

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

Date 24 July 2007

**Public Authority:** The Rent Service (TRS) (an executive agency of the Department for Work and Pensions)

**Address:** 5 Welbeck Street  
London  
W1G 9YQ

### Summary

---

The complainant requested to be advised as to the then current figures for local reference rents in a specified area in the United Kingdom. TRS declined to release the information relying upon an exemption under section 22 of the Freedom of Information Act 2000 ("the Act") indicating that the figures would be contained in an annual valuation report to be published at a later date and that the public interest in maintaining the exemption outweighed the public interest in disclosing the information. The Commissioner finds that the public authority was incorrect in its application of section 22 as the figures requested would not be published in the valuation report. The Commissioner therefore orders the public authority to disclose the requested local reference figures for March 2006 to the complainant within 35 calendar days from date of this notice. The Commissioner also finds the TRS in breach of section 17 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. Local reference rents are figures determined by TRS rent officers in connection with individual Housing Benefit applications. On 12 January 2006 the complainant wrote to his Member of Parliament (MP) inviting him to assist him in his dealings with the Department of Work and Pensions (DWP) in his letter he stated:

*"I should now be grateful if you could ask the DWP 'to justify the case for continued secrecy of Local Reference Rents' which appears to breach legislation of Freedom of Information."*

And

*"Local Reference Rents for families became Local Housing Allowances (LHA's) in Pathfinder areas, but LHA's are in the public domain and are published monthly on LA websites. There seems no good reason for differing treatment accorded to these two allowances."*

3. The request was passed to the DWP on the 9 March 2006, and following much correspondence between the complainant, his MP and the DWP, on the 29 March 2006 the DWP confirmed his request would be treated as a Freedom of Information Act request by The Rent Service (TRS) an executive Agency of the DWP.
4. TRS was provided with the complainant's correspondence and responded on the 13 April 2006. TRS first clarified with the complainant that its understanding of his request was for:

*"up-to-date or recent details of the single room rent (SRR) and the local reference rent (LRR) determinations for different property sizes for localities in Teeside, Hartlepool and Darlington"*

- TRS also confirmed that although it held the information, the request was being refused under the section 22 exemption as the information was to be published in its 2005/6 Valuation Statistics Report as part of its established practice. The anticipated publication date was to be within the following two to three months.
5. TRS acknowledged that to use the section 22 exemption required consideration of whether it was reasonable in all the circumstances to withhold disclosure of the information until the date of publication. In this respect it felt that as that would occur within six months of the date of the request this was not unreasonable.
  6. TRS pointed out that publication would take place as part of its publication scheme and that it should have control over when this would be. It referred to guidance issued by the Department for Constitutional Affairs which acknowledges that public authorities must within reason have space to be able to determine their own publication timetables and to deal with the necessary preparation administration and context of publications. Individual requests for information should not, it maintained, determine the publication timescales of public authorities.
  7. TRS also dealt with its application of the public interest test that is a part of the section 22 exemption. It felt that it was not in the public interest to divert resources from normal operations to respond to requests for premature publication. In addition it was in the public interest to publish the information in context as releasing it in the abstract and prematurely would be potentially

