

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 17 January 2011

Public Authority: Hampshire County Council
Address: The Castle
Winchester
Hampshire
SO23 8UJ

Summary

The complainant requested the list of schools nominated by the council for the government's Gaining Ground scheme. The council refused disclosure of the information under s36(2)(b)(ii) and s36(2)(c) of the Act.

The Commissioner decided that the public interest in maintaining the exemptions at s36(2)(b)(ii) and s36(2)(c) did not outweigh the public interest in disclosure. He ordered that the information be disclosed.

The Commissioner found the council to have breached s17(1)(b) and s17(1)(c) of the Act.

The Commissioner's Role

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

Background

2. The "Gaining Ground" scheme was launched by the Department for Children, Schools and Families (now Department for Education) in November 2008 to boost schools where pupils are not performing as

well as they could. Schools participating in the scheme are able to receive additional funding to buy extra resources.

3. The scheme was targeted at secondary schools which displayed one or more of ten indicators. The ten indicators are as follows:
 - (i) More than 30% of the school's pupils achieve five or more good GCSEs but pupils' progress from Key Stage 2 to Key Stage 4 is unimpressive.
 - (ii) Many of the school's pupils start in line with national expectations but fail to achieve potential.
 - (iii) There has been little or no improvement in the school's progression rates over several years.
 - (iv) Ofsted ratings are disappointing given the school's intake and potential.
 - (v) The school has a weak Assessment for Learning and little tracking of pupils leading to a lack of early intervention.
 - (vi) The school has a strong focus on threshold targets but progression targets are not ambitious or are seen as having a lower priority.
 - (vii) The school may have complacent leadership and inexperienced or uninspiring subject leaders in English and maths.
 - (viii) Within the school there is significant variation in performance between pupil groups (for example those on free school meals).
 - (ix) The school's contextual value-added score is significantly below average.
 - (x) The school has not implemented the workforce remodelling agreement or has not done so appropriately.

The Request

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4. On 18 June 2009 the complainant requested the following information from the council:

"I would like to receive the list of schools nominated by Hampshire County Council for the government's Gaining Ground scheme."
 5. On 16 July 2009 the council exempted the requested information from disclosure on the basis of s36(2)(b) and s36(2)(c) of the Act.
 6. The complainant informed the council on 17 July 2009 of her wish to appeal against its decision. The council advised the complainant of its complaints procedure, however, the complainant was unable to access the council's website complaint form. She informed the council of this on 26 August 2009. In its internal review of 27 November 2009 the council upheld the decision to withhold the information.

The Investigation

Scope and chronology

7. The complainant wrote to the Commissioner on 18 January 2010 to complain about the council's refusal to disclose the information and the length of time it had taken to expedite the request.
8. On 18 February 2010 the Commissioner asked the council for a copy of the withheld information in order to ascertain whether it had been withheld appropriately. The council supplied this on 16 March 2010 together with further submissions to support its position.
9. The Commissioner asked the council on 25 May 2010 to clarify a number of issues concerning the exemptions that it had applied. The council provided its response on 10 June 2010 and its arguments are incorporated within the analysis below.

Analysis

Exemptions

Section 36

10. The application of s36 requires the reasonable opinion of a qualified person, designated by or under the Act. For a principal local authority (such as the Council) this is the monitoring officer, appointed under section 5 of the Local Government and Housing Act 1989. The identity of that individual was not disclosed to the complainant in the council's refusal notice but the authority's internal review later explained that the qualified person was the council's monitoring officer who is also its deputy head of legal services.
11. The Tribunal in *Guardian & Brooke v The Information Commissioner & the BBC* (EA/2006/0011 and EA/2006/0013) stated that the qualified person's opinion must be both reasonable in substance and reasonably arrived at.

In order to ascertain whether the qualified person's opinion is reasonable in substance, the Commissioner takes into consideration the following factors:

- (a) whether the level of prejudice shown is “would” rather than “would be likely to”
 - (b) the severity and scope of the prejudicial effect
 - (c) the extent to which the prejudicial effect is to a core function of the public authority
12. The council’s refusal notice stated that in the qualified person’s opinion the information was exempt from disclosure by virtue of s36(2)(b) and s36(2)(c) of the Act.
13. With regard to the exemption at s36(2)(b) the opinion did not specify whether the council was reliant on sub section (i) (inhibition of the free and frank provision of advice) or sub section (ii) (inhibition of the free and frank exchange of views for the purposes of deliberation) in order to withhold the information. The Commissioner asked the council to specify the relevant sub section and the authority declared this to be s36(2)(b)(ii).
14. As the level of prejudice was also not indicated in the council’s refusal notice or in its internal review the Commissioner asked the council to specify this. The council clarified that in the monitoring officer’s opinion disclosure of the information “would be likely” to inhibit the free and frank exchange of views for the purposes of deliberation.

