Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 2 December 2009

Public Authority: The Home Office
Address: Seacole Building
2 Marsham Street
London
SW1P 4DF

Summary

The complainant sought access to all the information held within an internal blog site of the public authority which had been initiated by the Home Office to allow staff to air their views about internal issues within the Home Office. The public authority initially withheld all of the information under the exemptions at 36(2)(b)(ii) and (c) (prejudice to effective conduct of public affairs) and 40(2) (personal information), although it made a partial disclosure at internal review stage. The Commissioner is satisfied that the exemption at section 36(2)(b)(ii) is engaged and that the public interest in withholding the information is not outweighed by the public interest in disclosure. As he has concluded that the information is exempt under section 36(2)(b)(ii) he has not considered the other exemptions. The complaint is not upheld.

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 6 September 2006 the complainant made the following information request:

> *"I would like to receive a full transcript of David Normington's blog (accessible from the Home Office's Horizon intranet site) from the date of its launch up to 1.9.2006, together with all comments/feedback from readers which have appeared alongside the blog."*

3. On 15 September 2006 the public authority acknowledged the request, which it advised was received on 11 September 2006.

4. On 9 October 2006 the public authority responded to the request. It refused to release any information and claimed that it was exempt under sections 36(2)(b)(ii), 36(2)(c) and 40(2)(a).

5. On 13 October 2006 the complainant requested an internal review. This was received by the public authority on 16 October 2006.

6. On 12 June 2007 the public authority provided its internal review. With this it disclosed those comments which were made by David Normington, but redacted two internal email addresses from this information. It continued to withhold all remaining contributions to the blog citing the exemption at section 36(2)(b)(ii) and (c), and additionally citing section 40(2)(a) in respect of any named blog entries.

The investigation

Scope of the case

7. On 13 June 2007 the complainant wrote to the Commissioner to complain about the way his request for information had been handled. The complainant stated that he believed he was entitled to the full comments and feedback and specifically asked the Commissioner to consider the following points:

- *"If the Home Office anonymised the comments and feedback, there would be no privacy issue*
- *The Home Office regularly releases to me under FoI its staff magazine Inside Track, which includes "readers' letters" which are not anonymised.*
- *There is a clear public interest in knowing the views of all civil servants working in an important public department.*
- *The Home office does not cite any evidence to back up its claim that staff would not participate in the blog if they knew that their comments would be released to the public".*

8. The Commissioner would like to clarify at this point that the public authority has already disclosed comments made by David Normington and these therefore fall outside the scope of this investigation.

9. The only specific arguments provided by the public authority in respect of its citing of section 36(2)(c) relate to its withholding of email addresses. The complainant has confirmed that he does not wish to challenge the release of these so the Commissioner will not further consider this exemption.

10. Additionally, as the complainant did not contest the date on which the public authority said it received his request the Commissioner has not considered this further.

11. During the investigation, the public authority sought to introduce the exemptions at sections 27(1) and 31(1) in respect of 3½ sentences within the blog, all located on page 80 of the withheld information. Where a public authority has not referred to a particular exemption when refusing a request for information, the Commissioner may exercise his discretion and decide whether, in the circumstances of the case, it is appropriate to take the exemption into account if it is raised in the course of his investigation. To expedite the investigation, the Commissioner contacted the complainant in respect of this specific information and he confirmed he was content to withdraw his complaint in respect of these sentences only.

Chronology

12. On 16 February 2009 the Commissioner wrote to the complainant to advise him that he had commenced his investigation. He sought clarification from the complainant regarding his earlier comment to him that "*If the Home Office anonymised the comments and feedback, there would be no privacy issue*" and specifically asked whether the complainant would have been satisfied with an anonymised version of the requested information.