- misleading. It also felt that a universal approach should be adopted where everyone would receive the information at the same time.
- 8 TRS also felt the early and selective release of the information could adversely affect the administration of the Housing Benefit System. It maintained that if the information were to be released early landlords would be tempted to fix their rents in the private rented sector at the current or very recent local reference rent in the expectation of receiving rents (as supported by Housing Benefit payments) at that local reference rent level.
  9. This, it indicated, would be contrary to the policy intention and purpose of the current Housing Benefit system which is to ensure that the benefit is paid to support rents in the private rented sector at a level which a landlord might reasonably have been expected to obtain at the relevant time in a free and open rental market (i.e. without the help of Housing Benefit).
  10. On the other hand TRS acknowledged the existence of certain public interest arguments in favour of early disclosure. Some members of the public, in particular landlords who operate in the private rented sectors and rent to tenants in receipt of Housing Benefit, would find it helpful to see the local reference rent levels at specific points of the year to see and track variations.
  11. In addition it would assist landlords and claimants in how understanding levels of Housing Benefit as a proportion of Housing Benefit claimants' benefit levels are based on local reference rent determinations.
  12. It also accepted that it would give greater transparency in decision-making and enhance rent officers credibility.
  13. TRS did point out the existence of a process whereby prospective tenants who are considering renting a particular property in the private-rented sector and wish to claim Housing Benefit to help them with their rent, can apply via their local authority for a pre-tenancy determination. The public authority will then send a notification letter sent to the claimant, the prospective landlord setting out the relevant determinations including the local reference rent (LRR) if it is relevant.
  14. TRS advised the complainant of his right to request a review of the decision and referred him thereafter to the availability of complaint to the Commissioner's Office.
  15. On 25 April 2006 the complainant requested a review of the refusal. He pointed out how the information he had requested would be useful to both landlords and tenants alike in that it would give both knowledge of whether there would be likely shortfalls (and if so if these would be affordable) between proposed property rents and available benefits.
  16. The release of the information would assist the process of giving accurate benefit entitlement advice to unemployed tenants or tenants on low incomes. In addition he pointed out a number of occasions where within his personal knowledge rent officers had applied incorrect figures in the calculation of local reference rents.

Transparency and a knowledge of the figures would prevent this in the future.

17. He also took issue with the suggestion that landlords would want to set their rental levels at or near to the local reference rent levels. In this respect he specifically referred to the transparency involved in the introduction of the new scheme of local housing allowances.
18. There then followed an exchange of correspondence between the parties regarding the exact terminology to be used in the request for information. In addition on 19 May 2006 the public authority wrote to the complainant indicating that publication of the Valuation Report was expected within the following two months. This was repeated in an e-mail dated 24 May 2006.
17. On 6 June 2006 TRS wrote to the complainant in detail. TRS began by finalising the exact terminology of the request;
  - (a) *should take urgent steps to make current local reference rent determinations for all localities in England freely available on its public website,*
  - (b) *in the meantime it should immediately provide him with current local reference rent values for 1, 2, 3, 4, 5 and 6 room properties as applied by rent officers in the Stockton-on-Tees locality, and*
  - (c) *as a general rule promptly supply specific information about current local reference rents in specific localities in response to specific enquiries from him and other landlords.*

TRS also reconsidered the whole matter before confirming the refusal suggesting that the requested information was not held and in the event that it was the section 22 exemption was applied.

18. TRS explained the process involved in the preparation of the Valuation Report and the proposed publication date was indicated as being July 2006. It also explained and emphasised that, as regards the LRR figures themselves, under the Housing Benefit system each local reference rent determination was made on an individual case basis. Rent officers made over 900,000 such determinations each year. To assist their decision making rent officers both agreed and regularly reviewed LRR levels for the generally agreed localities they used. As determinations were made on a case by case basis information about them was never current but by definition had to be retrospective. The generally agreed levels were clearly part of the rent officer's decision making process.
19. TRS repeated the public interest arguments previously considered in its correspondence of 13 April 2006 both for and against maintaining the exemption. TRS also outlined some further considerations.