S36(2)(b)(ii)

15. The council submitted that s36(2)(b)(ii) applied on the basis of the need for frank discussions with the schools on the value of and criteria for entering the Gaining Ground scheme. In order to assess whether the eligibility criteria for entry to the scheme are met, the weaknesses of a school need to be aired and acknowledged. In the monitoring officer’s opinion disclosure of confirmation of eligibility would be likely to inhibit (if not nullify) frank exchange of views on the matter. The schools were concerned that their reputations would be likely to be damaged before they had had an opportunity to improve their areas of weak practice.
16. The Commissioner notes that the complainant had not requested disclosure of the discussions per se but had asked for the names of schools nominated for entry to the scheme. However, he accepts that the act of nomination for entry to the scheme was the outcome of frank discussions and was the purpose of their deliberation and to that extent he considers the application of the sub section to be relevant.

17. In the qualified person's opinion disclosure would also be likely to cause distress to the parents of children attending those schools. This was because any ensuing publicity as a result of the disclosure would be likely to portray the schools that had taken part in the scheme as "failing". This in turn would be likely to deter other parents from applying to those schools.
18. The Commissioner has considered the extent to which the alleged prejudice would be likely to affect a core function of the council. To the extent that the reputation of individual schools would be likely to be damaged by the disclosure, the Commissioner acknowledges that this would be likely to impact on the functioning of those schools.
19. In support of the argument that disclosure would be likely to deter applications to the schools involved, the council pointed to its experience of an earlier government initiative, the National Challenge. This scheme provided financial support to schools achieving below 30% A to C grades at GCSE. The council cited two schools which had received fewer applications from parents after applying for that support. It submitted admissions figures for both schools which indicated a year on year reduction over three years. However, the Commissioner was not supplied with any corroborative analysis to confirm the council's interpretation that the reductions were specifically due to negative identification with the initiative. He is minded that other factors may well have been involved and until these have been clearly discounted he is unable to attach much statistical significance to that particular submission.
20. In further support of its argument the council directed the Commissioner to a number of online articles which illustrated the pejorative manner in which the media had used the term "coasting schools" following the government's launch of the Gaining Ground initiative. The Commissioner has studied these and similar articles and recognises the negative connotations that have been applied by the press. However, he has also read online articles openly endorsing entry to the scheme from schools and education departments which have chosen to ignore the media's negative slant on the matter.
21. Whilst the Commissioner considers the opinion to be reasonable in substance that parents may be deterred from applying to a particular school owing to negative press reports based on disclosure of a school's entry to the Gaining Ground scheme, he does not discount the reasonableness of the alternative view that schools seen to be actively engaged in improvement might equally be held in higher regard by parents than those which do not.

22. The Commissioner asked the council why the revelation of apparent weaknesses within a school should be a particular problem if similar information is already available through the publication of Ofsted school inspection reports. The council's response was that whilst Ofsted reports may highlight specific areas for improvement, this is done in the context of an overall report which presents a balanced view of the school. The council felt that in the case of the Gaining Ground scheme, the media would be more likely to focus on the term "coasting schools" and with it the implication of failure. The Commissioner considers that whilst this is a reasonable assumption to make regarding the likelihood of press reaction in this instance, it does not wholly cancel the observation that if the media so chose it could equally focus on the negative aspects of an Ofsted school report.
23. The Commissioner asked the council to provide any evidence that helped support the process of reaching the qualified person's opinion. The council informed the Commissioner that the monitoring officer had been briefed by an officer from its children's services department. The Commissioner requested a copy of the briefing. On 8 July 2009 the monitoring officer was provided with an outline of an earlier response to a similar request. In summary the outline was that schools involved in discussions concerning entry to the scheme were not necessarily "coasting" schools. These schools needed to discuss in partnership with the council their consideration of entry to the scheme and by so doing address their weaker areas. It was considered that negative publicity about any decisions to enter the scheme would be likely to damage the partnership approach and limit the impact of the scheme in helping the schools to improve.
24. Whilst it appears that the monitoring officer was assisted in arriving at her opinion ostensibly on the basis of another individual's view, the Commissioner is satisfied that the opinion was reasonably arrived at. He recognises that it is in the nature of such requests that there will often be no concrete information in front of the qualified person to definitively assist in reaching the decision or any detailed "evidence" for one to see how it was arrived at - unlike cases where a request involves, say, that for a particular document which the Commissioner would expect the qualified person to have read before reaching the opinion.

