

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date 14 June 2007

Public Authority: South Warwickshire General Hospitals NHS Trust
Address: Warwick Hospital
Lakin Road
Warwick
CV34 5BW

Summary

The complainant requested an audit report of South Warwickshire General Hospitals NHS Trust's (the "Trust") finances for 2004-2005. The Trust refused to provide this information and cited the exemption at section 36 of the Freedom of Information Act 2000 (the "Act"), stating that the disclosure would prejudice the effective conduct of public affairs, and would inhibit the free and frank provision of advice, and the free and frank exchange of views for the purposes of deliberation. After reviewing the information and considering the case, and the public interest in maintaining this exemption, the Commissioner decided that in all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosing the information. He therefore decided that the Trust was wrong to withhold the information in question under section 36 of the Act, and, as such, was in breach of section 1 of the Act. He has also decided that the Trust failed to satisfy the requirements of section 17 in that it issued an inadequate refusal notice, when informing the complainant that there would be a delay in it responding to his request due to the consideration of the public interest test. In view of this decision the Commissioner requires the Trust to disclose the requested information to the complainant.

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 Act. This Notice sets out his decision.

The Request

2. On 5 December 2005 the complainant contacted the Trust and requested, “a copy of the auditor’s report into Warwick Hospital’s finances for 2004/05.”

This document is referred to as the Audit Report throughout this Notice.
3. On 6 January 2006 the Trust emailed the complainant stating, “...the Trust has not yet reached a decision in relation to your Freedom of Information request. In accordance with section 17.2 of the Freedom of Information Act I am required to inform you of an estimated date as to when a decision will be reached. The Trust aims to provide you with information in relation to your request by the 24/25 of January 2006.”
4. The Trust issued a refusal notice on 27 January 2006, stating that it believed the exemption at section 36 applied, as the disclosure of the Audit Report would prejudice the effective conduct of public affairs. It explained that, “...it is extremely important to ensure that everyone called upon to be involved in an audit must not be inhibited from providing their advice and / or exchanging views in a free and frank manner. If people are unable to be confident that the information they provide will [...] be kept confidential and be confined to the investigation this would be likely to inhibit them.”
5. The Trust then went on to consider the public interest test, and informed the complainant that it believed that the public interest in maintaining the exemption outweighed the public interest in disclosure, as it did not believe that, “it is in the public interest to risk any lack of openness through fear of disclosure by those involved with audit of public money.” The Trust did, however, provide the complainant with a copy of its annual audit letter for 2004-2005 from its external auditors, Pricewaterhouse Coopers LLP, and stated that that letter contained, “all the relevant points and actions arising from the initial audit report.” For ease of reference, the Commissioner will refer to this document as the Audit Letter throughout this Notice.
6. The Trust informed the complainant of his right to appeal this refusal, and provided the contact details of the Commissioner.
7. The complainant asked for an internal review of this refusal on 27 January 2006.
8. The Trust responded in a letter dated 17 February 2006. It stated that it had carried out an internal review and that it upheld the decision to apply section 36 to withhold the Audit Report. The complainant was informed of his right to complain to the Commissioner.

The Investigation

Scope of the case

9. On 8 March 2006 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the application of section 36 by the Trust.
10. The complainant also complained about the length of time it took for the Trust to issue a refusal notice in response to his request.

Chronology

11. The Commissioner wrote to the Trust on 6 March 2007 and asked it to provide him with a copy of the Audit Report, together with an explanation as to why it believed that section 36 applied, and why it believed that the public interest in withholding the information outweighed the public interest in disclosure.
12. The Trust provided this information in a letter received on 23 April 2007.

Analysis

Procedural matters

13. Section 1(1) of the Act states 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.
14. The Commissioner also considered whether the refusal notice issued by the Trust on 6 January 2006 complied with section 17.
15. Section 17(1) states that a public authority who is relying on an exemption(s) in order to withhold information must give the applicant a notice which:
 - (a) states that fact,
 - (b) specifies the exemption in question, and
 - (c) states (if it would not otherwise be apparent) why the exemption applies.
16. Section 17(2) states that in cases where the public authority believes that a qualified exemption applies, but is unable to reach a decision within the twenty working days limit as to whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information, the authority should

still issue a notice under section 17(1), within the twenty working days limit. This Notice should state the information required in section 17(1)(a)-(c), inform the applicant that the authority is considering the public interest test, and give an estimate as to when it expects the decision to be made.

17. The notice issued on 6 January 2006 did not tell the complainant which exemption the Trust believed was engaged.
18. The full text of section 17 can be found in the Legal Annex at the end of this Notice.