13. On 17 February 2009 the complainant replied:

> *"In June 2007 I would have been happy to accept less information in return for timely release, but clearly all prospect of timely release has gone, so I feel it is now more important to establish the precedent that there should be openness in such matters."*

14. He further clarified that he believed that any contributions made by senior civil servants or ministers should be attributed to them by name. However, in respect of 'more junior' civil servants he stated:

> *"… where more junior civil servants reply to blog entries, and their comments appear together with their name in a way which make them identifiable to the thousands of civil servants who have access to the blog, then I believe that the public should have the same right to read their name, so this should be included in the disclosed version."*
>
> *"… where, however, more junior civil servants are promised the right to respond to blog entries anonymously, and their contributions appear on the version of the blog readable by thousands of civil servants BUT WITH THEIR NAMES WITHHELD FROM THAT VERSION, then I think it right that their name should also be withheld from the disclosed version."*

15. Following this clarification from the complainant, on 17 February 2009 the Commissioner commenced his enquiries with the public authority. On 18 March 2009 the Commissioner chased a response to his enquiries.

16. A response was received on 19 March 2009.

17. On 5 May 2009 the Commissioner raised some further queries. A response was received on 19 May 2009.

Findings of fact

18. The public authority explained to the Commissioner that the blog had been set up in June 2006 with the intention of being a tool for the Permanent Secretary to engage more directly with staff and also to provide a forum for staff to openly air views. It further stated that the ultimate aim of the blog was to improve its operation and therefore provide a better service to the public.

19. Staff wishing to participate in the blog need to complete a 'blog registration' form. This form advises them that their names will be included alongside their contribution unless they choose to remain 'anonymous'; staff are encouraged to include their name and department. Whilst registering staff are advised that:

> *"… comments which are deemed to be personally offensive, can not be checked for factual accuracy, provide operational detail which could be used to identify individual members of the public, or are considered to breach the code of conduct for other reasons will not be published."*

20. Approximately 45% of the entries under consideration are named comments, the remaining 55% either being anonymous or written under a pseudonym.

21. Within the registration instructions staff are advised that there is a code of conduct for using the blog and a link to this is provided. In his blog entry for 12 July 2006 David Normington also refers to this code of conduct and he asks that staff take the time to read this before submitting their comments. The code of conduct includes the following statements:

- *Staff have the right to send their comments and feedback on any blog entry and to vote in the poll, adding comments if they wish. Participants are encouraged to give their name and section, unless there is a good reason for them to remain anonymous.*

- *It is assumed that permission is granted to publish any comment submitted to the poll or blog unless it is specifically stated otherwise by the sender. David reserves the right not to publish, to edit comments and to keep them anonymous where requested.*

- *If your comment is not published, it is usually because someone else has made the same comment already. However, David will not print comments that contain racist, sexist, homophobic, discriminatory or personally offensive comments of any kind. As Permanent Secretary, neither will he publish comments where he considers that the contents represent a threat to the reputation, integrity, safety or security of the Home Office or any individual or individuals within it or beyond it.*

- *Specifically, comments that are directly critical or derogatory about identified individuals (either singly or as a group) within the Home Office or beyond will not be published since they may be inaccurate or libellous …*

- *Please note that, since the blog may be subject to FOI requests, comments which contain specific operational detail or which can not be easily verified or fact-checked may be edited for legal reasons.*

- *The views expressed in the blog are those of the contributors and are not those of the Home Office.*

22. The following are some extracts from the blog provided by David Normington himself. These were disclosed in response to this request and are now available on the public authority's publication scheme:

> *Blog for 22 Jun 2006*
> *"My blog starts here . . .*
> *Hello, and welcome to my blog - where I'll be publishing my news and views about how we work in the Home Office, the future, making things better, celebrating our successes, and perhaps even the odd joke!*
> *... I want to hear the views of all. So please, vote in the poll on my homepage, and send me your views."*
>
> *Blog for 30 Jun 2006*
> *"Don't be shy - I want a new culture where all are heard …*
> *I agree with those who say we should listen more to staff at Grade 7 and below and to those at the frontline.*
> *…Why can't more people make their voice heard in the Home Office? There seems to be a frustration that people can't get their message through. I want to change all that. Please also be bold enough to put your name on your contributions: I want a culture where people are praised for contributing constructively to a discussion, not penalised."*

23. The public authority advised the Commissioner that its staff are also bound by the Civil Service Code[1], and specifically quoted that staff *"… must not disclose official information without authority"*.

