Neutral citation number: [2025] UKFTT 306 (GRC)

FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
(Information Rights)

Appeal Numbers: EA/2024/0137
& EA/2024/0138

Heard at Field House
On 4 to 5 December 2024

Decision given on: 12 March 2025

Before

UPPER TRIBUNAL JUDGE RINTOUL
(SITTING AS A JUDGE OF THE FIRST-TIER TRIBUNAL)
TRIBUNAL MEMBER JO MURPHY
TRIBUNAL MEMBER STEPHEN SHAW

Between

THE CABINET OFFICE

Appellant

- and –

THE INFORMATION COMMISSIONER

First Respondent

THE GOOD LAW PROJECT

Second Respondent
(in relation to EA/2024/0137 only)

Representation:

For the Appellant:	Mr T Pitt-Payne KC, instructed by The Government Legal Department
For the First Respondent:	Mr C Knight, instructed by The Information Commissioner
For the Second Respondent:	Mr R Hogarth, instructed by Good Law Project

DECISION

1. For the reasons set out below the Tribunal dismisses the appeals.

REASONS

Preliminary Matters

Abbreviations

the Commissioner	The Information Commissioner – the First Respondent
DPA	Data Protection Act 2018
First Appeal	Appeal against the First Information Notice EA/2024/0137
First Information Notice	Information notice IC-253437-X0P6 issued in relation to the First Request
First Request	GLP's request for the name of the US-based investment fund managing the Prime Minister's sources of income and gains.
FOIA	Freedom of Information Act
GLP	Good Law Project – the Second Respondent
Second Appeal	Appeal against the Second Information Notice EA/2024/0138
Second Information Notice	Information notice IC-253431-F2L1 – issued in relation to the Second Request
Second Request	Request by Mr Greenwood for disclosure of Mr Sunak's completed Ministerial declaration of interests form as at April 2023
UK GDPR	UK General Data Protection Regulation

Chronology

23 March 2023	First Request made
24 April 2023	Second Request made
27 April 2023	Response to First Request
5 May 2023	GLP request a review of response to First Request
23 June 2023	Cabinet Office responds to Second Request
26 June 2023	Request for review of response to Second Request
22 August 2023	Second Requester writes to Commissioner making an application under section 50 FOIA
29 August 2023	Cabinet Office responds to request for a review of the First Request
4 October 2023	GLP applies to Commissioner under section 50 FOIA
1 November 2023	Commissioner writes to Cabinet Office about handling of Second Request
7 November 2023	Cabinet Office provide a response to the request for a review of the Second Request
9 November 2023	Commissioner writes to Cabinet Office regarding First Request
15 December 2023	Cabinet Office writes to Commissioner declining to provide a copy of the information sought in the Second Request
16 February 2024	Commissioner issues the Information notices

Mode of Hearing

2. The proceedings were heard in person at Field House over two days, 4 to 5 December 2024.

Closed Proceedings

3. The Tribunal had received a copy of some of the disputed information and it was held on the basis that it would not be disclosed pursuant to Rule 14(6) of the GRC Rules. That was pursuant to an application made on 1 October 2024.

4. The closed bundle included at tab 25 an unredacted copy of the document which appears at tab 25 of the open bundle.

5. On 3 December 2024 the appellant sought a further order pursuant to Rule 14(6) in relation to an updated copy of the closed bundle which now contains an unredacted copy of that document. This was done out of caution, being submitted this was necessary in the interests of certainty.

6. Having heard brief submissions from the parties, there being no objection to this, we were satisfied that in all the circumstances of this case and for the reasons given for the previous order made to Rule 14(6) that it would be appropriate to make a further order pursuant to Rule 14 in respect of that document.

7. There was a brief closed session at the end of the appellant's oral evidence from which the second respondent was excluded. A gist of that evidence was agreed between the appellant and the first respondent and was served on the second respondent.

8. There was no objection to this made during the hearing and we were satisfied that the second respondent had a fair opportunity to deal with the evidence raised in closed session.

9. An embargoed copy of this decision was circulated to the Appellant and First Respondent to ensure that no closed material was inadvertently included. No closed decision has been necessary. We are grateful to the parties for their suggested corrections and clarifications.

