

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 7 December 2009

Public Authority: Commissioner of the Metropolitan Police Service
Address: New Scotland Yard
Broadway
London
SW1H 0BG

Summary

The complainant requested the total amount of money Croydon Police has spent in each of the last three years on paying informants. The public authority refused the request, citing subsections within section 41 (information provided in confidence), section 30 (criminal investigations), section 31 (law enforcement) and section 38 (health and safety). Following an internal review, the public authority overturned the use of section 41 and section 31 and instead specifically cited section 30(2)(b) (obtaining of information from confidential sources) and section 38(1)(a) and (b) (endangering the physical or mental health of any individual or the safety of any individual). The Commissioner finds that the exemption provided by section 30(2)(a)(i) and (b) is engaged but that the public authority concluded incorrectly that the public interest favoured the maintenance of this exemption. The Commissioner also finds that the exemption provided by section 38(1)(a) and (b) is not engaged. The public authority is required to disclose the information showing the total amount of money spent by Croydon Police on informants in each of the last three years prior to the request.

The Commissioner's Role

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

Background

2. The Commissioner's findings in this case reflect those made in a previous Decision Notice (FS50123912) where a similar request was made to the Northumbria Police. This can be found at the website address:
http://www.ico.gov.uk/tools_and_resources/decision_notices.aspx

The Request

3. On 25 July 2008, the complainant requested the following information:
"How much money has Croydon Police spent in each of the last three years on paying informants?"
4. The Metropolitan Police Service (the 'MPS') refused the request on 19 August 2008, specifically citing the subsections: section 41(1) (information provided in confidence), section 30(2) (criminal investigations), section 31(1) (a), (b) and (c) (law enforcement) and section 38(1)(b) (health and safety). The refusal notice considered the harm that could be caused by disclosure. It was argued that Covert Human Intelligence Sources (CHIS) would be or would be likely to be identified from disclosure of the total amounts spent on informants and that this would result in substantial physical harm or mental trauma. It was argued that disclosure would therefore undermine the trust and confidence of current and potential informants and would be likely to prejudice the prevention or detection of crime by reducing the flow of information to the police service and intelligence services. The MPS quoted a recent court hearing *Van Colle v Chief Constable of Hertfordshire Police* in which a witness was murdered due to inadequate police protection. The MPS emphasised that they had an obligation to protect human life under Article 2 of the Human Rights Act. The MPS concluded by maintaining that it was not in the public interest to disclose the information.
5. On 26 October 2008, the complainant requested an internal review of the handling of his request. He did not accept that disclosure of the information would lead to the identification of the CHIS.
6. The result of the internal review is undated. In this review, the MPS overturned the use of section 41 and section 31 and instead cited section 30(2)(b) (obtaining of information from confidential sources) and section 38(1)(a) and (b) (endangering the physical or mental health of any individual or the safety of any individual). The MPS repeated the arguments that harm and prejudice would be likely to occur should the information be released into the public domain. The MPS maintained that release of yearly payments would allow individuals to cross reference them with criminal activity. They argued that it may therefore be possible for a CHIS to be identified and that this was a particular danger in

smaller forces. The issue of trust was repeated as was the argument that to betray that trust would lead to a 'dry-up' of information. The MPS repeated that it had a duty to protect the lives of its CHIS. They confirmed that they held the requested information but again concluded that it would not be in the public interest to release it.

The Investigation

Scope of the case

7. On 22 December 2008, the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant rejected the reasoning given by the public authority for refusing the information request as he did not accept that its disclosure would compromise the safety of informants or lead to their identification. He argued that the large number of crimes meant it was impossible to cross reference information on crime with the sum paid over the period. He argued that for reasons of accountability the public should be told how money is spent on their behalf.

