

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 30 November 2010

Public Authority: Department for Work and Pensions
Address: The Adelphi
1-11 John Adam Street
London
WC2N 6HT

Summary

The complainant made a request to the Department for Work and Pensions (DWP) for contact telephone numbers relating to its service. Although the DWP provided a list of the publicly available telephone numbers, it refused to disclose the corresponding geographic telephone numbers under section 36 (prejudice to effective conduct of public affairs) of the Freedom of Information Act 2000 (the 'Act'). During the course of the Commissioner's investigation, the DWP also claimed that the exclusion provided by section 12 (cost of compliance) would be engaged. The Commissioner has considered the complaint and has found that section 36(2)(c) applies to the withheld information and the public interest favours maintaining the exemption. The Commissioner has not therefore gone on to consider the application of section 12(1). While the Commissioner does not require the DWP to take any steps, he has determined that the authority breached section 17(1) by its handling of 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.

The Request

2. On 13 September 2009, the complainant submitted the following request to the Department for Work and Pensions (DWP):

'Please can you provide me with a list of all geographic phone numbers which a person could dial to reach the DWP.

For each number please indicate the non-geographic equivalent (if any) and please indicate the name of the office, department, branch or service line the number is associated with.

By geographic phone numbers I mean phone numbers with an area code.

By non-geographic phone numbers I mean phone numbers starting with 0870, 0845, 0800 etc that do not have an area code.

For the avoidance of doubt your response should include:

- numbers of offices, branches and
- numbers of Jobcentres
- numbers of general helplines
- numbers of helplines for specific benefits/issues
- numbers that the DWP does not normally make available to the public.

For the avoidance of doubt your response need not include:

- mobile phone numbers of DWP mobiles allocated to one employee/official only
- internal extension numbers associated with one employee/official only

I include an example to show the type of information the list should contain the example may not be accurate:

1. Milton Keynes Jobcentre Plus 01908 455500 (non-geo: 0845 606 0234)."

3. The DWP informed the complainant on 13 October 2009 that the requested information needed to be considered under one of the exemptions to which the public interest test applies. It therefore stated that it would need additional time in order to make a determination on

- where the public interest lay. At this stage, the DWP did not cite the relevant exemption being considered.
4. The DWP provided its substantive response on 26 October 2009. It firstly stated that it did not hold the information in the format requested. In terms of the numbers that the "DWP does not normally make available to the public", the authority further advised that it was refusing to provide the information under section 36(2)(c) of the Act. As required by the legislation, the DWP had considered the public interest in disclosure but determined that it favoured maintaining the exemption.
 5. Later the same day, the complainant wrote to the DWP to ask that it review its response. Among other points, the complainant highlighted the requirement for a public authority to consult a qualified person if it considered section 36 applied.
 6. The DWP provided the complainant with the findings of its internal review on 26 November 2009. The DWP conceded that, in accordance with section 16 of the Act, it could have been more helpful when responding to the request. To remedy this failure, the DWP supplied the complainant with a list of the publicly accessible telephone numbers for which it had only previously indicated the areas where the numbers could be located.
 7. The DWP, however, maintained its reliance on section 36(2)(c) of the Act. As part of its response, the DWP also identified the relevant qualified person who, as required by the exemption, provided his reasonable opinion that the information should be withheld.

The Investigation

Scope of the case

8. On 6 January 2010 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the refusal of the DWP to provide the withheld geographic numbers associated with its service.
9. In light of the DWP's reliance on section 36 at internal review, the Commissioner's investigation has initially focused on the application of section 36(2)(c) of the Act.

Chronology

10. The Commissioner contacted the DWP on 23 April 2010 to seek clarification on its application of section 36(2)(c) and to invite it to provide any further arguments it wished to be considered. The DWP responded on 8 June 2010. As part of its submission, DWP put forward its view that the exclusion provided by section 12(1) would also apply to the requested information.
11. Between 30 June 2010 and 2 November 2010, the Commissioner sought, and was provided with, further explanations from the DWP in relation to the information it had previously supplied.