Introduction and Background

10. Both of these appeals concern requests for information made to the Cabinet Office concerning the declaration of interests provided by the former Prime Minister, Mr Sunak, under the Ministerial Code. The Ministerial Code sets out the standards of conduct expected of ministers, and how they should discharge their duties. The Code also provides details of the work of the Independent Advisor on Ministers' Interests, with further detail given in the Advisor's Terms of Reference.

11. Chapter 7 of the Ministerial Code makes provision in relation to ministers' private interests. The general principle, set out at section 7.1 of the Ministerial Code, is that:

> Ministers must ensure that no conflict arises, or could reasonably be perceived to arise, between their public duties and their private interests, financial or otherwise.

12. Section 7.3 of the Ministerial Code provides:

> On appointment to each new office, Ministers must provide their Permanent Secretary with a full list in writing of all interests which might be thought to give rise to a conflict. The list should also cover interests of the Minister's spouse or partner and close family which might be thought to give rise to a conflict.

13. Inevitably, the material disclosed is highly sensitive and section 7.5 of the Ministerial Code provides that

> The personal information which Ministers disclose to those who advise them is treated in confidence. However, a statement covering relevant Ministers' interests will be published twice yearly in the Published List

14. One role of the Independent Adviser is to advise as to what should be published in the list referred to at section 7.5 of the Ministerial Code. Part of the information disclosed by the former Prime Minister was included in the Published List

15. The issue in both appeals is whether the Commissioner is entitled to require access to that information by way of an Information Notice served under Section 51 of FOIA in order to determine the matter. In both cases the Notices required the Cabinet Office to provide the Commissioner with information it held in response to a specified FOIA request which had been withheld from the requester and had not been provided to the Commissioner voluntarily.

16. It is common ground that the information sought in the First Request falls within the ambit of the Second Request.

The First Appeal

17. The First Appeal arises out of a request made by Mr Scott, a journalist at GLP which has been joined as the second respondent in relation to the First Appeal but not the Second Appeal. The First Request sought disclosure of the name of the "US-based investment fund" operating a blind management or a trust arrangement referred to in the notes to the Published List to the Prime Minister's taxable sources of incomes and gains.

18. In respect of the First Request, GLP sought an internal review on 5 May 2023 to which the response was received only on 29 August 2023. This upheld the exemptions. On 4 October 2023 GLP applied to the Commissioner and on 9 November 2023 the Commissioner put various questions to the Cabinet Office regarding the handling of the request including specifically seeking a copy of the information. The Cabinet Office declined this request on 15 December 2023:

> "You will appreciate that the information in scope, which is the personal financial information of the Prime Minister, carries very high sensitivities. It is handled extremely

> carefully within government and with access restricted to a very limited number of individuals in 'hard copy' only, who have a specific need to see that information.
>
> We consider that adequate consideration of the handling of this case can be properly made without knowledge of the company's name, as the information itself is not material to the arguments advanced by the Cabinet Office in its FOI response, IR response, or this letter - these would be reasonably made whatever the name of the company. It is our strong view that the Commissioner should be able to make a determination in this case without the sharing of the Prime Minister's personal data."

The Second Appeal

19. The Second Appeal concerns the Second Request made to the Cabinet Office (the requester is a journalist at The Times), refined on 25 May 2023, seeking disclosure of the former Prime Minister's full Declaration of Interests documents including all the interests as submitted to the Independent Adviser on Ministerial Interests as at the date of request.

20. In both cases the Cabinet Office rejected the request relying in the case of the First Appeal on Sections 40(2), 41(1) and 43(2) of FOIA and Sections 21(1), 40(2) and 41(1) of FOIA in respect of the Second Appeal.

21. In respect of the Second Request, the requester sought an internal review on 26 June 2023 to which the Cabinet Office replied only on 7 November 2023. In addition to the application of Sections 40(2) and 41(1) the Cabinet Office sought to rely on Section 36(2)(b)(i) and (c). On 2 August 2023 the requester made an application to the Commissioner pursuant to Section 50 complaining about the failure to conduct an internal review and then on 8 November 2023 that the outcome was not accepted.

22. On 1 November 2023 the Commissioner asked various questions to the Cabinet Office seeking a full and unredacted copy of the information which was on 15 December 2023 refused with the following explanation:

> "The ICO requested to be sent the information in scope of this request - i.e. the Prime Minister's completed ministerial declaration of interests documents. However, the Commissioner will appreciate that this information carries hugely significant sensitivities in terms of personal data and potential security implications. The information is handled extremely carefully within government, with only a very small number of people having access to it, on a strictly need-to-know and 'hard copy' basis. It cannot be sent to the ICO for these reasons.
>
> We hope that the Commissioner will feel able to come to a decision in this case based on the detailed arguments set out below and by considering the attached blank declaration of interests form."