Chronology

8. On 6 April 2009, the Commissioner wrote to the MPS and asked it to consider a recent Decision Notice regarding a similar request to the Northumbria Police (FS50123912). The MPS's arguments were examined in the light of this previous Decision Notice. The MPS was asked to review its response to the complainant. If it decided to continue to withhold the information, the MPS was asked to send the Information Commissioner's Office (the 'ICO') the requested information, plus the number of informants involved each year and any other evidence to support their case.
9. Between 15 April 2009 and 21 May 2009, in the correspondence and telephone conversations which followed, the MPS expressed its reluctance to disclose the requested information to the ICO. On 21 May 2009, in a telephone conversation, it provided the amounts paid to informants over the past three years to the ICO and gave a range of numbers which indicated the approximate number of informants involved but did not specify the exact number. The MPS would not record these figures in written correspondence. The Commissioner considered the information provided and decided it was sufficient for his purposes.
10. On 29 May 2009, the ICO received a letter from the MPS which formally responded to the letter of 6 April 2009. This provided more reasoning to support the case for non disclosure.

Analysis

Procedural breaches

Section 17

11. The full text of section 17(1) is available in the Legal Annex at the end of this Notice.
12. Section 17(1)(b) states that should a public authority claim that the information requested is exempt, it should specify the exemption in question. In citing section 30(2)(b), the MPS should have detailed section 30(2)(b) and section 30(2)(a)(i) by virtue of section 30(1)(a)(i).
13. The full text of section 10 is available in the Legal Annex at the end of this Notice.
14. Section 10(1) states that subject to subsections (2) and (3) a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working date of receipt. In failing to disclose the information within twenty working days of receipt of the request, the Commissioner finds the MPS to be in breach of section 10(1).

Exemptions

Section 30

15. The full text of section 30 is available in the Legal Annex at the end of this Notice.
16. The MPS cited section 30(2)(b) which relates to the obtaining of information from confidential sources.
17. In order for this exemption to be engaged, the information in question must fulfil the classes specified in subsections 30(2)(a) and (b). For the purposes of the investigation it was therefore assumed that section 30(1)(a)(i) or (ii) also applied, by virtue of subsection 30(2)(a)(i). This means that in order for this exemption to be engaged, the information in question must have been obtained or recorded by the public authority for the purposes of investigations, with a view to ascertaining whether a person should be charged with an offence or whether a person charged with an offence is guilty of it. It could be argued that the information was not recorded for the purpose of investigations but for accounting purposes. The information itself makes no reference to any specific investigation. However, when assessing whether the exemption is engaged, it is appropriate to consider the purpose for which it was initially recorded rather than the purpose for which it was collated into its present form. The collated figures held for accounting purposes would not have existed had an original record not been made of payments to CHIS for the purpose of investigations. The Commissioner concludes that the requested information is held with respect to such investigations and conforms to the class specified in subsections 30(1)(a)(i) and (ii). Section 30(2)(a) therefore applies.

18. Subsection 30(2)(b) requires that, in order for the exemption provided by section 30(2) to be engaged, the information must also relate to the obtaining of information from confidential sources. As covered above, the Commissioner considers that the MPS are being asked to provide the sum of individual payments made to CHIS in return for the provision of information in connection with specific investigations. The Commissioner concludes that the information requested can therefore be characterised as relating to the obtaining of information from confidential sources. Section 30(2)(b) therefore applies.
19. Having established that the information in question conforms to the classes specified in subsections 30(2)(a) and (b), the Commissioner concludes that the exemption is engaged.