Findings of fact

12. To refer to its website¹, the DWP is “responsible for welfare and pension policy and is a key player in tackling child poverty. It is the biggest public service department in the UK and serves over 20 million customers.” The DWP has calculated that it receives approximately 200 million calls each year.
13. In 2008, the DWP’s Executive Team agreed the following set of principles, which served as a guide to the way the department numbered its telephony services:
 - Calls to claim benefit should be free to the customer.
 - There should be consistency of approach across the department – both for clarity and equity.
 - The approach should make sense from a customer’s point of view rather than be driven by product lines or organisational structure.
 - It must be sustainable both for DWP’s future business model and as the telephony market changes.
14. To implement these principles, the DWP decided to allocate 0800 – or in five instances 0808 – numbers to areas where benefits are claimed. 0800 and 0808 numbers may be free to call from landlines, although a charge will likely apply when telephoned from a mobile. For other areas of its business, the DWP chose to implement a telephony system based on 0845 numbers, although it continued to operate three 0870 numbers that were already in place. On a limited basis, the DWP also offers geographical telephone numbers for certain parts of its business, such as its International Pension centre.

¹ <http://www.dwp.gov.uk/>

15. All numbers with an 08x prefix are non-geographic numbers (NGN), meaning they are not attached to any particular location or assigned to a specific telephone line.
16. A number of organisations have highlighted the cost of calls to NGNs used by government agencies, with reference being made to the effect that the inflated cost-charges were having on customers. For example, in 'Hung Up'², a report published by Leeds Citizens Advice Bureau in June 2009, it described the difficulties that individuals had encountered when attempting to call 08x numbers used by the DWP.
17. Similarly, in September 2009, the Social Security Advisory Committee (SSAC) published '*Telephony in DWP and HMRC: Call costs and equality of customer access*'³, which returned to the SSAC's recommendations of 2007 in relation to the telephony systems used by DWP and HMRC. At paragraph 3 of the report, SSAC stated:

"A key issue that we explored in the 2007 paper was the cost of calls to non-geographic numbers. This issue merits a brief reconsideration, as it is central to many of our concerns about the increasing use of telephony for customer access. Government departments and agencies have been increasingly using non-geographic numbers (e.g. 0845, 0800 numbers) to deliver services because they offer a number of extra functions not offered by geographic numbers (01, 02 numbers). These extra functions include the fact that organisations can manage calls into their network through 'intelligent routing.' This means that calls from different types of customer can be routed to staff members through the use of a single telephone number. However, a major drawback to the use of non-geographic numbers is that they may cost more than the cost of an equivalent call to a standard rate geographic number, especially when called from a mobile phone. Even 0800 numbers that are free from a BT landline are chargeable from most mobile phones...However, it is worth noting that it is currently cheaper to call an 0845 number from a BT landline than to call a geographic number, if the number lasts longer than a few minutes."

Analysis

18. The legal provisions relevant to the decision are set out in the Legal Annex to the Decision Notice.

Exemptions

² <http://www.leedscab.org.uk/forms/hungupreport.pdf>

³ <http://www.ssac.org.uk/pdf/occasional/SSAC-telephony-paper.pdf>

Section 36 – Prejudice to effective conduct of public affairs

19. Section 36(2)(c) of the Act provides that information is exempt if, in the reasonable opinion of a qualified person, disclosure of the information would, or would be likely otherwise to, prejudice the effective conduct of public affairs.
20. In *McIntyre v the Information Commissioner* (EA/2007/0068), the Information Tribunal noted that no definition of 'public affairs' was given in the Act. However, The Tribunal commented that this category of exemption was:

"intended to apply to those cases where it would be necessary in the interests of good government to withhold information, but which are not covered by another specific exemption, and where the disclosure would prejudice the public authority's ability to offer an effective public service or to meet its wider objectives or purposes due to the disruption caused by the disclosure or the diversion of resources in managing the impact of the disclosure."
21. Information can only be exempt under section 36(2)(c) if 'in the reasonable opinion of a qualified person' disclosure would, or would be likely to, lead to the adverse consequences in relation to the effective conduct of public affairs. In order to establish that the exemption has been applied correctly, the Commissioner must:
 - Establish that an opinion was given;
 - Ascertain who was the qualified person or persons;
 - Ascertain when the opinion was given;
 - Consider whether the opinion was objectively reasonable and reasonably arrived at.
22. The 'qualified person' in the case of government departments is a Minister of the Crown. The Commissioner has established that, at the time of the request, the qualified person was the Parliamentary Under Secretary (Lords), the Minister with responsibility for freedom of information at DWP.
23. A submission was put to the Minister on 13 October 2009 by officials of the DWP, advising that, in their view, the information held should be considered exempt from disclosure by virtue of section 36(2)(c). The submission itself was a repeat of the guidance given in response to earlier requests seeking the geographical numbers associated with three specific Benefit Delivery Centres. In this case, the DWP was informed of the Minister's agreement to the application of section 36 on