Analysis

Exemptions

Section 36(2)(b)(ii) – prejudice to effective conduct of public affairs

24. Section 36(2)(b)(ii) provides that information is exempt if, in the reasonable opinion of a qualified person, disclosure of the information: *"would, or would be*

[1] http://beta.civilservice.gov.uk/about/work/cscode/CS-Values.aspx

likely to, inhibit the free and frank exchange of views for the purposes of deliberation".

25. Information can only be exempt under section 36 if, in the reasonable opinion of a qualified person, disclosure would, or would be likely to lead to the above adverse consequences. In order to establish whether the exemption has been applied correctly the Commissioner must:

- establish that an opinion was given;
- ascertain who the qualified person was;
- ascertain when the opinion was given; and,
- consider whether the opinion was objectively reasonable and reasonably arrived at.

26. During the course of the investigation the Commissioner asked the public authority for details of the decision taken by the qualified person, in order to allow him to ascertain that an opinion was given and also that is was given by an appropriate person at an appropriate time.

27. The public authority clarified to the Commissioner that it submitted its arguments to the Parliamentary Under-Secretary of State for the Home Office prior to its original refusal and, again, prior to its internal review. The public authority clarified that it is its usual practice to ask a qualified person to re-assess the decision that section 36 applies at internal review stage. The public authority confirmed to the Commissioner that Gerry Sutcliffe gave his opinion on 10 October 2006 and Vernon Coaker gave his on 4 June 2007; the Commissioner is satisfied that either Minister would have been an appropriate 'qualified person' as laid down in section 36(5) of the Act.

28. The Commissioner's view is that, if a reasonable opinion has been given by the qualified person by the time of completion of the internal review, then section 36 will be taken to be engaged. Although he notes that the original opinion was not actually provided until the day after the refusal was sent this was not the case with the latter opinion which was given prior to the internal review. As this latter opinion was obtained in advance of the internal review he will therefore take it into consideration.

29. The Commissioner enquired as to whether either Minister had actually viewed the withheld information. In correspondence to the Commissioner dated 19 March 2009 the public authority stated:

> *"The audit trail does not show that a copy of this information was provided to the Minister alongside either submission. The submissions do contain a description of the nature of the information being withheld. In addition, the information in question was available on the internal Home Office website when the submissions were lodged, although I am unable to say whether either Minister reviewed it before reaching a decision or was familiar with the content of the blog in general."*

30. The public authority also clarified that, at internal review stage, the qualified person agreed that this exemption applied to all the information subject to the request but that the public interest fell in favour of releasing David Normington's comments.

31. Based on the information supplied the Commissioner is satisfied that an opinion was given by an appropriate person on a specific date. He must therefore now consider whether the opinion is considered to be reasonable.

32. The Information Tribunal has decided (*Guardian & Brooke v The Information Commissioner & the BBC*) (EA/2006/0011 and EA 2006/0013) that a qualified person's opinion under section 36 is reasonable if it is both '*reasonable in substance and reasonably arrived at'*. It elaborated that the opinion must therefore be 'objectively reasonable' and based on good faith and the proper exercise of judgement, and not simply *'an opinion within a range of reasonable opinions'*. However, it also accepted that *'there may (depending on the facts) be room for conflicting opinions, both of which are reasonable'.* In considering whether an opinion was reasonably arrived at it proposed that the qualified person should only take into account relevant matters and that the process of reaching a reasonable opinion should be supported by evidence, although it also accepted that materials which may assist in the making of a judgement will vary from case to case and that conclusions about the future are necessarily hypothetical.

