

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

Date: 28 March 2011

**Public Authority:** The Governing Body of Keele University  
**Address:** Staffordshire  
ST5 5BG

### Summary

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The complainant made a request to the public authority for information regarding animal research. The public authority responded to the request by informing the complainant that some of the information was not held and that where information was held it was being refused under section 38(1)(b) of the Act (Health and Safety). The public authority upheld its decision to refuse the request at the internal review stage. The Commissioner has considered the complaint and has found that some of the information which the public authority refused to disclose was not exempt under section 38(1)(b). For some information the Commissioner has found that the section 38(1)(b) is engaged and that the public interest in maintaining the exemption outweighs the public interest in disclosure. The Commissioner now requires the public authority to disclose the information he has decided is not exempt within 35 calendar days of the date of this notice.

### The Commissioner's Role

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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

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2. On 12 February 2010 the complainant wrote to the public authority to request information related to the public authority's alleged involvement in animal testing. The request read as follows:

*"Please would you provide me with the following information:*

- 1). Minutes, reports and correspondence of any Ethical Review Committee or sub-committee at University or any other level, including but not limited to departmental committees, from the last three years, where these relate to experimentation on or other work involving live animals, in addition to any guidance issued by these committees at any time if it is currently in use.*
- 2). A list of the courses and specific teaching modules, whether undergraduate or postgraduate, currently offering the opportunity to participate in experimentation on live animals.*
- 3). A list of the courses and specific teaching modules, whether undergraduate or postgraduate, currently requiring participation in experimentation on live animals.*
- 4). A breakdown of currently held project licenses within the meaning of the Animals (Scientific Procedures) Act 1986 by maximum severity limits for procedures, for the unclassified, mild, moderate and substantial limits.*
- 5). The numbers of regulated procedures within the meaning of the Animals (Scientific Procedures) Act 1986 carried out by the University, in each year for which you hold data.*
- 6). A breakdown by species of the numbers of animals used in these procedures, in each year for which you hold data.*
- 7). The total estimated cost of research, teaching and training involving experimentation on or other work involving live animals, in each year for which you hold data, including some information relating to how the figure was arrived at and what expenditure is included.*
- 8). Copies of the annual statistical returns of procedures carried out under the Animals (Scientific Procedures) Act 1986 submitted to the Home Office, in each year for which you hold data.*

9). *The numbers of animals procured and subsequently killed as surplus to the requirements of programmes of work, in each year for which you hold data.*

10). *The disclosure of any facilities owned, operated or partially owned or operated by the Keele University which are licensed, in accordance with the Animal (Scientific Procedures) Act 1986, to conduct experimentation on animals and the species which are used in experimentation at the said facilities.*

11). *The disclosure of any facilities, or animal colonies, owned, operated or partially owned or operated by the Keele University which are licensed, in accordance with the Animal (Scientific Procedures) Act 1986, to bred animals for experimentation and the species which are bred at the said facilities.*

12). *The disclosure of locations at which the Keele University conducts field studies of live animals, or captures animals in the wild to be used at other university owned or operated facilities.*

*I would like to stress that I am not interested in information that identifies individuals who are or were involved in animal experimentation. I am happy for you to redact names from information you release if you believe this to be appropriate. I have structured the request as a list of numbered specific enquiries so that if there are problems in fulfilling some of these, it should be possible for you to proceed with the others.*

*Furthermore, I am happy for the phrase "each year for which you hold data", as found in several of the requests above, to be altered to "each of the last three years" if, and only if, this would prevent the cost of providing a response from exceeding the statutory limit."*

2. The public authority responded to the request on 24 February 2010 at which point it confirmed that it held the information falling within the scope of parts 1, 4, 5, 6, 7, 8, 9, 10 and 11 of the request. However, it said that the information was being withheld as it was exempt from disclosure under section 38(1)(b) of the Act which provides for an exemption where disclosure would, or would be likely to, prejudice the safety of any individual. Noting that section 38 was a qualified exemption, the public authority said that it believed that the public interest in maintaining the exemption outweighed the public interest in disclosure. It confirmed that it held no information in relation to parts 2, 3 and 12 of the request.