23. There then followed a detailed consideration of the position within the ICO and correspondence between the ICO and the Cabinet Office. Further discussions were held culminating in meetings between the Commissioner and Director General for Propriety and Ethics, Darren Tierney. The ICO then served Information Notices which set out the background to the complaints and provide as follows:-

In view of the matters described above the Commissioner hereby gives notice that in the exercise of his powers under section 51 of FOIA he requires that the Cabinet Office shall, within 30 calendar days of the date of this notice, provide the Commissioner with full access to the information falling within the scope of this request.

The Appellant's Case

24. In summary, the Cabinet Office's case is put on three points:-

    (1) That access to the disputed information is not necessary for the purposes of the Commissioner's statutory functions.

    (2) Access to the disputed information is damaging and unfair given the sensitive information and confidentiality with which it has been handled, it would be unfair to the individuals to whom it relates and damaging to the process of handling ministerial declarations of interest.

    (3) The Information Notices were premature given that discussions were continuing between the Cabinet Office and the Commissioner.

25. The Cabinet Office further contends: -

    (1) that the Information Notices are not in accordance with the law based on a proper interpretation of Section 51(1) of FOIA (ground 1A);

    (2) the Information Notices would involve the unlawful processing of personal data by the Commissioner (ground 1B) as the Commissioner would be processing the personal data of the individuals concerned but in order to determine the complaint whilst doing so would not satisfy the requirements of UK GDPR specifically Article 6(1) and would breach Article 5(1)(a); and

    (3) that the decision to issue an Information Notice involved the exercise of discretion by the Commissioner which should have been exercised differently.

The Hearing

26. The hearing took place over two days. The panel heard evidence from Mr Simon Madden including evidence from him in a short, closed session, and evidence from Mr Warren Seddon on behalf of the respondent. It also heard submissions from Mr Pitt-Payne KC on behalf of the appellant, Mr Knight on behalf of the Information Commissioner and Mr Hogarth on behalf of the Good Law Project.

The Law

27. Section 1(1) of FOIA provides:

    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.

28. Section 50(1) of FOIA provides:

> Any person (in this section referred to as "the complainant") may apply to the Commissioner for a decision whether, in any specified respect, a request for information made by the complainant to a public authority has been dealt with in accordance with the requirements of Part 1.

29. Section 51(1) of FOIA provides:

> If the Commissioner
>
> (a) has received an application under section 50, or
>
> (b) reasonably requires any information –
>
> (i) for the purpose of determining whether a public authority has complied or is complying with any of the requirements of Part 1, or
>
> (ii) for the purpose of determining whether the practice of a public authority in relation to the exercise of its functions under this Act conforms with that proposed in the codes of practice under sections 45 and 46,
>
> he may serve the authority with a notice (in this Act referred to as "an information notice") requiring it, within such time as is specified in the notice, to furnish the Commissioner, in such form as may be so specified, with such information relating to the application, to compliance with Part 1 or to conformity with the Code of Practice as is so specified.

30. FOIA section 57(2) provides:

> A public authority on which an information notice or an enforcement notice has been served by the Commissioner may appeal to the Tribunal[1] against the notice.

31. FOIA section 58 provides:

> (1) If on an appeal under section 57 the Tribunal considers –
>
> (a) that the notice against which the appeal is brought is not in accordance with the law, or
>
> (b) to the extent that the notice involved an exercise of discretion by the Commissioner, that he ought to have exercised his discretion differently
>
> the Tribunal shall allow the appeal or substitute such other notice as could have been served by the Commissioner, and in any other case the Tribunal shall dismiss the appeal.

[1] For present purposes "the Tribunal" means the First-tier Tribunal: FOIA section 84.

> (2) On such an appeal, the Tribunal may review any finding of fact on which the notice in question was based.

32. Turning to the role of the Tribunal we note that our role is to stand in the shoes of the Commissioner; a procedural error on the part of the Commissioner would not cause the appeal to succeed but may be a factor taken into account in considering whether discretion ought to have been exercised differently.