20. TRS stated that it was not in the public interest to disclose the LRR figures on an ad hoc basis when the cost, time and the therefore necessary diversion of resources was taken into account.
21. TRS explained it has annual cycles for the preparation and publication of its business plans and reports. It engages in general data retrieval, analysis and collation exercises at the end of each financial year. The work on compiling the relevant statistics is undertaken by the authority's operational research team which extracts the relevant data by running specialised interrogation reports developed to extract and average out the data. These interrogation reports can only be undertaken outside of normal working hours as rent officers and other operational staff are unable to use the system whilst the process is taking place.
22. The effect of publication more frequently than the current yearly cycle for example on a quarterly basis would involve much more work and to do so would divert valuable resources from the delivery of the public authority's core functions.
23. Although to run interrogation reports on a quarterly basis would not quadruple the effort it would significantly increase it. There would be a linked increase in the checking and quality assurance procedures that would follow an increase in the production of information.
24. TRS repeated its view that it should be able to determine its own publication schedule and suggested that if individual requests were permitted to dictate such publication time schedules this would require the "creation" of information which did not exist at the time of the original request for information. It maintained the requested information only came into existence when it was extracted from the public authority's data base so in fact the request fell outside the scope of the Act.
25. Notwithstanding its assertion that the information did not exist at the time of the request, it referred again to the possibility that early release of the information could adversely affect the administration of the Housing Benefit system and by definition national economic interests.
26. TRS distinguished the new local housing allowance (LHA) by pointing out that unlike this the LRR was in fact only one of a series of determinations that an individual rent officer was required to make for each Housing Benefit claim. The level of Housing Benefit entitlement was set at the lowest of the rent officer's determinations so only if the LRR was the lowest of the determinations would it be used in the Housing Benefit award. In contrast LHA is to be universally applied in each case.
27. TRS pointed out that based on the figures for 2004 – 2005 LLR determinations only affected 25% of Housing Benefit claimants. The public interest was accordingly best served in only releasing the information in the context of the Valuation Report. To issue information about selected LRR decisions in isolation and in the abstract would therefore be potentially misleading to landlords and claimants alike.

28. On 9 June 2006 TRS advised the complainant that it had reviewed its decision of his request and had upheld the refusal. It also indicated that although it had not been part of the request made by the complainant it had considered the possibility of releasing the generally agreed LRR levels for the particular area requested. However it felt that the public interest arguments set out in its letter of 6 June 2006 applied equally to these.

## The Investigation

---

### Scope of the case

29. On 17 June 2006 the complainant contacted the Commissioner to complain about the way part (b) of his request for information 6 June 2006 had been handled and it is accordingly only this aspect of the request that the Commissioner has been required to consider.
30. The complainant also raised other issues that are not addressed in this Notice because they are not requirements of Part 1 of the Act. They are however dealt with under Other Matters.

### Findings of Fact

31. TRS explain in the April 2001 to March 2003 Valuation Report that around 90 % of its work focuses on providing rental determinations for Housing Benefit purposes. These include determining a range of rental determinations such as:
- Significantly High Rents
  - Local Reference Rents
  - Single Room Rents
  - Size Related Rents
  - Exceptionally High Rents
  - Redeterminations
  - Pre-Tenancy Determinations
  - Local Housing Allowances in support of the Housing Benefit Reform Pathfinder Schemes
32. Housing Benefit is a means tested benefit that can help people on low incomes pay their rent. One of the TRS's responsibilities is to carry out rental valuations for Housing Benefit purposes. Housing benefit claims from tenants in the private rented sector are referred to it by local authorities. In each individual case a rent officer is required to undertake a number of valuations and decisions called determinations. One of these determinations is called the local reference rent (LRR) which, as it is not the sole consideration, may but will not necessarily form the basis of any subsequent Housing Benefit award. Where it applies there will be a number of LRR for the various numbers of rooms at properties in any particular area e.g. 1, 2, 3, 4, 5 and 6 room properties. In the April 2001 to March 2003 Valuation Report TRS provide the following useful definition:

*“Local reference rent (LRR) - The Rent Officer’s determination of the mid-point of the range of rents in the locality for properties of all types but with the appropriate number of rooms, excluding any that are exceptionally high or exceptionally low.”*