Exemptions

Section 36

19. In its letter to the complainant, sent on 27 January 2006, the Trust stated that, "section 36 exempts information from disclosure where a qualified person (under the Act), in their reasonable opinion, believes that disclosure would prejudice the effective conduct of public affairs."
20. Having considered the arguments the Trust has made in this case, both to the complainant and this office, the Commissioner believes that the Trust are relying specifically on section 36(2)(b) to withhold the information in question.
21. Section 36(2)(b), provides an exemption when, in the reasonable opinion of the qualified person, disclosure would, or would be likely to, inhibit:
 - the free and frank provision of advice, or
 - the free and frank exchange of views for the purposes of deliberation.
22. The full text of section 36 can be found in the Legal Annex at the end of this Notice.
23. After considering the information provided to him the Commissioner is satisfied that the decision to apply the exemption under section 36(2)(b) was taken by the qualified person, in this case the Chief Executive of the Trust.
24. The Commissioner has gone on to consider whether the opinion of the qualified person was in fact "reasonable."
25. The Commissioner has followed the approach taken by the Information Tribunal in *Guardian Newspapers Limited and Heather Brooke vs. Information Commissioner and the BBC* (Appeal Numbers: EA/2006/0011 and EA/2006/0013). In this the Tribunal agreed with the Commissioners view that a reasonable opinion is one which is both reasonable in substance and reasonably arrived at. The Tribunal went on to state that

"On the wording of section 36(2) we have no doubt that in order to satisfy the statutory wording the substance of the opinion must be objectively reasonable. We do not favour substituting for the phrase "reasonable opinion" for some

different explanatory phrase, such as “an opinion within the range of reasonable opinions.” The present context is not like the valuation of a building or other asset, where a range of reasonable values may be given by competent valuers acting carefully. The qualified person must take a view on whether there is or is not the requisite degree of likelihood of inhibition. We do, however, acknowledge the thought that lies behind the reference to a range of reasonable opinions, which is that on such matters there may (depending on the particular facts) be room for conflicting opinions, both of which are reasonable.”¹

26. During the course of the investigation the Commissioner asked the Trust for details of the decision taken by the qualified person, in order to allow him to reach an opinion on whether the opinion was objectively reasonable and reasonably arrived at. The Trust provided information relating to these issues.
27. The Commissioner has first considered whether the substance of the opinion could be considered to be objectively reasonable.
28. The Trust informed the Commissioner that before reaching an opinion the qualified person discussed the request for the Audit Report at a meeting with the Trust Board.
29. Following this meeting the Trust informed the complainant that the qualified person was of the opinion that “it is extremely important to ensure that everyone called upon to be involved in an audit must not be inhibited from providing advice and / or exchanging views in a free and frank manner. If people are unable to be confident that the information they provide will not be kept confidential and be confined to the investigation this would be likely to inhibit them.” Therefore, the Trust argued, the exemption was engaged.
30. The Trust has reiterated these points to the Commissioner, and has stated that the qualified person is of the opinion that the disclosure of this information would damage the free and frank exchange of views, and the process of deliberation. It believes that this would prejudice the effective conduct of public affairs.
31. Whilst it is possible to argue against the opinion, this does not mean that, in itself, the opinion is an unreasonable one. Therefore, after considering this information the Commissioner has formed the view that the opinion of the qualified person is objectively reasonable.
32. Furthermore, as the Commissioner has been provided with evidence that the qualified person took the views of several key members of staff into consideration, and deliberated the matter before forming an opinion, he has formed the view that the opinion was reasonably arrived at. The Commissioner has also noted the arguments made by the Trust to the complainant at paragraph 29 above, in satisfying himself that the qualified person took into account relevant factors in forming this opinion.

¹ Appeal Numbers EA/2006/0011 and EA/2006/0013, paragraph 64 & paragraph 60.

33. Therefore the Commissioner is satisfied that the opinion of the qualified person is reasonable, and that the exemption under section 36(2)(b) is engaged in relation to the requested information
34. The Commissioner has then gone on to establish that the qualified person gave their reasonable opinion prior to the exemption being claimed. In this case the qualified person reached their decision at a Board meeting on 26 January 2006, and the refusal notice, citing section 36, was issued on 27 January 2007. Therefore the Commissioner is satisfied that the exemption was claimed after the reasonable opinion was reached.
35. Given this, the Commissioner has gone on to consider whether in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information in question.