33. With regard to the deference which the panel should place on the views of the regulator, the Tribunal does not simply disregard the decision of the expert regulator, see R (Hope and Glory Public House Limited) v City of Westminster Magistrates' Court [2011] EWCA Civ 31 (as approved in Ali (Iraq) v SSHD [2016] UKSC 60).

34. Toulson LJ held in Hope and Glory [45]:

> 45. Given all the variables, the proper conclusion to the first question can only be stated in very general terms. It is right in all cases that the magistrates' court should pay careful attention to the reasons given by the licensing authority for arriving at the decision under appeal, bearing in mind that Parliament has chosen to place responsibility for making such decisions on local authorities. The weight which the magistrates should ultimately attach to those reasons must be a matter for their judgment in all the circumstances, taking into account the fullness and clarity of the reasons, the nature of the issues and the evidence given on the appeal.

Ground 1A

35. We address first the proposition advanced by the Cabinet Office that the power under section 51(1)(a) to issue an Information Notice is subject to a requirement that the Commissioner reasonably requires the information. The submission put is that the response from the Commissioner does not identify any sensible basis on which parliament might have intended Section 51(1)(a) and Section 51(1)(b) to operate differently.

36. We do not accept this proposition. We bear in mind that as with the exercise of all statutory powers, the discretion to issue a notice pursuant to Section 51 is subject to the usual constrictions on the use of public power including what is normally referred to in shorthand as **Wednesbury** unreasonableness, or irrationality. We accept that parliament would have been aware of this when enacting Section 51(1).

37. Further, the existence of that public law constraint on the use of the power answers the submission that the Commissioner's response is in effect that he is entitled to information regardless of whether it was reasonably required; we see no reason to conclude that the Commissioner is suggesting that the power to request information is not subject to the public law constraint that the power is exercised rationally.

38. We are satisfied in the light of the submissions by Mr Knight, to an extent accepted by Mr Pitt-Payne, that the mischief of sub-Sections (1)(a) and (1)(b) is different. Section 51(1)(a) flows from the Commissioner being given an application under Section 50

which in turn requires him, hence the use of the word "shall", to take specific action to investigate a complaint and to make a decision whether the public authority has dealt with the application in accordance with the requirements of Part 1 of the Act. The circumstances in which the Commissioner can opt not to make a decision are limited to those circumstances set out in sub-Section 50(2) of FOIA.

39. The circumstances in which Section 51(1)(b) would apply in particular in relation to sub-paragraph (ii) is much wider and would be, for example, as Mr Knight submitted, if the Commissioner became aware that a particular exemption was being routinely used, for example, Section 40 to redact all names, which was not justified. There is, we accept, more of an overlap between 51(1)(a) and 51(b)(i).

40. We are aware that a similar issue was touched on to a limited extent in UKIP v Information Commissioner [2019] UKUT 62 (AAC) but we bear in mind that case related to the DPA, not FOIA, albeit that the relevant provisions are similarly worded. We conclude that, as Mr Knight submitted, Section 51(1)(a) was deliberately drafted to be different from (1)(b). We find no ambiguity and we accept the proposition that what the Cabinet Office is seeking to do is to read words into a statute which are not there and which are not necessary for it to make sense. There are clear textual differences as can be seen by the use of the word "or" and the separation out of the two different duties. Further, we accept the proposition that 51(1)(b) relates to a power of the Commissioner which arises in context in an individual case for which a duty to investigate flows.

Ground 1B

41. We turn next to the issue of whether the information use would involve the unlawful processing of personal data. We accept that by receiving the disputed information and using it in order to determine the complaint the Commissioner would be processing that personal data within the meaning of UK GDPR and DPA 2018. We do not, however, accept the submission that processing by the Commissioner would not satisfy any of the conditions in Article 6(1), nor that it would be unfair to the former Prime Minister in that it would be contrary to his reasonable expectations as to confidentiality. Further, we do not accept that it would therefore be unlawful. We reach these conclusions for the following reasons.

42. We bear in mind that the Commissioner is under Section 50 of FOIA under a duty to investigate a complaint. The necessity test, rejected in UKIP, is not relevant. We bear in mind also, as is set out in Section 58 of FOIA, the Commissioner must be in a position to decide whether an exemption was correct or incorrect – see ICO v Malnick [2018 UKUT 72 (AAC) at [76] to[78].