3. On 16 March 2010 the complainant challenged the public authority's decision to withhold the information under section 38. In particular he referred the public authority to a previous decision notice issued by the Commissioner in which he ordered disclosure of information regarding animal research on primates held by 5 universities.
4. The public authority carried out an internal review of its handling of the complainant's request and presented its findings on 25 March 2010. It said that it had carefully considered the request and its response and had decided to uphold the decision to refuse requested information under the exemption in section 38(1)(b).

## **The Investigation**

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### **Scope of the case**

5. On 25 March 2010 the complainant contacted the Commissioner to complain about the way his request for information had been handled. In particular the complainant asked the Commissioner to consider the public authority's decision to refuse to disclose the information it withheld under section 38(1)(b) of the Act.

### **Chronology**

6. On 23 April 2010 the Commissioner contacted the public authority with details of the complaint and asked to be provided with copies of the withheld information.
7. The public authority responded to the Commissioner on 27 May 2010 and provided him with copies of the withheld information. It also provided a detailed submission outlining its concerns over the possible publication of the information.
8. The Commissioner contacted the public authority again on 7 October 2010, once the complaint had been allocated to a member of his staff. The Commissioner now asked for further details on why disclosure of the specific information requested by the complainant would prejudice the health and safety of individuals.
9. The public authority responded to the Commissioner's enquiries on 4 November 2010 at which point it reiterated its belief that section 38(1)(b) should be applied to each element of the complainant's request, where information was held. In doing so it also informed the Commissioner that it did not hold the information in part 9 of the request because, it explained, this information was not recorded

separately (from the information it is required to collect for its statistical returns). Finally, it provided further reasons in support of its position that disclosure of the information would lead to the University and/or its staff and students being targeted by animal rights extremists.

## Findings of fact

10. The Animals (Scientific Procedures) Act 1986 (ASPA) came into force on 1 January 1987 and made provision for the protection of animals used for the experimental or other scientific purposes in the United Kingdom. ASPA regulates any experimental or other scientific procedure applied to a "protected animal" that may have the effect of causing that animal pain, suffering, distress, or lasting harm.
11. ASPA requires that before any regulated procedure is carried out, it must be part of a programme specified in a project licence and carried out by a person holding an appropriate personal licence authority. In addition, work must normally be carried out at a designated scientific procedure establishment. The personal licence is issued to an individual who could be carrying out research at more than one establishment. The personal licence holder, not the institution, is responsible for submitting an annual return to the Home Office stating, amongst other things, the number of animals used in that year under the terms of their licence.
12. The Home Office publishes annual statistics of scientific procedures on living animals which are available on-line at <http://scienceandresearch.homeoffice.gov.uk/animal-research/publications-and-reference/statistics/?view=Standard>. These are compiled from yearly returns submitted by licence holders which are a necessary condition of being granted a licence under ASPA. A nil return is required if no work is undertaken.
13. Whilst there is no legal obligation for licence holders to provide abstracts about their research the Commissioner understands that the Government actively encourages their publication. As such, many are 'anonymously' published on the Home Office website at: <http://scienceandresearch.homeoffice.gov.uk/animal-research/publications-and-reference/001-abstracts/>. The lists are not complete though there appears to be a high return from establishments. This scheme was fully implemented in January 2005.
14. After its completion, research of the type related to the request may be published and thereby made available to the general public. The published papers indicate the types of research undertaken, the types

of animals used, the names of those involved, and sometimes the specific location of the research. Summaries of such research are readily available online via PubMed's website <http://ukpmc.ac.uk/>, which is a service that includes citations from biomedical articles; or the whole research paper can be purchased from the associated publisher (which is identified on this site).

## Analysis

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15. A full text of the relevant statutory provisions referred to in this section is contained within the legal annex.