33. A new scheme of local housing allowances (LHA) is presently being introduced in certain pathfinder and secondary areas in the United Kingdom where a LHA will form the new method of calculating Housing Benefit awards for private tenants. Again there will be a similar number of LHA figures dependant on the number of rooms at properties but these will, unlike LRR, apply in all cases to determine any Housing benefit award. However, at the time the request was made LRR were still being used in the Stockton – on – Tees area relevant to the request.
34. The LRR is determined by the following process. The rent officer makes a decision as to what the locality should be( an area of two or more neighbourhoods within which a claimant might reasonably be expected to live), he then proceeds to decide what the highest and lowest rents that a landlord might reasonably be expected to obtain on the open rental market. The LRR is generated by adding the highest and lowest figure and dividing by two. Rent Offices have a generally agreed framework of localities and from this they discuss and agree higher and lower levels. The rent office in making a decision refers to these figures and uses them in determining the majority of cases.
35. The LRR can therefore differ in each determination dependent on locality and any deviation from the agreed higher and lower levels from the rent offices current local knowledge. The LRR determinations are held in a database and the figures produced in the ‘valuation report’ are the averages for the financial year.
36. The public authority had confirmed that the calculation of a LRR was in accordance with a statutory formula provided for in The Rent Officers (Housing benefit Functions) Order 1977. The LRR is the mid-point of what the rent officer determines is the range of rents for the locality. The rent officer determines the highest rent which the landlord might reasonably be expected to achieve in an open market together with the lowest such rent. These high (HR) and low rent (LR) figures are added together and then divided by two. The resulting figure is the local reference rent.
37. The details of each individual Housing Benefit decision are entered on to the public authority’s computerized caseload processing system (“the caseload system”) by the relevant officer at the time the decision is made. This is done by entering the HR and LR figures into the caseload system which then calculates the LRR.
38. Rent officers work in local valuation teams based in offices spread across the country. These teams meet on a regular monthly basis where the LRR determinations they have been making over the previous period are considered. They also consider the impact on the LRR of any socio-economic changes and shifts in the open rental market that they have observed during their routine data gathering and analysis. Review discussions are held monthly and in-depth reviews are held every three months. In addition where appropriate meetings can

be held on an ad-hoc basis to consider situations such as the case of severe flooding or other factors that might affect either the extent of the locality or the range of rents within it.

39. These local discussions generate generally agreed figures for the HR and LR (“the generally agreed levels”) which are then used by the rent officers to assist them in making their LRR determinations. These generally agreed levels are the starting point and in practice often the basis of each individual LRR determination. They are not however collated for publication by the public authority as they are not actual determinations but rather are part of the rent officers’ decision making process

## **Chronology**

40. On 17 June 2006 the complainant referred the case to the Commissioner’s Office.
41. In a previous case, which was informally resolved by the Commissioner, for LRR figures in a different area it was agreed that the local reference figures need not be disclosed. However the generally agreed levels were to be disclosed, which could in turn assist the requester in determining a generally agreed LRR. In addition it was accepted that in future similar requests, the future current generally agreed levels would be disclosed. In light of this the Commissioner wrote to the complainant on the 10 January 2007 with the details of this agreement in an attempt to resolve his complaint.
42. On 13 January 2007 the complainant indicated that he was not prepared to see his case resolved on the same basis for reasons he set out and as a result the Commissioner thereafter raised a number of detailed points with the complainant in e-mails dated 15, 22 and 31 January and 7 February 2007 which were answered in turn.
43. In the light of the complainant’s responses the Commissioner was able to write to TRS on 19 February 2007, raising the issues which were of concern to the complainant. The complainant was provided with a copy of that correspondence which he subsequently indicated fairly addressed his concerns.
44. The issues were two fold. Firstly TRS always indicated that there were three separate figures involved in the LRR process, the generally agreed level for the HR, the generally agreed level for the LR and the resultant LRR itself.
45. The complainant suggested that this was not the case but suggested that the reality of the situation was that LRR figures were used by of all rent officers dealing with a particular locality and that these figures were at the rent officers ‘finger tips’. He maintained that those figures did not vary from determination to determination but rather were used as single figures which were repeated in each case (until there was any agreement at local level to change them).
46. The Commissioner invited the complainant to provide confirmation of this. In response he indicated that the TRS would be able to advise on the



point and he referred to the fact that LRR figures are usually quoted to point 5 whilst the figures for HR and LR are always whole. He also referred to a number of specific examples where there had been a rounding up or down of LRR.