43. We note also the findings reached by the Upper Tribunal in Corderoy v Information Commissioner, Attorney General's Office & Cabinet Office [2017] UKUT 495 (AAC) and the First-tier Tribunal in Chief Constable of the Police Service of Northern Ireland v ICO [2024] UKFTT 00719 (GRC).

44. We bear in mind that this is not a national security case and that in effect, what is being asked for here, is for the Commissioner to accept the Cabinet Office's word contrary to the principles set out in Corderoy.

45. Pausing there to reflect, we conclude from these decisions that the Commissioner is under a duty to investigate complaints, and that to do so will inevitably require the processing of personal data. We are satisfied in the circumstances of this case, bearing in mind the statutory duty, that the Commissioner's processing of such data is necessary and fair, those being in this context the same thing. The alternative, and bearing in mind that the processing of any data by the Commissioner from a public authority would fall within this ambit were the proposition by the Cabinet Office, to be adopted, could render the Commissioner's duty almost impossible.

46. Bearing in mind that we stand in the shoes of the Commissioner, we then consider whether it was necessary to see the information before reaching a decision. In doing so we bear in mind the evidence presented to us, but we also bear in mind the duty to give due deference to the Commissioner in assessing whatever is not necessary to be done in order for him to carry out his statutory duties imposed by FOIA. The appellant submits that the Commissioner did not need the information as he had sufficient material including material in the public domain to decide the issue without having to see it. Further, that the consequence of disclosure would be damaging and unfair to those who had provided it, and further that it was premature in that although it is not submitted that there would have been an agreed process, there was not a sufficient exploration of means that could be taken to sort out the materials before the process was cut short by the service of the notice.

47. We accept the submissions that the evidence provided in this case was highly sensitive. We accept also that it was given on the basis that it would be given in confidence and that this was done to encourage disclosure. We accept that a cabinet minister, when faced with having to complete the form may be unsure as to whether something should or should not be disclosed. There would, we accept, inevitably be very sensitive issues that would need to be disclosed, for example, relating to provisions made for children or other dependent relatives but, we accept that some of the material will inevitably be disclosed through the process of reports being made by the Independent Adviser.

48. We note the submission that were this material to be disclosed to the Commissioner, it may promote increased resistance and trepidation in relation to the process. We note also Mr Madden's evidence that, were there to be a substantive appeal, the Cabinet Office would of course comply in disclosing the disputed material to the First-tier Tribunal which would have to consider that material in a closed session. We do not find that this is in principle or substance different from the Commissioner or a properly vetted member of his staff looking at it given the clear restrictions there would be on who within the ICO was entitled to look at the information and the circumstances in which that was done. We also note that of necessity certain parts of the information are going to be shared with permanent secretaries and to a lesser extent other members within a minister's private office to ensure that there is no conflict of interest. First, it

could not be said that all the information would clearly be confidential to the person to whom it was given, and we note Mr Madden's evidence that the Civil Service would be aware that there was a risk of disclosure and of the role of the Commissioner in scrutinising compliance with FOIA.

49. We have no reason to doubt the acceptance that ministers would or should be aware of Freedom of Information legislation and of course on the way in which a request would be handled including the way in which a complaint would be handled by the Commissioner and his office and the applicable exemptions.

50. Equally, we note that there is little evidence of a concrete nature as to what effect this would have on ministers.

Ground 2

51. We then turn to the issue as to whether discretion should have been exercised differently. To a significant extent, there is an overlap between this ground and ground 1B; the proper extent of the Commissioner's duty with respect to complaints is relevant.

52. We find that, on the basis of the case law to which we have been taken, that it would be an unusual case in which the Commissioner would simply accept a public authority's assurance that the exemptions sought were made out. There may well be cases of a frivolous or abusive nature (such as requesting disclosure of personal medical records) where that might be so.

53. With regard to the first complaint, we do not accept the proposition that the Commissioner would not require access to the disputed information to resolve the complaints. This, to an extent, overlaps with what is set out above. We do not accept that the Commissioner is in effect properly saying that he simply wishes to see the information as opposed to needing to do so. In reaching that conclusion we note the earlier evidence that a decision had been taken at a lower level within the ICO that it would not be necessary to determine whether the exemptions applied. Whilst the most immediate and obvious exemption is that relating to confidentiality, for the reasons set out above, that would not be a blanket exemption in this case given that some of the information although supplied on a confidential basis had been refused and would of necessity be the question to arise as to whether the exemption could be justified on the basis that it would not fall within the public interest exemption to confidentiality. That would, of necessity, involve a detailed analysis of the information that it was sought to withhold.