Public interest arguments in favour of disclosing the requested information

20. Section 30(2) is qualified by the public interest test. This means that, however clearly the information in question conforms to the class specified in 30(2), it should be disclosed if the public interest favours this.
21. Whilst there is no prejudice test associated with section 30(2) because the exemption is class-based, the Commissioner nevertheless considers that the likelihood of prejudice occurring and the nature of that prejudice can be taken into account when determining which public interest factors are relevant in a particular case and when weighing up the various public interest arguments. The Commissioner has therefore adopted the approach of the Information Tribunal in the case of *John Connor Press Associates Limited v The Information Commissioner (EA/2005/0005; 25 January 2006)*. In that case, the Tribunal confirmed that “the chance of prejudice being suffered should be more than a hypothetical possibility; there must have been a real and significant risk.” The likelihood of prejudice occurring has therefore been considered when examining the public interest arguments outlined below.
22. There is a legitimate public interest in information about the use of CHIS by the police. This area of policing is the subject of discussion and some controversy. In the absence of a formal mechanism for reporting expenditure on CHIS, there is currently little authoritative information available to inform this discussion. Where disclosure would enhance and inform public discussion on this issue without real and significant prejudice to police investigations, the public interest would favour disclosure of this information. The information in question here relates to 12 month periods and, due to its lack of greater detail, would not necessarily demonstrate value for money in the use of public funds. However, its disclosure would still provide greater transparency and accountability compared to that which currently exists.
23. In addition to the public interest in information specifically related to CHIS, the work of the police in investigating crime in general (including how its resources are allocated for this purpose), is an issue of considerable and legitimate public interest. As well as the universal public interest in how public funds are allocated

by any public authority, there is a valid public interest argument in favour of disclosure of the requested information in this case. This is because it relates directly to the allocation of resources by the public authority for the purpose of investigating crime. When allied with other information, crime statistics for example, this may enhance debate on the effectiveness of the use of CHIS by the police.

Public interest arguments in favour of maintaining the exemption

24. The MPS has argued that disclosure would disrupt the ability of the police to obtain information from confidential sources. The argument that prejudice would result through disclosure is based on this premise. The MPS argues that it would discourage potential CHIS from acting in this capacity and that releasing the requested information will undermine the rapport and trust the force has worked hard to maintain with current and potential informants. They argue that a media release of financial information at borough level is likely to be enough to deter a potential CHIS from assisting with an investigation. The MPS are concerned that the flow of information to the police service would 'dry-up' as a result of disclosure. They argue that this would hinder the intelligence gathering capabilities of the force and would have the "devastating impact of prejudicing the prevention/detection of crime and the apprehension / prosecution of offenders".
25. The Commissioner gives little weight to this argument. The MPS has argued that disclosure of borough level information relating to the payments of CHIS even on a yearly basis would disrupt the flow of the information provided by CHIS. However, the Commissioner considers that the nature of the requested information is relevant to the severity of this disruption. In this case, the information in question is the total money spent on paying informants in the three years prior to the request. This is far removed from information about individual CHIS and is unlikely to undermine the trust of CHIS. The Commissioner therefore concludes that disclosure would cause, at worst, minimal disruption to the flow of information to the MPS.
26. The Commissioner accepts that the relationship between the CHIS and the police is based on trust and confidence. He accepts that disclosure of information leading to the identification of individual CHIS may discourage those currently acting as CHIS from continuing to do so. It may also discourage potential future CHIS from acting in this capacity. Crucial to this argument however, is the likelihood of disclosure leading to the identification of CHIS. No information that directly identifies any CHIS is in question here.
27. The Commissioner does not believe that disclosure of the information in question here is likely to lead to identification of individuals and, in line with the Northumbria case, has taken the following factors into account when forming this conclusion:
 - The level of detail requested: the request is not for individual payments, or payments broken down by any other criteria.
 - The content of the information.

- The size of the area to which the information relates: the information relates to the borough covered by the MPS which has an area of 33.6 square miles and a population of 300,000 people. (The Northumbria Police serve a population of 1.5 million people and cover an area of more than 2,000 square miles).

In response to the Commissioner's request, the MPS has indicated the range in the numbers of informants over the three years in question and the amounts of money involved.

The MPS has argued that the difference in the money involved and in the geographic areas means that this case cannot be compared with that of the Northumbria Police.