21 October 2009 and therefore prior to the DWP's refusal of the complainant's request.

24. In the case of *Guardian & Brook v the Information Commissioner & the BBC* (EA/2006/0011 and EA/2006/0013), the Information Tribunal considered the sense in which the qualified person's opinion under section 36 is required to be reasonable. The Tribunal rejected arguments that the process by which the qualified person's opinion was reached was irrelevant and that only the content of the decision itself mattered. Rather, the qualified person must form an opinion in good faith and not on a capricious or prejudiced basis.
25. In considering whether an opinion was reasonably arrived at, the Commissioner considers that the qualified person should only take into account issues relevant to the requested information and that the process of reaching a reasonable opinion should, where possible, be supported by evidence. However, the Commissioner also accepts 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.
26. The qualified person, and the public authority generally, have not explicitly stated whether disclosure would or would be likely to result in the stated prejudice. The Commissioner has therefore found it appropriate to apply the lesser test, specifically that the exemption will be engaged if disclosure would be likely to cause the prejudice described in section 36(2)(c) of the Act. This approach was supported by the Information Tribunal in *McIntyre*, which stated:

"We consider that where the qualified person does not designate the level of prejudice, that Parliament still intended that the reasonableness of the opinion should be assessed by the Commissioner but in the absence of designation as to level of prejudice that the lower threshold of prejudice applies, unless there is other clear evidence that it should be at the higher level."
27. The nature of 'would be likely to prejudice' was also considered by the Information Tribunal in *John Connor Press Associates Ltd v Information Commissioner* (EA/2005/0005). Drawing from the judgement of Mr Justice Munby in the High Court⁴, the Tribunal established that for it to apply:

⁴ R (on the application of Lord) v Secretary of State for the Home Office [2003] EWHC 2073 Admin

"the chance of prejudice being suffered should be more than a hypothetical possibility; there must have been a real and significant risk."

28. In agreeing with the submission presented to him, the Minister has effectively put forward his opinion that section 36(2)(c) is engaged for the following reason:
- By providing its underlying geographical numbers (UGNs), the DWP would receive a higher number of misdirected calls as callers would: miss out on some of the Interactive Response messages; calls would not go through the post code recognition systems; and (when introduced next year) would avoid the DWP's automated identity and verification process. This would result in:
 - a higher volume of misdirected calls, the handling of which has a direct cost to the DWP of 40p per call; and
 - the incalculable indirect costs associated with the large scale use of non-geographic numbers, which would severely compromise the DWP's business operation, as well as its reputation.
29. The Commissioner considers that, based on the above arguments, it was reasonable for the qualified person to conclude that disclosure would be likely to prejudice the conduct of public affairs; accordingly, the qualified person's opinion would be reasonable in substance for the purposes of section 36(2)(c). The Commissioner has therefore gone on to consider whether the qualified person's was reasonably arrived at.
30. As part of his analysis, the Commissioner has questioned whether it was appropriate for the qualified person to rely on a submission that was drawn up in response to earlier, differing requests. In particular, given that the requests asked for specific geographic numbers rather than all such numbers, the Commissioner has had to decide whether it was reasonable for the qualified person to draw his opinion from the potentially more localised arguments.
31. Having examined the submission put before the qualified person, the Commissioner has found that the presented arguments, in the main, are based on the possibility that the provision of a geographic number for one Benefit Delivery Centre would set a precedent leading to the disclosure of all geographic numbers. Consequently, the Commissioner is satisfied that the arising arguments about the prejudicial consequences of such a disclosure were relevant to the request that forms the focus of this notice.