33. The Commissioner has viewed the submission made by the public authority to its qualified person. Its comments to support this exemption, which were summarised both in the submission and, later, to the complainant, were as follows:

- *As a forum for candid discussion on internal Home Office issues the blog has become a much appreciated conduit between frontline staff and the very top of the office. If staff members thought their comments would be published, even if anonymously, it is highly likely that this belief would hinder their frankness in conveying messages of concern or suggestions on how the work of the Department could be improved.*

- *Other staff members may feel inhibited from writing in the blog altogether if they think their comments could be released and subsequently reported on in the press, which would have the ultimate effect reducing the usefulness of the blog as a channel for open and honest communication and feedback between the Permanent Secretary and his staff.*

- *The blog forms part of the deliberative process feeding into the current reform agenda, and this agenda itself would be adversely affected if it were not able to draw on the candid views of staff about the department. This would have knock on effects on the ability of the Home Office to operate more effectively in future.*

34. The Commissioner has not been provided with any evidence that the qualified person actually viewed any of the withheld information, or indeed that he has ever

personally made any contribution to the blog, however he does accept that access to the full blog was feasible.

35. The Commissioner believes that the withheld information within the blog pages is a 'mixed bag' of both negative and positive views. Whilst it contains concerns raised by staff it also contains suggestions for making constructive changes. Where identified, comments are made from many areas within the Home Office including, for example, the Prison Service, the UK Immigration Service, the Immigration and Nationality Directorate and the National Offender Management Service.

36. The Commissioner understands that, according to its assertions above, the public authority believes it would be *highly likely* that its staff would be reluctant to contribute to the blog if they thought that their comments would be released into the public domain. The public authority has further included its concerns that comments from the blog are intended to feed into the reform agenda and that they would 'dry up' if contributors thought their views would be disclosed. The Commissioner accepts it is a reasonable opinion that a significant percentage of staff would be likely to feel inhibited if their comments were made public, whether anonymised or not. The Commissioner also notes that at the time the request was made the process of exchanging views was "live" and actions in relation to the comments were being considered.

37. The Commissioner understands that, according to its submissions above, the public authority's main focus for engaging the exemption centres on its view that staff would cease to contribute to the blog which, in turn, would have the detrimental effect of inhibiting the free and frank exchange of views for the purposes of deliberation, as contained within section 36(2)(b)(ii) of the Act. The Commissioner accepts that the qualified person's opinion was both reasonably arrived at and objectively reasonable, disclosure would be likely to prejudice the frank exchange of views for the purposes of deliberation. Section 36(2)(b)(ii) was therefore correctly engaged.

The public interest test

38. In his approach to the competing public interest arguments in this case, the Commissioner has drawn heavily upon the Information Tribunal's decision in *Guardian Newspapers Limited and Heather Brooke v Information Commissioner and BBC* [EA/2006/0011 and EA 2006/0013], where the Tribunal considered the law relating to the balance of public interest in cases where section 36 applied. The Commissioner has followed the interpretation of the law relating to the public interest test, as set out in this decision, and notes and adopts in particular the following conclusions.

39. Unless there is any relevant exemption under the Act then the section 1 duties will operate. The "default setting" in the Act is in favour of compliance – requested information held by a public authority must be disclosed except where the Act provides otherwise.

40. For an exemption to be upheld, the public interest in maintaining the exemption must outweigh the public interest in disclosure, as the 'presumption' of disclosure in the Act will operate where the respective public interests are equally balanced.

41. There is an assumption built into the Act that the disclosure of information by public authorities on request is in itself of value and will work in the public interest by promoting transparency and accountability in relation to the activities of public authorities. The strength of that interest, and the strength of the competing interest in maintaining any relevant exclusion or exemption, must be assessed on a case by case basis.