S36(2)(c)

25. The council also applied the exemption at s36(2)(c) in order to withhold the information, however, it did not provide an explanation as to why the exemption was engaged.

26. The Commissioner asked the council to provide the qualified person's reasons in support of the exemption. The central requirement of s36(2)(c) is that disclosure would or would be likely to "otherwise" prejudice the effective conduct of public affairs. Consequently some prejudice other than that protected by another limb of s36 must be indicated. The Commissioner therefore asked the council to differentiate this argument from that in support of its application of s36(2)(b)(ii).
27. As with s36(2)(b)(ii), the qualified person's opinion that the information is exempt via s36(2)(c) must be both reasonable in substance and reasonably arrived at. Accordingly, with regard to s36(2)(c) the Commissioner has taken into consideration:
- (a) whether the level of prejudice shown is "would" rather than "would be likely to"
 - (b) the severity and scope of the prejudicial effect
 - (c) whether the prejudicial effect is to a core function of the public authority
28. The reasons given for the council's application of s36(2)(c) are summarised in this notice in line with the council's clarification that the level of prejudice is at the lower threshold. The council submitted that:
- (i) the authority's relationship with its schools would be likely to suffer if information that had been provided voluntarily by the schools was disclosed without good cause
 - (ii) other schools would be likely to be deterred from taking part in the Gaining Ground initiative if they thought that their nominations to the scheme would also be disclosed
 - (iii) if schools believed information they supplied was to be disclosed they would likely be less willing to seek council advice on other matters. This in turn would be likely to have a negative impact should the advice foregone on those other matters have had the potential to contribute to effective service delivery.
29. With reference to the council's submission at paragraph 28(i) the Commissioner considers it to be a reasonable assumption that the schools/council relationship would be likely to suffer if information provided voluntarily was disclosed without due cause by the authority. To the extent that the likelihood of detriment is different from the likelihood of impact to the free and frank exchange of views as

encompassed by the exception at s36(2)(b)(ii) he considers the exception at s36(2)(c) to be engaged.

30. The Commissioner does not consider the council's argument at paragraph 28(ii) to be sufficiently differentiated from that in support of s36(2)(b)(ii). It simply applies the same reason for the argument against disclosure concerning schools currently involved with the Gaining Ground scheme to those which are not. The Information Tribunal in *R Evans v Information Commissioner & The Ministry of Defence* (EA/2006/0064) stated that if the same argument is advanced within different limbs of the exemption then the prejudice feared cannot be "otherwise". Similarly, in *McIntyre v Information Commissioner & The Ministry of Defence* – (EA/2007/0068) the Tribunal reiterated that the intention behind the exemption at s36(2)(c) is to apply to cases which are not covered by another sub section. Accordingly, the Commissioner considers that whilst the argument may legitimately be considered as an extension to that in support of s36(2)(b)(ii) it does not engage the exemption at s36(2)(c).
31. With reference to the submission at 28(iii) the suggestion that a school would be unlikely to ever seek advice on any other matter if entry to the Gaining Ground scheme was disclosed is clearly based on conjecture. The Commissioner gives little weight to speculative arguments about the possibility of wider ranging effects that are unrelated directly to the information in question. In his view the opinion is unreasonable in that respect. He therefore considers that the s36(2)(c) exemption is not engaged in relation to the council's submission at 28(iii).
32. The account supplied to the Commissioner by the council of how the monitoring officer arrived at the opinion has been outlined at paragraph 23 of this notice. Again, whilst it appears that the qualified person arrived at the opinion on the basis of another individual's view, the Commissioner remains satisfied that the opinion as set out at paragraph 28(i) in respect of s36(2)(c) has been reasonably arrived at.
33. As the Commissioner considers that the exemptions at both s36(2)(b)(ii) and s36(2)(c) are engaged he has proceeded to consider the public interest test in respect of these.