47. The second issue was in relation to the timing of responses for future similar requests for information. This is a matter that the Commissioner will deal with under other matters.
48. TRS responded in detail on 16 March 2007. It referred where necessary to the details involved in the settlement of the previous case and information provided in previous correspondence. In addition it dealt with the new issues raised by the Commissioner.
49. It indicated that the complainant's assertion was incorrect. The decision making processes of rent officers are prescribed by the Rent Officers (Housing Benefit Functions) Order 1977 under Schedule 1 Part 1. The LRR is the product of the statutory formula and can not exist without the HR and LR figures. The public authority's case management system requires the rent officer in each individual case to enter the figures for the HR and LR separately on to the system. It is the agreed levels for the HR and LR figures that are at the rent officers 'finger tips'.
50. The HR and LR figures represent the rent officer's opinion as to the highest and lowest rents for the locality and as such these are likely to be in round figures. However as the LRR is the product of the statutory formula it will not necessarily be a round figure. In addition on occasions if monthly figures are converted to weekly figures or vice versa this can create decimal points.
51. TRS explained to the Commissioner the circumstances surrounding the rounding up and down of the LRR in the specific cases quoted by the complainant. These included preparations for introduction of the new scheme of local housing allowances (LHA). It confirmed again that LRR could not increase without a change in the HR and LR figures.
52. In dealing with the specific cases quoted by the complainant the public authority had cause to refer to the new LHA in more detail. It confirmed that a LHA differs from a LRR in that it is applied universally to all room categories which allows greater transparency for claimants as the figures are published monthly and claimants can therefore see the level of benefit they are likely to receive. This is not possible with a LRR as it will not apply in all cases.

## **Analysis**

53. The Commissioner has investigated this case with a view to ascertaining whether the public authority has complied with the Act. He has taken into account all relevant information and considered detailed representations from both parties. He will now consider firstly a number of preliminary issues followed by a procedural point and thereafter the public authority's use of the section 22 exemption. A full text of the relevant statutes referred to is contained in the legal annex.

54. TRS on 13 April 2006 stated the information was held but on the 6 June 2006 stated it was not held. TRS assert that the LRR figure only comes into existence once it has been extracted from the caseload system and to extract the figures on request would require it to create new information. The Commissioner does not agree with this point as the raw data comes into existence from the moment a rent office makes a LRR determination, the Commissioner therefore considers the information was held.
55. The complainant has disputed the nature of the information held. TRS state that an LRR calculation is obtained when a figure for HR and LR is entered onto the system which then calculates the LRR. The complainant argues that TRS hold and use an LRR figure which is used in each case.
56. TRS explained that the details of each individual Housing Benefit decision and LRR determination are entered onto TRS's computerised database (VICTER) by the relevant rent officer at the time the decision is made. TRS confirmed that the rent officer has to physically enter onto VICTER the HR and LR figures which have been determined for the purpose of making the LRR determination. The database then calculates the LRR which is thereby recorded.
57. TRS explained that the VICTER database is maintained on a national basis and the work of compiling relevant statistics from it is undertaken for the whole of England by TRS's Operational Research Team. This team extract the relevant data by running 'interrogation reports' developed to extract and 'average out' the data. These reports can only be undertaken outside of normal working hours as the rent officers and other operational staff are unable to use the system whilst the process is taking place. TRS explained that the 'interrogation reports' are undertaken as part of the general data retrieval, number crunching and collation exercise it engages in at the end of the financial year.
58. However, TRS confirmed that each local TRS office has access to individual decisions that their locally based Rent Officers have made for day to day operational use.
59. The Commissioner appreciates the input and time required to produce the statistics required for the annual valuation report and acknowledges that this has to be done on a national basis as described above. However, TRS confirm that local TRS officers have access to decisions made within their own locality through the VICTER database and therefore concludes that TRS do have access to LRR for any given period in a specific locality.
60. The Commissioner finds that at the time the request was made (March 2006) TRS did hold current LRR values for the different room sizes as determined by rent officers in the Stockton-on-Tees Locality.