## Exemptions

### Section 38 – Health and Safety

16. 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.”

17. In this case the Commissioner considers that the term ‘endanger’ can be interpreted in the same way as ‘prejudice’ in other exemptions in the Act. The Tribunal in the case of *Hogan v Information Commissioner* explained that the application of the prejudice test involved a number of steps:

*“first, there is a need to identify the applicable interests(s) within the relevant exemption...second, the nature of the ‘prejudice’ being claimed must be considered...a third step for the decision maker concerns the likelihood of occurrence of prejudice”.*<sup>1</sup>

### Identifying the applicable interest

18. The public authority has applied section 38(1)(b) to the information it holds in respect of parts 1, 4, 5, 6, 7, 8, 10 and 11 of the complainant's request. Section 38(1)(b) provides that information is exempt if disclosure would, or would be likely to, endanger the safety

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<sup>1</sup> *Hogan v Information Commissioner and Oxford City Council* [EA/2005/26] and [EA/2005/0030], paras. 28 – 34.

of any individual. The public authority argues that this is the appropriate part of the exemption to apply because disclosure would, in its opinion, be likely to lead to the university being targeted by animal rights extremists which would endanger the safety of the University's staff, its students and other individuals associated with the university.

### The nature of prejudice

19. In the *Hogan* case the Tribunal commented that "an evidential burden rests with the decision-maker to be able to show that some causal relationship exists between the potential disclosure and the prejudice".<sup>2</sup>
20. The public authority has provided the Commissioner with a detailed submission outlining past incidents involving animal rights extremists both at the University and elsewhere in Staffordshire, advice it has received from Staffordshire Police regarding the threat posed by such groups and the views of its staff on the prospect of disclosure in order to demonstrate the threat posed by animal rights extremists. This evidence has satisfied the Commissioner that animal rights extremists pose a threat to organisations or individuals involved in animal research which would, or would be likely to, endanger the safety of individuals. However, the Commissioner now has to consider whether, in the circumstances of this case, disclosure of the actual information requested by the complainant can be linked to the threat posed by animal rights extremist groups.
21. In this case the public authority's argument for engaging the exemption is essentially that disclosure of any of the information falling within the scope of the request would bring it to the attention of animal rights extremists and put the spotlight on its work, regardless of whether or not the link between the public authority and animal research is already known. It has also suggested that disclosure would increase the risk of individuals involved in animal research or the location of the research being identified. This would, it argued, make the university, its staff and students more vulnerable to attack or harassment by animal rights extremists.
22. The complainant has argued that because it is publicly known that the public authority is involved in animal research any danger to the health and safety of individuals has already occurred. He argues that disclosure of the requested information would not increase the likelihood of it being targeted by animal rights extremists because the

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<sup>2</sup> Hogan, para. 30.

fact that the public authority is involved in animal research means that such groups would already have, in their eyes, a 'legitimate reason' to target the public authority. In response the public authority has said that it does not believe that the fact that it is involved with animal research is widely known. The Commissioner cannot accept this argument. This is because disclosure under the Act is considered to be disclosure to the world at large and therefore by confirming that it holds the information requested by the complainant the public authority has in effect acknowledged that it conducts research involving animals. As noted below, the Commissioner is also aware of other publicly available information demonstrating the link between the public authority and animal research and for the purposes of making his decision the Commissioner must proceed on the basis that this fact is in the public domain. Having said that, the exemption may still be engaged if disclosure would result in further prejudice. Clearly the safety of individuals would be endangered if disclosure were to increase the threat of the public authority being targeted by animal rights extremists or else help to identify any locations or individuals linked to animal research.