32. In this case there was no question of, nor benefit attached to, providing the withheld information to the qualified person. Rather, the Commissioner accepts that the qualified person would have been in an appropriate position to offer his opinion based on the submissions put before him. The Commissioner has therefore found that the qualified person's opinion was reasonably arrived at.
33. In summary, the Commissioner considers that the qualified person concluded in good faith that the disclosure of the geographic telephone numbers would be likely to compromise the DWP's business operations and, consequently, likely to prejudice the effective conduct of public affairs. The Commissioner has therefore determined that section 36(2)(c) is engaged.

Public interest arguments in favour of disclosing the requested information

34. As referred to at paragraphs 16 and 17, the Commissioner is aware of the criticism of the use of 08x prefix numbers by public bodies. In his decision involving NHS Direct (FS50010888)⁵, the Commissioner similarly considered whether it would be appropriate to disclose the geographic telephone number associated with that body. At paragraph 58 of his decision, the Commissioner recognised that:

"...there is a public interest in the public being able to access public services in a cost effective manner and as cheaply as possible. He has noted Ofcom's concerns⁶ about the use of 0845 numbers by public bodies and that it believes that public bodies should consider carefully whether it is appropriate to use 084 and 087 numbers in place of Freephone or ordinary geographic numbers. Ofcom believes that, at present, it is inappropriate for public bodies to use 084 or 087 numbers exclusively (i.e. without at a minimum giving equal prominence to a geographic alternative) when dealing with people on low incomes or other vulnerable groups."

35. The Commissioner understands that, by the very nature of the functions it provides, a significant proportion of the users of the DWP's services will come from a disadvantaged background. The Commissioner therefore considers that there is a cogent case for arguing that the potentially lowest cost telephone numbers used by DWP should be made available, thereby ensuring that the services

⁵ http://www.ico.gov.uk/~media/documents/decisionnotices/2007/FS_500108885.ashx

⁶ For example, in *Telephone Numbering – Safeguarding the future of numbers*, Ofcom identified the problems of call charges associated with 08x numbers and highlighted the allocation of 0300 numbers as a cheaper option for consumers. A summary document can be found at:

<http://stakeholders.ofcom.org.uk/consultations/numberingreview/statement/summary/>

offered by DWP are readily accessible. As referred to in paragraph 14, even 0800 and 0808 numbers may effect a charge when called from a mobile telephone.

36. The Commissioner is also mindful that Ofcom has highlighted the allocation of 0300 numbers by public bodies as a potentially cheaper alternative to, for example, 0845 and 0870 numbers. In 'Hung Up', a main recommendation of the Leeds Citizen Advice Bureau was that:

"The DWP, the Home Office, HMRC and NHS Direct should commit to replacing their 0845/0870 numbers with 0300 numbers, by the end of 2009."

37. By failing to transfer at least its 0845 and 0870 numbers to a 0300 prefix, the Commissioner understands that an argument exists which suggests that the DWP has not shown a proper commitment to improving its accessibility to users. In a similar vein, the SSAC has questioned why the DWP has not advocated the more widespread use of 0800 numbers. By default then, there are legitimate grounds for considering that the DWP's UGNs should be released on the basis that it has not taken up a more customer-focused telephony system.

38. From a customer perspective, the Commissioner would also agree with the complainant that there may be occasions where a direct number to a service, rather than via a routing system, will be more time effective. For example, where a user knows which department would be able to address a query, it is likely that the routing process will only serve to delay the query being responded to.

Public interest arguments in favour of maintaining the exemption

39. In providing its public interest arguments, the DWP has drawn a distinction between customer service/cost issues and issues connected with the business management of the department.
40. From the viewpoint of a customer, the DWP has explained that BT allocates a range of UGNs to each of the NGNs. However, these ranges are unlikely to be located in the same geographical area that the NGN number is directed to. As an example, the DWP stated that contact centres in Derby and Newcastle have UGN relating to Oxfordshire and the Scottish Islands respectively. The DWP has therefore contended that:

"As there are no DWP Contact Centres located in these areas, there is no benefit from a call charge perspective in releasing them. 0845

numbers are charged, in most instances, at a local rate, which provides a standard charging regime across all DWP customers."