42. When it comes to weighing the balance of public interest, the likelihood, nature and extent of any prejudice should be considered.

43. It is important to note the limits of the reasonable person's opinion required by section 36(2). The opinion is that disclosure of the information would have (or would be likely to have) the stated detrimental effect. That means that the qualified person has made a judgement about the degree of *likelihood* that the detrimental effect would occur, does not necessarily imply any particular view as to the severity or extent of such inhibition or the frequency with which it will or may occur.

44. The right approach, but consistent with the language and scheme of the Act, is that the Commissioner, having accepted the reasonableness of the qualified person's opinion that disclosure of the information would, or would be likely to, have the stated detrimental effect, must give weight to that opinion as an important piece of evidence in his assessment of the balance of public interest. However, in order to form the balancing judgement required by section 2(2)(b), the Commissioner should form his own view on the severity, extent and frequency with which detrimental effect will or may occur.

45. When considering whether the public interest in maintaining the exemption outweighs the public interest in disclosure the Commissioner recognises that there are competing public interest arguments. He has gone on to consider these arguments in turn.

Public interest – in favour of maintaining the exemption

46. The Commissioner gives due weight to the qualified person's reasonable opinion that disclosure would inhibit the free and frank provision of advice, the free and frank exchange of views for the purposes of deliberation, and prejudice the effective conduct of public affairs.

47. The Commissioner notes that the focus of the public authority's arguments has been that disclosure would not be in the public interest, although it did make a disclosure of Sir David Normington's blog entries at internal review stage. In its correspondence the public authority has attempted to illustrate how prejudice would be likely to occur and take effect. In considering these arguments, the Commissioner has been mindful of the public interest in a public authority having effective processes which allow it to openly debate issues of public interest

without having the 'chilling effect' of potential disclosure inhibiting it from frankly considering areas of concern.

48. In its original refusal notice the public authority advised the complainant that:

> *"it would inhibit the free and frank exchange of views for the purpose of deliberation … because the Permanent Secretary and staff members would be far less likely to be candid on the blog and indeed may not even write in if they were aware that their comments may be released to the press. This would therefore limit the usefulness of the tool in terms of giving and receiving honest feedback as it is a communication channel between the Permanent Secretary and his staff, this would mean missed opportunities to improve the Department."*

49. Following its later disclosure of the blog entries made by Sir David Normington, the public authority maintained that the remaining information remained exemption because:

> *"… as a forum for candid discussion on internal Home Office issues, the blog has become a much appreciated conduit between frontline staff and the very top of the office. If staff members thought their comments would be published, even if anonymously, it is highly likely that this belief would hinder their frankness in conveying messages of concern or suggestions on how the work of the Department could be improved. We believe that some staff members will feel inhibited from writing in the blog altogether if they think their comments could be released to the public and subsequently reported on in the press. This would have the ultimate effect of reducing the usefulness of the blog as a channel for open and honest communication and feedback between the Permanent Secretary and his staff. The blog forms part of the deliberative process feeding into the reform agenda, and this agenda itself would be adversely affected if it were not able to draw on the candid views of all staff about the department. This would adversely impact upon the ability of the Home Office to operate more effectively in future. It is for these reasons that we consider that the release of the blog would be likely to significantly prejudice the free and frank exchange of views between Home Office staff and the Permanent Secretary and the effective conduct of public affairs by making the blog a less effective or even a completely ineffective tool identifying and addressing issues of concern within the department."*

50. The public authority also provided the Commissioner with further arguments concerning the Civil Service Code to support its contention that disclosure of the requested information would inhibit the free and frank exchange of views. It stated that:

> *"As civil servants, Home Office staff are bound by the Civil Service Code [see link at paragraph 23 above]. The code states, under the heading 'Integrity'; 'You must always act in a way that is professional and that deserves and retains the confidence of all those with whom you have dealings'. It then goes on, 'You must not disclose official information*

without authority.' To air private views about the internal operation of the Home Office in the public domain would be in breach of these principles."