54. Similarly, it would not be possible to know whether the commercial interest would be affected about the name of the company and, for that matter, further details about that. Similarly, with regard to the UK GDPR, we note that considering fairness involves a consideration of the objective reasonable expectations of the data subject and the consequences of disclosure on that data subject – see Haslam (DH) v Information Commissioner & Bolton Council [2016] UKUT 139 (AAC). We accept the submission that there was no objective basis for the assertion that the Prime Minister would

reasonably expect that no disclosure of the information would be made. As is noted above, several people would need to have looked at it including the Independent Adviser and his team and there is no blanket confidentiality. Further, in this case, in reality a very limited number of people, including an appropriately vetted individual, would look at the information and, there is an absolute requirement of confidentiality in this as set out in Section 132 of the Data Protection Act 2018. We accept that what would happen here is that an appropriately vetted person would see the material in the Cabinet Office thus the interference would be minimal.

55. Finally, we turn to the issue of whether this request was premature. Mr Madden suggested in his evidence, and this is not something that was pre-figured in his witness statement or elsewhere in the Cabinet Office's argument, that other means were possible such as confidential briefings with the Prime Minister, and it is telling that the evidence as to the alternatives were given by Mr Madden only in re-examination. There is, we consider, some justification in Mr Knight's submission that this is a rear-guard action.

56. We remind ourselves that we are here dealing with the exercise of discretion. We also remind ourselves that the request for information here is a public authority seeking information so that it may carry out its statutory duty, and thus it could be criticised for not taking proper steps to seek relevant information.

57. Having heard the evidence of the witnesses, we are not satisfied that the request was premature. It was only done after a sustained period of negotiation and in any event provided 30 calendar days for compliance. The Cabinet Office was also given time to make arrangements for inspection which they initially indicated was acceptable.

58. Bearing in mind that we are in the shoes of the Commissioner, we consider that we would not be able to determine whether any of the exemptions pleaded would apply without having sight of the disputed material, at least as regards the second, wide request. We would not be able in particular to ascertain which parts of the material were covered by the exemption on grounds of confidentiality, amongst other matters.

59. The first request is, we find, more problematic. The name alone would not, as Mr Seddon said, be sufficient. Further enquiries would be essential, even if only searches in the public domain to start with. It may well be that all that would be revealed was a well-known bank, or a fund which acts for many thousands of investors in which case there may be little need to withhold the information. It could also reveal links with certain states or industries which may heighten public interest in disclosure. But it is entirely context driven. What disclosure would not do is identify the terms of that blind trust, or what was put in it. There are so many variables that we are left wondering how simply knowing the name of the institution or the fund would be of much assistance.

60. That said, as the First Request is for information sought in the Second Request, and we dismiss the appeal in respect of the latter, we consider that it follows that we should dismiss the First Appeal in line. There would be no purpose served in doing otherwise.

61. As noted above, the scope of the First Request, on which the GLP made submissions, is a subset of information contained within the First Request. Mr Hogarth fairly adopted the submissions from Mr Knight as to the law but we find that he added little of substance to what Mr Knight and for that matter Mr Pitt-Payne had said. With all due respect to Mr Hogarth, much of the submissions made on behalf of the GLP were in relation to the extent to which any exemptions might apply which is a matter manifestly out with the scope of this appeal.

62. Whilst we note Mr Hogarth's submission that the Cabinet Office had improperly sought to say that they should not be involved in, or even informed of the process, we find considerable merit in the submission that the GLP had little of substance to add and whilst initially they were allowed to join in the process on the basis they may be of assistance to the Tribunal, we find that their intervention has been of little or no substantial use.

63. In summary, we consider that it would not, standing in the Commissioner's shoes, been possible to determine whether any of the exemptions prayed in aid were made out without an examination of the material. That includes in both the First and Second Appeals. Accordingly, we dismiss the appeal.

Signed Date 10 March 2025

Jeremy Rintoul

Upper Tribunal Judge Rintoul
Sitting as a Judge of the First-tier Tribunal