### **Procedural matter**

61. TRS acknowledged the correspondence dated 9 March 2006 as a request for information which it responded to on 13 April 2006 with the issue of a refusal notice. However that notice was not issued within the required twenty

working day time limit as provided for under section 17 of the Act.

## Exemption

62. The section 22 exemption relates to information held by the public authority with a view to publication, in this instance by the authority itself, at some future date (whether determined or not).
63. The Commissioner has found that average annual LRR by area were held at the time of the request with a view to publication in the 2005 to 2006 Valuation Report. The Commissioner however notes that the complainant's request was not for an annual average LRR but was for the current determined LRR's in the Stockton-on-Tees area. TRS argue that publication of LRR's will take place as part of its publication scheme and that it should have reasonable control over when that will be
64. The Commissioner finds that the section 22 exemption is not engaged as the information requested by the complainant was not due for future publication. The information published in the Valuation Report is averages of LRR decisions on an annual basis broken down by Local Authority Area. The complainants request was for current up to date determinations in the Stockton-on-Tees area.

## The Decision

---

65. The Commissioner's decision is that the public authority did not deal with the request for information in accordance with the Act. The Commissioner finds that the public authority was incorrect in its application of section 22 and that in failing to provide a refusal notice to the complainant within 20 working days was in breach of section 17 of the Act.

## Steps Required

---

66. To ensure compliance with the Act the Commissioner requires the public authority to release to the complainant the LRR determinations by room size for March 2006.

## Other matters

---

- 67.. Although it does not form part of this Decision Notice the Commissioner will as requested by the complainant refer to the matter of timing in respect of future requests for similar information under the Act.

The complainant sought an undertaking from the authority that a narrower time frame than that prescribed by the Act would be used when dealing with similar information requests.

It is not appropriate to suggest timescales for future applications under the Act and the Commissioner does not seek to do so.

He would however emphasize that section 10 of the Act requires a public authority to comply with a request promptly *and* in any event not later than the twentieth working day following receipt of the request. There are accordingly two suggested timeframes here, the reference to the twentieth working day being the maximum period. Within this period cases should be dealt with promptly.

## Right of Appeal

---

68.. Either party has the right to appeal against this Decision Notice to the Information Tribunal. Information about the appeals process may be obtained from:

Information Tribunal  
Arnhem House Support Centre  
PO Box 6987  
Leicester  
LE1 6ZX

Tel: 0845 600 0877  
Fax: 0116 249 4253  
Email: [informationtribunal@dca.gsi.gov.uk](mailto:informationtribunal@dca.gsi.gov.uk)

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 24<sup>th</sup> day of July 2007**

**Signed .....**

**Steve Wood**  
**Assistant Commissioner**

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

## Legal Annex

### Freedom of Information Act 2000

**Section 1(1)** provides that -

“Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.”

**Section 2(2)(b)** provides that -

“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 in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.”

**Section 10** provides that -

(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.

(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.

(6) In this section -

“the date of receipt” means -

(a) the day on which the public authority receives the request for information, or

(b) 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.

**Section 16(1)** provides that -

“It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it”.

**Section 17(1)** provides that -

“A public authority which ... 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(3)** provides that -

“A public authority which ... is to any extent relying:

- on a claim 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 public authority holds the information, or
- on a claim that in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

must either in the notice under section 17(1) or in a separate notice within such time as is reasonable in the circumstances, state the reasons for claiming -

- (a) that, on a claim 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 public 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 22(1)** provides that -

“Information is exempt information if -

- (a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),
- (b) the information was already held with a view to such publication at the time the request for information was made, and
- (c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).”