However, the size of population in the borough, taken into consideration with the provided range in the number of informants, is judged by the Commissioner to be sufficiently large to allow disclosure without leading to identification.

- The length of time covered by each total: the totals relate to 12 month periods, rather than any shorter period.
28. The MPS has argued that the provision of total CHIS payment information (even on a yearly basis) at borough level would allow those in serious and organised crime to interpret these payments across forces and apply these to law enforcement activities which may have impacted on their own criminal networks. As a result it is important to ensure that those involved in criminal activity cannot try and cross reference police force payouts nationally as well as between boroughs. The MPS has argued that this would provide the opportunity for someone to be identified or even misidentified as a CHIS.
 29. The MPS has also suggested that if payment information is cross referenced to law enforcement activities over a number of years, it might be possible for a CHIS to be identified should they receive a large payment, particularly in relation to a high profile case in the media. They argue that this danger of cross referencing is particularly relevant when considering smaller forces.
 30. The Commissioner does acknowledge the argument that identification could follow a large payment in a smaller force, although no evidence to support this suggestion has been provided. It is possible that informant activity might be suspected irrespective of the disclosure of payment information. A public demonstration of a sudden increase in wealth can be suspicious without any further evidence.
 31. The MPS has quoted a recent Scottish Decision Notice as relevant to this case (*Decision 037/2009*). In this decision, the Scottish Information Commissioner recognised that smaller forces would have difficulty in masking any extraordinary payments which might undermine the perception of confidentiality in the process. He also accepted that such an extraordinary payment in a smaller force might be linked with a specific event or the disruption of criminal activity and lead to

inferences about informant activity. Whilst the Commissioner recognises these points he does not accept that this is a relevant factor in the particular circumstances of this case.

32. The MPS has also argued that informants expect their identities to be protected indefinitely. They have quoted a recent Tribunal Decision *The Metropolitan Police v Information Commissioner EA/2008/0078* where it was argued by the MPS that nothing should be done to undermine the understanding of current and potential agents that identities will be kept secret. However, the Commissioner does not accept that in this case, disclosure of the requested information will lead to identification of informants. The Tribunal decision is therefore not relevant to this case.
33. The Commissioner is also aware of other examples where information similar to that in question here has been disclosed. Most notably, the Audit Commission Act includes a provision that has in the past enabled access to the totals spent on CHIS during 12 month periods by police forces. Whilst the Association of Chief Police Officers ('ACPO') has made clear that its intention is that CHIS information will no longer be disclosed via this Act, that information has been disclosed via this route in the past. The fact that no evidence of prejudice as a result of this disclosure has been made available to the Commissioner is relevant to this case. These previous disclosures erode the argument of the public authority that the confidentiality of any information related to CHIS should be regarded as sacrosanct.
34. In an earlier Decision Notice regarding the Northumbria Police, it was noted that ACPO had argued that disclosure of the total spent on CHIS would set a precedent for disclosure of similar information about other forces. ACPO was concerned that this would give a nationwide picture of how much is spent on CHIS by all forces and that this would lead to prejudice to functions relevant to the conduct of investigations. The Northumbria case indicated the factors that the Commissioner would take into account in a case presenting a similar scenario and these have been considered above (paragraph 23). It was stated that each case would therefore be considered individually and the arguments presented in each case would be judged on their merits in relation to the specific information in question.
35. In this case, the MPS has argued that should it release yearly total payments to informants, this would make it difficult for smaller forces to withhold the information which may identify individuals. The Commissioner is quite clear on this point each case will be considered individually on its own particular circumstances.

Balance of the public interest arguments

36. The MPS has made clear that they are strongly of the view that information relating to CHIS should not be disclosed as it would compromise the efficient and effective conduct of the force. They argue that disclosure would negatively affect their ability to fulfil their core function of law enforcement, preventing and detecting crime as well as protecting life. The basis of this view is the prejudice

that it is anticipated disclosure would cause to the investigation of crime. The public authority has not, however, advanced strong arguments as to how or why disclosure of the total sums spent on informants for the three years preceding the request would result in such prejudice.