Public interest arguments in favour of disclosing the information:

34. (i) The quality of teaching in schools directly affects a child's chances of success in life. If there are weak areas in that provision, parents and pupils have a fundamental right to know about this.

(ii) Disclosure allows transparency and parental scrutiny of the actions that are put in place by schools to address their areas of weaknesses.

(iii) Information concerning a school's standards is important to parents who may intend to apply for future places for their children.

(iv) Local authorities and schools have a professional duty to ensure that educational provision remains fit for purpose. Disclosure that a school is seeking continual improvement creates parental confidence in the school.

(v) The local authority receives substantial public funding in order to provide its education service. Tax payers have a right to know that best value is being achieved in this regard.

(vi) If additional funding is offered by central government in the form of financial incentives such as the Gaining Ground initiative, parents have an expectation and a right to know that their schools have taken full advantage of the extra resources made available.

(vii) Local authorities and schools throughout the UK already disclose this information.

Public interest arguments submitted in favour of maintaining the exemption:

35. (i) Negative press reporting would be likely to damage a school's reputation by interpreting schools that enter the Gaining Ground scheme as "failing" rather than striving for improvement in weaker areas. This would be likely to cause distress to parents of children attending those schools.

(ii) Negative press reports would be likely to deter other parents from applying to those schools in the future.

(iii) Schools would be likely to be criticised by the press before they had had the opportunity to improve their weaker areas as a result of entering the scheme.

(iv) Disclosure would be likely to jeopardise the working relationship between council and schools and so may detract from the improvement of educational outcomes.

Balance of the public interest arguments:

36. The prospect of press distortion forms the central basis of the council's concern. However, fear of a negative press or media misrepresentation

should not be allowed to constrain openness and transparency or shackle the right to public information under the Act. If there truly are weaknesses within a school then these weaknesses and the actions taken to rectify them should not be concealed.

37. The Commissioner has weighed the competing public interest arguments in this case and has concluded that the public interest in disclosing the information outweighs the public interest in maintaining the exemption.

Procedural Breaches

38. The council's refusal notice failed to specify the exemption at s36(2)(b)(ii) upon which it relied to withhold the information. In failing to do so the council breached s17(1)(b) of the Act.
39. The council failed to explain to the applicant why the exemption at s36(c)(2) applied. In failing to do so the council breached s17(1)(c) of the Act.

The Decision

40. The Commissioner's decision is that the public authority did not deal with the request for information in accordance with the Act in that it failed to comply with its obligations under section 1(1)(b).
41. The council incorrectly applied the exemptions at s36(2)(b)(ii) and s36(2)(c) of the Act, in that, although the exemptions were engaged in respect of the withheld information, the public interest in disclosure outweighed the public interest in maintaining the exemptions.
42. The Commissioner found the council to have breached s17(1)(b) and s17(1)(c) of the Act.

Steps Required

43. The Commissioner requires that the council shall within 35 calendar days of the date of this decision notice disclose the information requested by the complainant.

Failure to comply

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

Other matters

45. The Commissioner wishes to highlight the following matter of concern:
46. Part VI of the section 45 Code of Practice (the "Code") 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. Paragraph 38 of the Code states:
- "Any written reply from the applicant (including one transmitted by electronic means) expressing dissatisfaction with an authority's response to a request for information should be treated as a complaint, as should any written communication from a person who considers that the authority is not complying with its publication scheme. These communications should be handled in accordance with the authority's complaints procedure, even if, in the case of a request for information under the general rights of access, the applicant does not expressly state his or her desire for the authority to review its decision or its handling of the application."
47. After refusal of the request for information the complainant informed the council on 17 July 2009 of her wish to appeal against the decision. 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 has decided 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. The Commissioner is concerned that in this case, it took over 90 working days for an internal review to be completed, despite the publication of his guidance on the matter.

Right of Appeal

48. 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 17th day of January 2011

Signed

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

Legal Annex

Freedom of Information Act

Section 1 states that:

(1) Any person making a request for information to a public authority is entitled—

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

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

(2) Subsection (1) has effect subject to the following provisions of this section and to the provisions of sections 2, 9, 12 and 14.

(3) Where a public authority—

(a) reasonably requires further information in order to identify and locate the information requested, and

(b) has informed the applicant of that requirement,

the authority is not obliged to comply with subsection (1) unless it is supplied with that further information.