51. It further commented that, even were the comments all anonymised, they would: *"… still be able to be clearly identified as comments made by civil servants about their department".* And it elaborated that prejudice would occur because disclosure: *"… would allow comments made by civil servants, which they would not be permitted to make public under the Civil Service Code, to reach the public domain"*.

52. The public authority has also raised concerns over the age of the information. It advised the Commissioner that the information request covered information which was at the time very recent and that the issues covered were frequently "live" ones which were being actively worked on. It believed that this added weight to the public interest in withholding the information and recognised that this argument may diminish with the passage of time.

Public interest – in favour of disclosing the information

53. The Commissioner fully accepts that there is a public interest in ensuring the free and frank exchange of ideas, the effective running of the process of deliberation within public authorities, and the accountability of public authorities.

54. Therefore, in considering this case, the Commissioner has been mindful of the strong generic public interest in openness, transparency, public understanding and accountability, in relation to the activities of public authorities.

55. He has gone on to consider these public interest issues in the light of the individual circumstances of this case.

56. In its correspondence with the complainant the public authority acknowledged that:

"… it is understandable that it would be of interest to the public to read comments from David Normington and staff about their views of the Home Office. It is also positive that the Permanent Secretary is seeking to garner the views of staff and involve them in Home Office reform".

57. It also added the following argument in favour of releasing the withheld information:

"There is a general public interest in openness which aids transparency and accountability within public authorities. The work of the Home Office is high profile and there is considerable public interest in knowing that it is filling [sic] its functions effectively. Releasing information about how the department is managed and how issues identified internally by staff are being raised with and addressed by senior officials can help inform the public debate about the performance and accountability of the department and reassure the public that issues are being identified and tackled".

58. Arguments to support release of the information were also provided to the Commissioner by the complainant (see paragraph 7 above). These can be summarised follows:

- If comments were anonymised there would be no privacy issue.
- The public authority regularly releases its staff magazine.
- There is a clear public interest in knowing the views of civil servants working in an important public department.
- The public authority does not cite any evidence to back up its claim that staff would not participate in the blog if they knew that their comments would be made public.

Balance of the public interest

59. The Commissioner accepts that staff may be less candid if they believe their personal views are going to be put into the public domain, especially so soon after they have been written. Indeed, it may actually inhibit those who are unsure whether or not to participate and this would have the knock-on effect of the public authority failing to obtain the full range of honest and diverse views that it would have hoped for.

60. However, he also notes the complainant's view regarding anonymisation and the associated removal of privacy issues, and he accepts that it would be possible to anonymise the comments, along with job titles or sections where necessary. He further notes that the code of conduct for the blog already suggests that it may be subject to disclosure under the Act so staff are aware of this in advance. Additionally, the fact that more than half of the comments have been made 'anonymously' shows that there is already a reluctance to be personally associated with a view.

61. The Commissioner believes that any effect on participation would be more severe if the person were named in conjunction with their view. He is also of the opinion that disclosure could actually encourage further anonymised comments by some staff if they believed their views would be distributed to a wider audience. This could be particularly true if staff were normally inhibited from airing their views publicly because of the Civil Service Code. However, the Commissioner also accepts a significant percentage of staff would be likely to feel inhibited if comments were disclosed, he accepts that the Civil Service Code creates a culture in which civil servants would feel reluctant to air specific criticisms about their department publicly. Anonymisation would only mitigate the effects of disclosure to a certain extent as the sense of loyalty would still be present.