37. The Commissioner accepts that there is a strong public interest in ensuring that the police can maintain their ability to recruit and manage CHIS to assist in their law enforcement functions. However, in view of the arguments above and bearing in mind the particular information sought by the complainant in this case, he does not consider that the arguments apply with significant weight in this case. He does not accept that disclosure of the information will lead to identification of CHIS and therefore disrupt the flow of information to the police.
38. The MPS has asserted that the public interest is not what is of interest to the public but is what will be of greater good, if released, to the community as a whole. The Commissioner finds that in this case, the public interest is served by greater accountability and transparency in investigating crime. The requested information is more than just 'of interest'.
39. The Commissioner has considered the point recognised by the Information Tribunal in the case *Guardian v The Information Commissioner and Avon and Somerset Police (EA2006/0017; 5 March 2007)*, where "the interest in principle, recognised by the exemption applying to s30(1), in protecting information acquired, often in confidence, in police investigations" was acknowledged.
40. When weighing the balance of the public interest in connection with section 30(2)(a) and (b), the Commissioner has therefore taken into account that the Tribunal recognised the interest in principle, in protecting information acquired for police investigations. However, this argument does not outweigh all others. In this case, even having taken this argument into account, the Commissioner finds that the balance of the public interest favours disclosure.
41. Whilst the factors favouring disclosure here are not overwhelmingly strong, given that the majority of the arguments in favour of maintenance of the exemption do not carry significant weight, these factors are sufficient to tip the balance of the public interest in favour of disclosure.
42. Having weighed the factors favouring the maintenance of the exemption against the factors in favour of disclosure, the Commissioner therefore concludes that the public interest in maintaining the exemption does not outweigh the public interest in disclosure.

Section 38

43. The full text of section 38 is available in the Legal Annex at the end of this Notice.
44. The MPS has argued that section 38(1)(b) is engaged in relation to the information withheld here. This section exempts information the disclosure of which would or would be likely to endanger the safety of any individual. The Commissioner has judged that the MPS is not clear whether disclosure would

endanger the safety of any individual or would be likely to do so. The Commissioner has therefore considered whether the endangerment is likely to occur. This provides a lower threshold of prejudice and is in line with the Tribunal recommendation made in *McIntyre v The Information Commissioner and the Ministry of Defence (EA/2007/0068; 14 January 2008)*. If endangerment is likely to occur, the chance of prejudice being suffered should be more than a hypothetical possibility and there must be a real and significant risk. This follows the approach of the Information Tribunal in the case of *John Connor Press Associates Limited v The Information Commissioner (EA/2005/0005; 25 January 2006)*, as quoted in paragraph 17.

45. The MPS has suggested that CHIS and their families would suffer an endangerment to safety as a result of disclosure and that this could lead to substantial physical harm or mental trauma. However, this argument is based on the assumption that disclosure of the information would lead to identification of CHIS. As covered above in the section 30 public interest sections, the Commissioner does not accept that disclosure of the total sums spent on informants for the three years preceding the request would be likely to lead to identification of individual CHIS and therefore he has not weighted it as a relevant factor in the context of that exemption. For the same reasons he does not accept that the MPS has evidenced why disclosure would be likely to prejudice the safety of any individual on this basis.
46. The MPS has argued that the use of CHIS is regulated by the Regulation of Investigatory Powers Act 2000 which ensures that the MPS take into account the provisions of the Human Rights Act 1998 when using CHIS. Under Article 2 of this Act, police forces are required to protect human life. They must also protect the rights of informants and their families to privacy and a private life under Article 8. The Commissioner accepts this premise. However, the Commissioner does not accept that disclosure would lead to identification. The Commissioner therefore concludes that disclosure would not compromise an informant's rights to privacy.
47. The MPS has argued that a recent High Court hearing *Van Colle v Chief Constable of Hertfordshire Police* is relevant here. In this case, the force concerned failed to provide adequate protection to an individual whose life was at risk because of the criminal acts of a third party. The witness was murdered by a person whom he was about to give evidence against in a criminal trial. However, the Commissioner does not accept that this case is relevant. Disclosure of the requested information would not identify anybody and should therefore not put an individual's life at risk.
48. The MPS has also argued that information about CHIS is protected during court proceedings and is viewed as sensitive material. CHIS material is often subject to Public Interest Immunity and is not generally considered in open court. However, the Commissioner again finds that the information requested in this case is not sufficiently sensitive to warrant a refusal to disclose. This is because the information would not lead to the identification of informants.
49. The conclusion of the Commissioner is that section 38(1)(b) is not engaged. As noted above, for the exemption to be engaged on the basis that prejudice would