(4) The information—

(a) in respect of which the applicant is to be informed under subsection (1)(a), or

(b) which is to be communicated under subsection (1)(b),

is the information in question held at the time when the request is received, except that account may be taken of any amendment or deletion made between that time and the time when the information is to be communicated under subsection (1)(b), being an amendment or deletion that would have been made regardless of the receipt of the request.

(5) A public authority is to be taken to have complied with subsection (1)(a) in relation to any information if it has communicated the information to the applicant in accordance with subsection (1)(b).

(6) In this Act, the duty of a public authority to comply with subsection (1)(a) is referred to as “the duty to confirm or deny”.

Section 17 states that:

(1) 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.

(2) 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.

(3) 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.

(4) A public authority is not obliged to make a statement under subsection (1)(c) or (3) if, or to the extent that, the statement would involve the disclosure of information which would itself be exempt information.

(5) A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1(1), give the applicant a notice stating that fact.

(6) Subsection (5) does not apply where—

(a) the public authority is relying on a claim that section 14 applies,

(b) the authority has given the applicant a notice, in relation to a previous request for information, stating that it is relying on such a claim, and

(c) it would in all the circumstances be unreasonable to expect the authority to serve a further notice under subsection (5) in relation to the current request.

(7) A notice under subsection (1), (3) or (5) must—

(a) contain particulars of any procedure provided by the public authority for dealing with complaints about the handling of requests for information or state that the authority does not provide such a procedure, and

(b) contain particulars of the right conferred by section 50.

Section 36 states that:

(1) This section applies to—

(a) information which is held by a government department or by the National Assembly for Wales and is not exempt information by virtue of section 35, and

(b) information which is held by any other public authority.

(2) 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.

(3) The duty to confirm or deny does not arise in relation to information to which this section applies (or would apply if held by the public authority) if, or to the extent that, in the reasonable opinion of a qualified person, compliance with section 1(1)(a) would, or would be likely to, have any of the effects mentioned in subsection (2).

(4) In relation to statistical information, subsections (2) and (3) shall have effect with the omission of the words “in the reasonable opinion of a qualified person”.

(5) In subsections (2) and (3) “qualified person”—

(a) in relation to information held by a government department in the charge of a Minister of the Crown, means any Minister of the Crown,

(b) in relation to information held by a Northern Ireland department, means the Northern Ireland Minister in charge of the department,

(c) in relation to information held by any other government department, means the commissioners or other person in charge of that department,

(d) in relation to information held by the House of Commons, means the Speaker of that House,

(e) in relation to information held by the House of Lords, means the Clerk of the Parliaments,

(f) in relation to information held by the Northern Ireland Assembly, means the Presiding Officer,

(g) in relation to information held by the National Assembly for Wales, means the Assembly First Secretary,

(h) in relation to information held by any Welsh public authority other than the Auditor General for Wales, means—

(i) the public authority, or

(ii) any officer or employee of the authority authorised by the Assembly First Secretary,

(i) in relation to information held by the National Audit Office, means the Comptroller and Auditor General,

(j) in relation to information held by the Northern Ireland Audit Office, means the Comptroller and Auditor General for Northern Ireland,

(k) in relation to information held by the Auditor General for Wales, means the Auditor General for Wales,

(l) in relation to information held by any Northern Ireland public authority other than the Northern Ireland Audit Office, means—

(i) the public authority, or

(ii) any officer or employee of the authority authorised by the First Minister and deputy First Minister in Northern Ireland acting jointly,

(m) in relation to information held by the Greater London Authority, means the Mayor of London,

(n) in relation to information held by a functional body within the meaning of the [1999 c. 29.] Greater London Authority Act 1999, means the chairman of that functional body, and

(o) in relation to information held by any public authority not falling within any of paragraphs (a) to (n), means—

(i) a Minister of the Crown,

(ii) the public authority, if authorised for the purposes of this section by a Minister of the Crown, or

(iii) any officer or employee of the public authority who is authorised for the purposes of this section by a Minister of the Crown.

(6) Any authorisation for the purposes of this section—

(a) may relate to a specified person or to persons falling within a specified class,

(b) may be general or limited to particular classes of case, and

(c) may be granted subject to conditions.

(7) A certificate signed by the qualified person referred to in subsection (5)(d) or (e) above certifying that in his reasonable opinion—

(a) disclosure of information held by either House of Parliament, or

(b) compliance with section 1(1)(a) by either House,

would, or would be likely to, have any of the effects mentioned in subsection (2) shall be conclusive evidence of that fact.