41. The Commissioner accepts that the release of the UGN numbers may not, in all circumstances, benefit financially the customers of the DWP. However, the Commissioner is not persuaded that this point, if considered in isolation, would serve to strengthen the DWP's application of section 36.
42. The Commissioner is aware that a significant criticism of 08x numbers stems from the public confusion over how calls are charged, particularly with reference to calls from mobile telephones. In contrast, the public is more familiar with the charging regime associated with landline numbers. This would therefore serve to add weight to arguments for the disclosure of the UGNs.
43. The Commissioner, however, lends more weight to the DWP's argument that the release of the UGNs would mean that any customer calling these numbers would bypass important recorded information contained in the Interactive Voice Response (IVR) message.
44. The IVR gives a consistent Department wide greeting, and includes important announcements such as office closure details. The IVR will also inform the customer of the possibility that the call may be recorded and monitored, notice of which is an Ofcom requirement. Finally, the IVR will give the customer a number of options, allowing the customer to select the appropriate one for themselves.
45. The Commissioner has no doubt that, given the breadth of the services offered by the DWP, the ability of the IVR to direct a customer to the appropriate department in a structured manner will, in many cases, be of considerable assistance to that customer. The IVR may also offer information that will not be readily provided if a UGN was called.
46. This issue of administrating calls also feeds in to the DWP's broader argument concerning the public interest in the DWP having effective business management control of its telephony service.
47. The advantages of intelligent routing are widely recognised, as demonstrated in the quotation taken from the SSAC at paragraph 17. The use of a NGN allows calls to the DWP to be routed to the next available agent within the contact centre, or in the case of the DWP's virtual operation, across its network, regardless of where the customer is calling from. This function of NGNs means that the business has the ability to move work around, dependent on demand and capacity within the business. Similarly, the Commissioner understands that the

bypassing of NGNs would potentially deprive the DWP of call management information which can be used in the planning and allocation of staff resources.

48. By placing the UGNs in the public domain, the Commissioner considers it reasonable to conclude that a greater number of callers would avoid using the NGNS. Accordingly, the Commissioner would accept the DWP's assertion that:

"...there is the possibility that the customer would either not have their call answered or wait a significant time for it to be so, and incur higher call charges as a result. It would result in misrouted calls and additional transfers of calls, impacting on customer service and the Department's internal targets."

49. As part of its submissions presented to the qualified person, referred to at paragraph 28, the DWP cited the cost to the department of a misdirected call. The Commissioner has also been informed that, more recently, the DWP undertook an extensive snapshot analysis of the cost of inappropriate calls within the Jobcentre Plus virtual network.
50. In the week of the study, it was estimated that 3.7% or 20,089 of the calls received were incorrectly directed. Based on the average that an inappropriate call lasted 3 minutes and 25 seconds, the DWP calculated that the cost to the department per inappropriate call was £2.19. Having no reason to question the veracity of this analysis, and bearing in mind the likelihood that the number of misdirected calls would increase if the UGNs were published, the Commissioner considers that the cost to the department through disclosure could be considerable.
51. The Commissioner recognises that there is considerable resistance to the use of 08x prefix numbers, particularly 0845 and 0870 numbers, given the potential of higher call charges. However, the Commissioner does not believe that this public interest would offset the likelihood that the release of the UGNs would lead to a deterioration of the DWP's ability to effectively handle calls; the result of which would clearly negatively affect the caller experience.
52. In forming this view, the Commissioner has acknowledged the steps that the DWP has taken to ensure that at least some parts of its service operate on a 0800 number, a freephone number from landlines. The Commissioner is further aware that since the beginning of 2009, the DWP has been in negotiations with mobile phone operators to provide free calls to the 0800 numbers.

53. Significantly, the Commissioner has been informed that the DWP does not receive any direct revenue from the use of its 08x numbers. Consequently, there would not seem to be any commercial interest driving the DWP's adherence to the 08x numbers. The Commissioner is also mindful that the DWP has considered, although ultimately rejected, the replacement of 08x numbers by 0300 numbers; deciding, on balance, that the 08x suffix continued to offer the most advantageous service to its customers.

54. Following up on this issue, the SSAC commented that:

"22 We understand from DWP Officials that they continue to monitor developments in call numbering and charging and have not ruled out the use of 03 numbers in the future, if they prove to be advantageous to both customers and the Department. Officials have also made it clear there is a danger that, because of the dynamism in the telephony market, chasing best price will inevitably create new disadvantaged customers and considerable care is necessary before embarking on a number change that will involve significant costs and possibly cause customer confusion. We believe that this is an appropriate response to the 03 number range and that DWP customers are currently best served by the use of 0800 numbers."

