 48 and 57.
3. The disclosure of the list of properties would be of use to squatters and would on the balance of probabilities lead to significant harm in the form of criminal activity [paragraph 63].
4. It was satisfied that it was also likely that organised gangs will use the information for criminal purposes
5. The level of prejudice was 'real, actual and of substance'.

The public interest test

33. The public interest test requires determining whether the public interest in maintaining the exemption outweighs the public interest in disclosure of the information. The strength of the competing interests must be assessed on a case-by-case basis not least because section 2(2)(b) requires the balance to be considered "in all the circumstances of the case".

Public interest arguments in favour of disclosing the requested information

34. The Commissioner recognises that disclosure of information by public authorities on request is in the public interest in order to promote transparency and accountability in relation to the activities of public authorities.
35. The Commissioner has considered the complainant's arguments about the circumstances of this case. She stated that at the time of her complaint there were 22,000 people on the housing waiting list, that it was one of the most deprived areas in the country and that it was important that the public authority is totally accountable for those houses that it has allowed to remain empty in such circumstances. The Commissioner accepts that there is a public interest in accountability in this area and that disclosing the addresses of empty properties would add to the accountability and transparency of the public authority in relation to its actions or inaction for individual empty properties. The Commissioner has

therefore placed some weight on these general arguments of accountability and transparency in this case.

36. The public authority has acknowledged that transparency and accountability are important concepts. It has explained its view that these interests can be addressed without revealing the information it has withheld. Instead it argued that it is reasonable for the public authority to release its management information and the other information that has been disclosed in this case. This information will provide direct accountability about its performance without having the detrimental effects on the prevention of crime. It can be requested periodically to enable an understanding of its performance over a time period. The Commissioner's view is that the disclosure of the addresses would add to the accountability of the public authority in relation to individual empty properties. He does not therefore accept the public authority's argument that the public interest in transparency and accountability can be fully addressed via the release of other related information.
37. The Commissioner notes that publication would give the public in the local area an opportunity to review and challenge their Local Authority on its activities. However, he also notes that the Council is subject to audit and there is a system for measuring this activity. The Government has set up a process which emphasises co-operation with owners and has within its system, some measurement of Local Authority performance. The Commissioner's view, as given in the Information Tribunal case *Cabinet Office v Lamb and the Information Commissioner* (EA/2008/0024 & 0029) is that "Disclosure under FOIA should be regarded as a means of promoting accountability in its own right and a way of supporting the other mechanisms of scrutiny, for example, by providing a flow of information which a free press could use." He does not therefore consider that the public interest in accountability is reduced just because of the existence of another regulatory mechanism.
38. The public authority has also explained that the list only represents a snapshot at the date of the request (23 March 2009). It explained that the disclosure of the list would therefore be inaccurate and argued that this lessens the public interest in its disclosure. The Commissioner considers that even if the information would quickly become out of date there is still a public interest in disclosing a snapshot of information as at a certain date, as this would inform the public as to the situation that date, and increase the Council's accountability in relation to individual properties on the list at that date. He therefore does not believe that this influences the weight of arguments about accountability and transparency in this case.
39. The complainant has explained that in her view the houses are readily identifiable in this case and the public interest makes the release of this data compelling. The Commissioner believes that had this been the case then it would make the public interest arguments for disclosure weaker, as the information would not add to the public's existing knowledge. However, he does not after investigation believe that this is the case for all the properties on the list and thus does not believe that this argument influences the weight of the public interest in accountability and transparency in this case.

40. The Commissioner has also considered the argument that disclosure of the addresses would be in the public interest as it would lead to empty houses being brought back into use. The Commissioner accepts and applies to this case the Tribunal's finding in *Bexley* that "From the evidence before us, in particular the evidence of Mr Ireland [Chief Executive of the Empty Homes Agency], it does seem possible that disclosure of this list would result in a proportion of the properties coming back into use." (paragraph 80) He considers that this would be in the public interest for the following reasons:
- the housing needs of some individuals would be met;
 - the costs to the public authority of funding alternative or temporary accommodation would be reduced;
 - the crime associated with empty properties and squatting would be likely to fall;
 - the 'broken window syndrome' by which areas go into decline; and affecting living standards and property prices, would be likely to be reduced (further explanation of the 'broken window syndrome' can be found in the *Bexley* case.
41. The Commissioner considers that the public interest in bringing houses back into use is a strong argument. He accepts the opinion of Mr Ireland as summarised at paragraph 71 of the *Bexley* case that "The most direct and effective way of reducing the economic and social problems caused by empty properties and, in particular reducing the incidences of criminal activity associated with empty properties is to bring those properties back into use. " However, he notes that the Tribunal's finding only accepted a possibility of a proportion of the properties on the list being brought back into use. He therefore affords significant weight to this factor, but not as much weight as he would have given it had there been a certainty that a large majority of the empty houses would be brought back into use.
42. The Commissioner notes that there is considerable public debate about the issue of social housing in London and the South East where housing stocks are scarce and it was argued that the addresses would add to this debate. The public authority has also expressed doubt about whether the addresses by themselves would provide a meaningful addition to the public debate. The Commissioner notes the existence of real public debate in relation to the management of empty properties. He accepts this argument to the extent that public debate and consequent lobbying with regard to individual empty properties might contribute to a proportion of the properties being brought back into use. This factor has already been afforded appropriate weight in the paragraph above.