23. The question to be considered at this point is whether a link can be made between disclosure of the particular information requested by the complainant and the possibility that the threat posed by animal rights extremists would increase. For some of the requested information it is clear to the Commissioner that there is a link between disclosure and the prejudice claimed. For instance, parts 10 and 11 ask for details of locations linked to animal research. Clearly the disclosure of such information would make it that much easier for animal rights extremists groups to focus their activities.
24. For the information in part 1 of the request the Commissioner is of the view, having reviewed the information, that disclosure would make it easier for animal rights extremists to locate the site of any facilities used by the public authority in relation to animal research.
25. The Commissioner also considers that the information in part 8 of the request raises concerns in relation to the threat posed by animal rights extremists. The information contained within the statistical reports includes further details of the research carried out by academics at the public authority such as the purpose of the research and techniques used. Some of the information contained within the returns also relate to the source of animals used in research. The Commissioner's view is that disclosure of this information would help animal rights extremists to locate any sites linked to animal research and would reveal more information on the scale and nature of the public authority's research. Whilst the nature of the prejudice is less obvious than for instance the



information in parts 10 and 11, the Commissioner is of the view that the information contained within the reports is sufficiently detailed that it is reasonable to argue that disclosure could allow animal rights extremists to build a picture of the type of the research undertaken by the public authority and use this to galvanise support for any action targeting the public authority.

26. The Commissioner has decided that disclosure of copies of the statistical returns in their entirety could increase the threat posed by animal rights extremists. However parts 4, 5 and 6 of the request also ask for information contained within the statistical returns. The Commissioner feels that this information when considered separately does not raise the same concerns that disclosure of the full statistical returns would. The Commissioner has gone on to consider the application of the exemption in respect of the remaining parts of the request below.
27. As regards the information in parts 4, 5, 6 and 7 of the request it is less obvious how disclosure would increase the risk of the public authority being targeted by animal rights extremists. The Commissioner had asked the public authority to explain, with reference to the information, how disclosure in respect of each part of the request would, or would be likely to, endanger the safety of an individual. Whilst the public authority provided the Commissioner with information on the threat posed by animal rights extremists it did not demonstrate how disclosure of information in each of the requests would result in the prejudice covered by section 38. In the Commissioner's view the information in parts 4, 5, 6, and 7 would not allow the identity of any individual or, with the exception of one minor redaction, the location of any site linked to animal research to be identified. It is also difficult to see how else disclosure would endanger the safety of an individual, especially given that the link between the public authority and animal research can already be said to be in the public domain.
28. Whilst this information would provide further details on the extent of the research conducted by the public authority the Commissioner feels that the public authority has not adequately demonstrated why, given that it is known that it carries out research involving animals, disclosure would endanger the safety of an individual or increase the likelihood of such endangerment occurring. Indeed, the Commissioner is also aware that research carried out by the public authority's academics is routinely published in scientific journals. The public authority has said that the publications are retrospective of the research and "are written in a technical scientific language as the intended audience is limited but not restricted to those within the

specialist scientific field". It said that these publications are not intended for the general public and it does not publish any further details about its research involving animals. Whilst such information may not be intended for the public at large it is nevertheless publicly available. Indeed, the Commissioner was able to find a number of publications on the *pubmed* website which show that the public authority is involved in research involving animals. Given that such information also includes the names of academics involved it is difficult to see what further prejudice would be caused by the disclosure of this more general information on the number of project licenses held, the number of animals used in research carried out by the public authority, and the costs incurred.

29. The Commissioner's view is that if the nature of the prejudice claimed cannot be adequately linked back to the disclosure of the information in question, then the exemption should not be accepted as having been engaged. As indicated above, the Commissioner is not satisfied that disclosure of some of the information can be adequately linked to the threat of the university being targeted by animal rights extremists. As such the Commissioner has decided that section 38(1)(b) is not engaged in respect of parts 4, 5, 6 and 7 (subject to a minor redaction) of the request.