62. The public authority also places weight on the prejudice which would be caused by disclosure because of the apparent 'clash' with the Civil Service Code (the "Code"). However, the Commissioner does not agree that this argument can be given conclusive or strong weight, but it can set the context of understanding the civil service culture and circumstances that exist. Whilst the Code creates a sense of loyalty which would make Civil Servants uneasy about their comments being made public, they are aware the comments could be disclosed under the Act. The Commissioner does not agree with the public authority's assertion that

disclosure would be in direct conflict with the Code, as the issue at stake is a request under the Act rather than an authorised disclosure of information. The Commissioner notes that if blog comments were leaked by a member of staff then this would be a likely breach of the Code, as it would involve taking information from a departmental intranet server and placing it in the public domain. However this type of unauthorised disclosure is not relevant to considerations under the Act.

63. The Commissioner notes that the complainant already regularly receives an unedited copy of the public authority's staff magazine, which he understands includes readers' letters along with their names. However, the Commissioner does not consider that this argument carries much weight as the magazine is necessarily 'sanitised' in preparation for publication and will therefore not contain any potentially controversial views which have not received prior approval. The type of information in an 'authorised' publication is therefore wholly different in quality to a blog site where staff are encouraged to provide personal views in an effort to spark further debate.

64. It is also important to note that the request was made on 6 September 2006 and that it sought all blog entries since its launch on 22 June 2006, i.e. its initial 10 week period. The Commissioner accepts that the request was therefore for information which was part of a very new initiative which therefore contained current views which were being raised for the purpose of further deliberation. He also accepts the public authority's assertion that the issues raised were likely to be being worked on, or, it can be assumed, were possibly so new as to have not had any initial work commenced.

65. The Commissioner accepts there is a public interest in understanding the views of civil servants and that there was a significant and legitimate public debate surrounding the performance of the Home Office at the time of the request. However, having viewed the information he finds that the content itself does not present any specific arguments in favour of disclosure beyond the general points made above.

66. Whilst the complainant may be correct in saying that there is a clear public interest in knowing civil servants' views, the Commissioner also understands that there is a clear public interest in allowing the public authority adequate time to consider those views itself. As previously stated by the public authority, the views are required as part of its 'reform agenda' and also includes issues which the public authority was actively considering at the time the request was made.

67. The blog was a new concept with new ideas and it was hoped it would become a useful conduit to afford the Permanent Secretary greater contact with his staff. The Commissioner believes that, if staff were aware that views were to be publicised, even anonymously, that this may have a detrimental effect on the use of the site. Although he accepts that there were caveats within the conditions for contributing to the blog which stated that it may be subject to the Act, and also that comments would be 'policed' to some extent, he nevertheless agrees that wholesale publication of the blog after its first ten weeks of existence would be likely to have a severe affect on its value. The Commissioner finds that there are

strong arguments both for and against disclosure in this case, however, on this occasion he agrees with the public authority that the prejudice caused would outweigh the benefit in disclosure. The public interest in maintaining the exemption under section 36(2)(b)(ii) outweighs the public interest in disclosure.

The Decision

68. The Commissioner's decision is that the public authority was correct to withhold the requested information on the basis of section 36(2)(b)(ii).

Steps required

69. The Commissioner requires no steps to be taken.

Other matters

70. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matters of concern.

71. The public authority took approximately eight months to conduct its internal review. The Commissioner is concerned at the length of this delay, and would advise the public authority to ensure that all internal reviews are conducted promptly in future. Part VI of the section 45 Code of Practice makes it desirable practice that a public authority should have a procedure in place for dealing with complaints about its handling of requests for information, and that the procedure should encourage a prompt determination of the complaint. As he has made clear in his *'Good Practice Guidance No 5'*, published in February 2007, the Commissioner considers that these internal reviews should be completed as promptly as possible. While no explicit timescale is laid down by the Act, the Commissioner considers that a reasonable time for completing an internal review is 20 working days from the date of the request for review. In exceptional circumstances it may be reasonable to take longer but in no case should the time taken exceed 40 working days.

Right of appeal

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72. 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@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 2nd day of December 2009

Signed ……

Steve Wood
Assistant Commissioner

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Water Lane
Wilmslow
Cheshire
SK9 5AF