Public interest arguments in favour of maintaining the exemption

43. The Commissioner has looked at the public interest factors in favour of maintaining the exemption and notes that there is an inherent strong public interest in avoiding likely prejudice to the prevention of crime. He reiterates his arguments in paragraphs 20 to 32 above that there was a significant risk of prejudice occurring to the prevention of crime in this case.

44. He has also considered the nature of the crime in this case. The crime being considered is not the squatting. Instead there is a diverse range of crime that may be attracted to empty properties and its range includes anti social behaviour, drug dealing, criminal damage, arson and organised groups stripping empty properties.
45. The public authority has explained that it is particularly susceptible to the possibility of crime in this context. It has evidenced that it has had to employ security guards, lawyers and further precautionary measures to protect properties from squatting. The Commissioner is satisfied that the release of the list would potentially make other properties vulnerable to crime and would require considerable additional expenditure of public funds. The need for additional expenditure to prevent crime compliments the inherent public interest factors in the maintenance of this exemption.
46. The public authority has also evidenced details of what has happened to other properties due to squatting. It asked this information to be kept confidential to maintain the integrity of the information. It also provided the Commissioner with what has happened to particular properties on the list. The Commissioner is satisfied that these difficulties are linked to the fact that the emptiness of the properties is known. The Commissioner also believes that the damage done can be considerable and there is potential for the local authority to be required to spend hundreds of thousands of pounds in reparations and other related actions that connect to the prevention of crime in this instance. This real damage enhances the public interest in maintaining the exemption in this case.
47. The Commissioner accepts that there is a compelling public interest in avoiding personal distress to the direct victims of crime and to those in the wider neighbourhood who may be indirectly affected by crime. He also accepts the inherent public interest in avoiding damage to property and a public interest in the efficient use of police resources. He is content there is a significant impact on victims of crime and there is also a corresponding impact on a neighbourhood in which such crime takes place. He notes that once an area is subject to crime, in particular damage and arson, it has an impact on the surrounding neighbourhood, reducing the value of those neighbouring properties and the quality of life of the residents. He agrees with the public authority that crime associated with empty properties carries with it "the social cost of disturbance, noise, potential health and safety consequences of the stripping out of sanitary ware or other fixtures and fittings, [and] anti-social behaviour". He accepts that the victims of crime in this case are not just the owners of the empty properties, but are also the neighbouring residents and wider community. He also accepts that there is potentially a financial cost to local taxpayers arising from such crime, in meeting the costs of bringing damaged properties back into repair or incurring costs for temporary accommodation whilst damaged properties cannot be inhabited.
48. Notwithstanding the above, the Commissioner accepts the Tribunal's conclusion in *Bexley* that where properties are owned by individuals there is an additional public interest in avoiding the direct effects of crime upon those individuals.
49. The public authority has acknowledged that there are socially responsible groups who are well intentioned and would use the list in a productive way. However, it

notes that the list would also be available to everyone once it is in the public domain. It explained that it felt that it was unable to take the risk of unlimited disclosure in this case due to the consequences.

50. The complainant has argued that other areas proactively release the information and have not experienced the problems that the public authority claims will result. The Tribunal in *Bexley* expressed real caution when considering such arguments. Between paragraphs 58 and 60, the Tribunal discussed similar arguments and determined that they could not be used effectively in absence of detailed evidence that proves that the impact specified had not occurred. The Commissioner has not been presented with any detailed arguments by the complainant, only a suggestion that her submission reflected the situation. He has however been provided with specific arguments by the public authority evidencing the particular problems that it experiences within its own borough. The Commissioner therefore does not put any weight on these arguments and believes that they do not mitigate the public interest in maintaining the exemption in this case.

Balance of the public interest arguments

51. The Commissioner considers that there are weighty public interest arguments on both sides in this case. He notes that in *Bexley* the Tribunal concluded that where properties were owned by third party individuals then the public interest favoured maintaining the exemption in that case, but where the properties were owned by those other than individuals then the public interest favoured disclosure. The Tribunal explained these different outcomes at paragraph 86 of its decision stating that:

“This is because the impact of crime on an individual is not present [where properties not owned by individuals] and this inherent aspect of the public interest in preventing crime is therefore absent and changes the analysis of the balance.”