### Likelihood of prejudice

30. The Commissioner has now gone on to consider the likelihood that disclosure of the information in parts 1, 8, 10, 11 of the request and the redaction from part 7 of the request would endanger the safety of any individual if it were disclosed. The Commissioner considers that the term 'endanger' should be interpreted in the same way as the term 'prejudice' in other exemptions in the Act. In this case the public authority has indicated that the exemption is engaged because disclosure would be likely to endanger the safety of individuals. When discussing the prejudice test the Information Tribunal in *John Connor Press Associates Limited v The Information Commissioner* confirmed that "the chance of prejudice being suffered should be more than a hypothetical possibility; there must have been a real and significant risk."<sup>3</sup> This in turn follows the judgement of Mr Justice Munby in *R (on the application of Lord) v Secretary of State for the Home Office*. In that case, the view was expressed that:

*"Likely connotes a degree of probability that there is a very significant and weighty chance of prejudice to the identified public interests. The*

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<sup>3</sup> *John Connor Press Associates Limited v The Information Commissioner* [EA/2005/005], para. 15.

*degree of risk must be such that there 'may very well' be prejudice to those interests, even if the risk falls short of being more probable than not."*

31. In light of this the Commissioner's view is that in order for the exemption to be engaged on a "would be likely to endanger" basis the risk of endangerment need not be more likely than not, but must be substantially more than remote. The Commissioner has now gone on to consider whether disclosure would be likely to endanger the safety of any individuals involved with animal research at the public authority including its staff and students.
32. As noted above, the public authority has provided the Commissioner with details of past incidents both at the University and in the Staffordshire area where organisations and individuals linked to research on animals have been targeted by animal rights extremists. The public authority has referred the Commissioner to statements by activist groups that they intend to target smaller organisations and the Commissioner has also been made aware of police advice on the threat posed by animal rights extremists. All of this evidence leads the Commissioner to conclude that there is an ongoing threat posed by animal rights extremists which would be likely to endanger the safety of individuals if the location of sites linked to animal research were revealed. Given the often violent nature of their activities the Commissioner is satisfied that disclosure would be likely to endanger the safety of the public authority's staff or students or other individuals if the information in parts 1, 8, 10 and 11 of the request and the redaction from part 7 of the request were disclosed.

### **Public interest test**

33. Section 38 is a qualified exemption and therefore is subject to a public interest test under section 2(2)(b) of the Act. Section 2(2)(b) provides that where a qualified exemption applies, information shall only be withheld if in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosure.

### **Public interest arguments in favour of disclosing the requested information**

34. The complainant has argued that there is a public interest in greater transparency and scrutiny of animal research.
35. The public authority has itself said that it took the following arguments into account when balancing the public interest.

- Greater openness and transparency about the use of animals in scientific procedures may help to increase public understanding about why animals are used for the advancement of medical research and therefore facilitate the debate about animal testing.
- Knowing whether or not animal research is carried out at the University would allow prospective students, investors or others to decide whether to become involved with the University or their suppliers.
- The fact that police have new powers and new legislation which makes it easier to apprehend and punish animal rights extremists.
- The accountability of public money being spent in universities.

### **Public interest arguments in favour of maintaining the exemption**

36. The public authority has argued that there is a public interest in ensuring that its research can be conducted effectively. It suggests that disclosure of information regarding animal research would be likely to mean that fewer people would be prepared to work in this field meaning important research would not be conducted.
37. The public authority has also said that disclosure could put its reputation at risk and “could have major implications for the University’s financial position including the negative impact on the recruitment/retention of prospective/current students and staff”. The public authority has also suggested that disclosure would have financial implications if any additional security measures had to be introduced. It suggests that in the current economic climate with planned cuts in future funding, disclosure would not be in the public interest.
38. The Commissioner would also add that in his view there will always be a strong public interest in protecting the safety of members of the public.

### **Balance of the public interest arguments**

39. The Commissioner acknowledges that there is a public interest in accountability and transparency with regard to animal research. This is a controversial issue and in the Commissioner’s view the public interest would be served by releasing this information which would allow for greater scrutiny of the research undertaken by the public authority. Furthermore, disclosure would provide reassurance about the public authority’s standards of care in relation to animal research and also

allow for further debate on the involvement of the public authority in animal research.