be likely to occur the possibility of endangerment must be at least more than hypothetical and there must be real and significant risk. On the basis of the arguments advanced here, the likelihood of endangerment to safety resulting from disclosure of the information in question is not more than a hypothetical possibility. If identification of informants is not possible, then there is no significant risk to their safety.

50. As the conclusion is that this exemption is not engaged, it has not been necessary to go on to consider the balance of the public interest.

The Decision

51. The Commissioner's decision is that the MPS did not deal with the request for information in accordance with the Act.
52. The Commissioner finds that the MPS failed to comply with section 1(1)(b) in that it incorrectly refused to disclose the information requested on the basis that the balance of the public interest favoured the maintenance of the exemption provided by section 30(2). In failing to disclose this information within 20 working days of receipt of the request, the Commissioner finds that the MPS failed to comply with section 10(1). The Commissioner also finds that the exemptions provided by sections 38(1)(a) and (b) are not engaged.

Steps Required

53. The Commissioner requires the public authority to take the following steps to ensure compliance with the Act:

Disclose to the complainant the money spent by Croydon Police on paying informants in each of the last three years preceding the request.
54. The public authority must take the steps required by this notice within 35 calendar days of the date of this notice.

Failure to comply

55. Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Right of Appeal

56. 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 7th day of December 2009

Signed

**Gerrard Tracey
Assistant Commissioner**

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

Legal Annex

Section 1

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 10

Section 10(1) provides that –

“Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.”

Section 10(2) provides that –

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

Section 10(3) provides that –

“If, and to the extent that –

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 10(4) provides that –

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

Section 10(5) provides that –

“Regulations under subsection (4) may –

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

Section 10(6) provides that –

“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 17

Section 17(1) provides that –

“A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which –

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

Section 30

Section 30(1) provides that –

“Information held by a public authority is exempt information if it has at any time been held by the authority for the purposes of-

- (a) any investigation which the public authority has a duty to conduct with a view to it being ascertained-
 - (i) whether a person should be charged with an offence, or
 - (ii) whether a person charged with an offence is guilty of it,
- (b) any investigation which is conducted by the authority and in the circumstances may lead to a decision by the authority to institute criminal proceedings which the authority has power to conduct, or
- (c) any criminal proceedings which the authority has power to conduct.”

Section 30(2) provides that –

“Information held by a public authority is exempt information if-

(a) it was obtained or recorded by the authority for the purposes of its functions relating to-

- (i) investigations falling within subsection (1)(a) or (b),
- (ii) criminal proceedings which the authority has power to conduct,
- (iii) investigations (other than investigations falling within subsection (1)(a) or (b)) which are conducted by the authority for any of the purposes specified in section 31(2) and either by virtue of Her Majesty's prerogative or by virtue of powers conferred by or under any enactment, or
- (iv) civil proceedings which are brought by or on behalf of the authority and arise out of such investigations, and

(b) it relates to the obtaining of information from confidential sources.”

Section 38

Section 38(1) provides that –

“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.”