52. Respectfully, the Commissioner reaches a different conclusion on the facts in this case. In the Commissioner's view, whilst the direct impact on those particular private individuals who own properties might not be present for organisationally owned properties, this does not mean that the impact of crime on individuals is completely absent. The Commissioner accepts that crime associated with empty properties can have a substantial detrimental impact upon those individual residents who live in neighbouring properties or in the wider community.
53. The Commissioner considers that there is a substantial public interest in bringing empty properties back into use, which might be met to some extent by disclosure of the addresses in this case. However he has to weigh the benefits of this potential longer term effect together with the more general public interest in accountability and transparency, against the more immediate likely prejudice to the prevention of crime and the effects of this on both individuals, and other bodies. His conclusion in this case is that the public interest in avoiding prejudice to the prevention of crime outweighs the public interest in disclosure.

54. The Commissioner therefore believes that the public authority was correct in determining that the public interest lay in maintaining the exemption and upholds its application of section 31(1)(a).
55. As he has found that one exemption has been applied correctly, he has not been required to go on to consider sections 38(1)(b) or 40(2).

Procedural Requirements

56. Section 10(1) provides that section 1(1) must be complied with as soon as possible and within twenty working days in any event. Section 1(1)(b) provides that information that is not exempt must be communicated.
57. The Commissioner finds procedural breaches of sections 1(1)(b) and 10(1) for not providing the disclosable information within the statutory time period (this was the information that it released on 28 August 2009). He notes that it is important to consider exactly what can be disclosed that would not engage the exemption in every case.

The Decision

58. The Commissioner's decision is that the public authority dealt with the following elements of the request in accordance with the requirements of the Act:
 - *Section 31(1)(a) was applied correctly to the addresses that have been withheld in this case.*
59. However, the Commissioner has also decided that the following elements of the request were not dealt with in accordance with the Act:
 - *Section 1(1)(b) was contravened as some information that was not exempt was not provided until the beginning of the Commissioner's investigation.*
 - *Section 10(1) was contravened as this information was not supplied within twenty working days.*

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 served.

Dated the 8th day of February 2010

Signed

**Lisa Adshead
Senior FOI Policy Manager**

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

Legal Annex

Section 1 - General right of access to information held by public authorities

- (1) Any person making a request for information to a public authority is entitled—
- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
 - (b) if that is the case, to have that information communicated to him.

...

Section 2 - Effect of the exemptions in Part II

- (1) Where any provision of Part II states that the duty to confirm or deny does not arise in relation to any information, the effect of the provision is that where either—
- (a) the provision confers absolute exemption, or
 - (b) 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 public authority holds the information,
- section 1(1)(a) does not apply.
- (2) In respect of any information which is exempt information by virtue of any provision of Part II, section 1(1)(b) does not apply if or to the extent that—
- (a) the information is exempt information by virtue of a provision conferring absolute exemption, or
 - (b) in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- (3) For the purposes of this section, the following provisions of Part II (and no others) are to be regarded as conferring absolute exemption—
- (a) section 21,
 - (b) section 23,
 - (c) section 32,
 - (d) section 34,
 - (e) section 36 so far as relating to information held by the House of Commons or the House of Lords,
 - (f) in section 40—
 - (i) subsection (1), and
 - (ii) subsection (2) so far as relating to cases where the first condition referred to in that subsection is satisfied by virtue of subsection (3)(a)(i) or (b) of that section,
 - (g) section 41, and
 - (h) section 44.

Section 10 - Time for compliance with request

(1) 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.

(2) Where the authority has given a fees notice to the applicant and the fee is paid 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.

(3) If, and to the extent that—

- (a) section 1(1)(a) would not apply if the condition in section 2(1)(b) were satisfied, or
- (b) 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 31 - Law enforcement

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

- (a) the prevention or detection of crime,
- (b) the apprehension or prosecution of offenders,
- (c) the administration of justice,
- (d) the assessment or collection of any tax or duty or of any imposition of a similar nature,
- (e) the operation of the immigration controls,
- (f) the maintenance of security and good order in prisons or in other institutions where persons are lawfully detained,
- (g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2),
- (h) any civil proceedings which are brought by or on behalf of a public authority and arise out of an investigation conducted, for any of the purposes specified in subsection (2), by or on behalf of the authority by virtue of Her Majesty's prerogative or by virtue of powers conferred by or under an enactment, or
- (i) any inquiry held under the [1976 c. 14.] Fatal Accidents and Sudden Deaths Inquiries (Scotland) Act 1976 to the extent that the inquiry arises out of an investigation conducted, for any of the purposes specified in subsection (2), by or on behalf of the authority by virtue of Her Majesty's prerogative or by virtue of powers conferred by or under an enactment.

(2) The purposes referred to in subsection (1)(g) to (i) are—

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

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

Section 38 - Health and safety

(1) Information is exempt information if its disclosure under this Act would, or would be likely to—

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

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