40. For its part the public authority has said that it believes that the public interest in transparency has been met by the Statistics of Scientific Procedures on Living Animals produced annually by the Home Office. However, the statistics only provide a general picture of the scale of animal research in the UK. They do not identify the institutions involved and so prevent true accountability and transparency. Therefore the Commissioner has rejected the public authority's argument.
41. The Commissioner has also rejected the public authority's arguments regarding the financial implications that would result from disclosure. When balancing the public interest in maintaining an exemption against the public interest in disclosure only the factors relevant to and inherent in the exemption should be taken into account. Public authorities are not entitled to rely on general arguments concerning the public interest in maintaining the exemption.
42. Having said that the Commissioner believes that the threat posed by animal rights extremists is real and the safety of individuals associated with the public authority would be likely to be endangered if the information were to be disclosed. As he has already noted the Commissioner believes that the public interest in protecting the safety of members of the public is very strong and so he has given this argument substantial weight in this case. Whilst he accepts that there is a public interest in disclosure in terms of transparency, accountability and informing public debate the Commissioner finds that this public interest does not justify the risk to individual's health and safety. Therefore the Commissioner finds that the public interest in maintaining the exemption under section 38(1)(b) outweighs the public interest in disclosure in respect of parts 1, 8, 10 and 11 of the request and in the case of the redaction made to part 7 of the request.

### **Procedural Requirements**

43. When the public authority initially responded to the request it informed the complainant that it held the requested information with the exception of the information in parts 2, 3 and 12. However, it was only during the course of the investigation that it informed the Commissioner that in fact it held no information in respect of part 9 of the request either. Therefore, by failing to inform the complainant that this particular information was not held the public authority breached section 1(1)(a) of the Act.

44. The Commissioner has found that additional information should have been disclosed to the complainant. Therefore, because the public authority failed to make this information available at the time of the request the Commissioner must record the following procedural breaches of the Act.
45. Firstly, by failing to make the information available to the complainant the public authority breached section 1(1)(b) of the Act. By failing to make the information available to the complainant within 20 working days the public authority breached section 10(1) of the Act.

## **The Decision**

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46. The Commissioner's decision is that the public authority dealt with the following elements of the request in accordance with the requirements of the Act:
  - The public authority dealt with the request in accordance with the Act to the extent that it correctly withheld some of the requested information under section 38(1)(b).
47. However, the Commissioner has also decided that the following elements of the request were not dealt with in accordance with the Act:
  - The public authority breached section 1(1)(a) of the Act by failing to inform the complainant that it did not hold the information in part 9 of the request.
  - The public authority breached section 1(1)(b) of the Act by failing to disclose some of the requested information to the complainant.
  - The public authority breached section 10(1) of the Act by failing to disclose some of the requested information within 20 working days of receiving the request.

## **Steps Required**

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

- The public authority shall disclose to the complainant the information falling within the scope of parts 4, 5, 6 and 7 of the request.
  - The Commissioner has decided that a single redaction should be made to the information in part 7 of the request and the Commissioner has informed the public authority of this in a separate letter.
49. The public authority must take the steps required by this notice within 35 calendar days of the date of this notice.

### **Failure to comply**

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50. 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

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51. 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](mailto:informationtribunal@tribunals.gsi.gov.uk).

Website: [www.informationtribunal.gov.uk](http://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 28<sup>th</sup> day of March 2011**

**Signed .....**

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



## Legal annex

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

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

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
- (b) if that is the case, to have that information communicated to him."

### **Section 2(2) provides that –**

"In respect of any information which is exempt information by virtue of any provision of Part II, section 1(1)(b) does not apply if or to the extent that –

- (c) the information is exempt information by virtue of a provision conferring absolute exemption, or
- (d) in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information"

### **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 38(1) provides that –**

"Information is exempt information if its disclosure under this Act would, or would be likely to-

- (e) endanger the physical or mental health of any individual, or
- (f) endanger the safety of any individual."