55. Leading on from the above, the Commissioner considers that there are justifiable reasons for the DWP maintaining its 08x telephony system; a system which, to a real and significant extent, could be undermined through the release of the withheld UGNs.

Balance of the public interest arguments

56. As demonstrated, the Commissioner considers that there is a strong public interest in the release of the UGNs, principally based on the possibility that these numbers may offer a lower cost alternative to the NGNs operated by the DWP.

57. However, the Commissioner would also take the view that the use of the 08x prefix numbers are an integral part of the DWP's ability to manage the significant volume of calls it receives. The Commissioner has therefore placed great weight on the fact that the release of the UGNs would likely lead to the deterioration of the DWP's telephony service. Given the negative impact this would have, for both customers and the department itself, the Commissioner has concluded that the public interest favours maintaining the section 36 exemption.

58. As the Commissioner is satisfied that section 36(2)(c) has been correctly applied, he has not considered the DWP's application of section 12.

Procedural Matters

Section 17(1)

59. Section 17(1) requires that, where a public authority wishes to rely on any exemption from part II of the Act, it should issue a notice specifying the exemption and stating why the exemption would apply. In accordance with section 10(1) of the Act, this notice must be issued within 20 working days of receipt of the request.
60. By failing to issue an appropriate refusal notice within the statutory time limit, the Commissioner finds the DWP in breach of section 17(1) of the Act.

The Decision

61. The Commissioner's decision is that the public authority correctly withheld the requested information under section 36(2)(c) of the Act.
62. However, the Commissioner has also decided that the public authority breached section 17(1) of the Act by failing to issue an appropriate refusal notice within 20 working days of receipt of the request.

Steps Required

63. The Commissioner requires no steps to be taken.

Other matters

64. Where, upon receipt of a request, the application of an exemption that is subject to a public interest test is being considered, section 17(3) allows that a public authority may require an extension to the 20 working day period for response. However, in the case of the section 36 exemption, the Commissioner considers that the extension cannot be claimed until the qualified person has given his or her opinion that information is exempt.

The Commissioner notes that the DWP informed the complainant on 13 October 2009 that it required extra time to consider the public interest test associated with an exemption. However, the Commissioner understands that the DWP only received confirmation that the qualified person agreed to the application of section 36(2)(c) on 21 October 2009. The Commissioner would therefore take the view that the DWP did not in the circumstances legitimately extend the 20 working deadline.

Right of Appeal

65. Either party has the right to appeal against this Decision Notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.

Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

Dated the 30th day of November 2010

Signed

**Pamela Clements
Group Manager, Complaints Resolution**

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

Legal Annex

Freedom of Information Act 2000

Time for Compliance

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.

Where cost of compliance exceeds appropriate limit

Section 12(1) provides that –

Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.

Section 12(5) – provides that –

The Secretary of State may by regulations make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are estimated.

Refusal of Request

Section 17(1) provides that –

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

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

Section 17(2) provides that –

Where–

- (a) in relation to any request for information, a public authority is, as respects any information, relying on a claim-

- (i) that any provision of part II which relates to the duty to confirm or deny and is not specified in section 2(3) is relevant to the request, or
 - (ii) that the information is exempt information only by virtue of a provision not specified in section 2(3), and
- (b) at the time when the notice under subsection (1) is given to the applicant, the public authority (or, in a case falling within section 66(3) or (4), the responsible authority) has not yet reached a decision as to the application of subsection (1)(b) or (2)(b) of section 2,

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

Section 17(3) provides that -

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

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

Prejudice to effective conduct of public affairs

Section 36(2) provides that –

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

- (a) would, or would be likely to, prejudice-
 - (i) the maintenance of the convention of the collective responsibility of Ministers of the Crown, or
 - (ii) the work of the Executive Committee of the Northern Ireland Assembly, or

- (iii) the work of the executive committee of the National Assembly for Wales,
- (b) would, or would be likely to, inhibit-
 - (i) the free and frank provision of advice, or
 - (ii) the free and frank exchange of views for the purposes of deliberation, or
- (c) would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.