Considering the public interest test

36. In his approach to the competing public interest arguments in this case, the Commissioner has drawn heavily upon the Information Tribunal's Decision in *Guardian Newspapers Limited and Heather Brooke vs. Information Commissioner and BBC*, where the Tribunal considered the law relating to the balance of public interest in cases where section 36 applied. The Commissioner has followed the interpretation of the law relating to the public interest test, as set out in this Tribunal, and notes and adopts in particular its conclusions that:
 - Unless there is any relevant exemption under the Act then the section 1 duties will operate. The “default setting” in the Act is in favour of compliance – requested information held by a public authority must be disclosed except where the Act provides otherwise.
 - The public interest in maintaining an exclusion or exemption must outweigh the public interest in disclosure.
 - The “presumption” in the Act will only operate in cases where the respective public interests are equally balanced.
 - There is an assumption built in to the Act that the disclosure of information by public authorities on request is in itself of value and in the public interest, in order to promote transparency and accountability in relation to the activities of public authorities. The strength of that interest, and the strength of the competing interest in maintaining any relevant exclusion or exemption, must be assessed on a case by case basis.
 - When it comes to weighing the balance of public interest, it is impossible to make the required judgement without forming a view on the likelihood, nature and extent of any prejudice.
 - It is important to note the limits of the reasonable person's opinion required by section 36(2). The opinion is that disclosure of the information would have (or would be likely to have) the stated detrimental effect. That means

that the qualified person has made a judgement about the degree of *likelihood* that the detrimental effect would occur, “does not necessarily imply any particular view as to the severity or extent of such inhibition or the frequency with which it will or may occur.”²

- The right approach, consistent with the language and scheme of the Act, is that the Commissioner, having accepted the reasonableness of the qualified person’s opinion that disclosure of the information would, or would be likely to, have the stated detrimental effect, must give weight to that opinion as an important piece of evidence in his assessment of the balance of public interest. However, in order to form the balancing judgment required by s 2(2)(b), the Commissioner is entitled, and will need, to form his own view on the severity, extent and frequency with which detrimental effect will or may occur.

37. Whilst considering whether the public interest in maintaining the exemption outweighs the public interest in disclosure the Commissioner recognises that there are competing public interest arguments. He has gone on to consider these arguments in turn.

Public Interest – in favour of maintaining the exemption

38. The Commissioner gives due weight to the qualified person’s reasonable opinion that disclosure would, or would be likely to, inhibit the free and frank provision of advice, and the free and frank exchange of views for the purposes of deliberation.

39. The Commissioner notes that the focus of the Trust’s arguments has been that this inhibition would not be in the public interest. In its correspondence the Trust has attempted to illustrate how this prejudice would occur and take effect. In considering these arguments, the Commissioner has been mindful of the public interest in public authorities having effective financial audit processes which can truly reflect the position of authorities, allowing them to learn from previous good and bad practice, and encouraging the effective use of public money.

40. According to the Trust the disclosure of this information would mean that, “if people are unable to be confident that the information they provide will [...] be kept confidential and be confined to the investigation this would be likely to inhibit them.” This, the Trust has argued to the complainant, would not be in the public interest as, “the Trust Board does not believe that it is in the public interest to risk any lack of openness through the fear of disclosure by those involved with audit of public money.”

41. In its letter to the Commissioner the Trust has expanded on this point, arguing that disclosure would lead to a lack of openness of staff, and a chilling effect on the free and frank exchange of views for deliberation. The Trust has argued that disclosure would lessen its accountability as, “without the ability for all staff and members of the public to be assured that their comments will be treated without prejudice and for all staff and members of the public to be able to air their views in

² Appeal Numbers EA/2006/0011 and EA/2006/0013, paragraph 91.

a free and frank manner, the Trust runs the risk of not being accountable to the views of the public, and staff, and the public will not feel that they can contribute to the functioning and monitoring of the Trust...”

42. The Trust has gone on to argue that the inhibition on staff expressing their views in a free and frank manner would lessen the effectiveness of future reports of this kind, and would inhibit its ability to effectively monitor and audit its internal activities.
43. Lastly, the Trust has argued that through the release of the Audit Letter (see paragraph 5 above) the public has been informed of the financial situation it was in, and the plans it had made to rectify the situation. It has gone on to state that it does not wish to keep the financial situation of the Trust secret, but that it believes that it needs the freedom in which to make hard decisions.

Public interest – in favour of disclosing the information

44. The Commissioner fully accepts that there is a public interest in ensuring the free and frank exchange of ideas, the effective running of the process of deliberation within public authorities, and the accountability of public authorities.
45. However, the Commissioner is not persuaded by the Trust's arguments regarding the severity of the prejudicial effects that the disclosure could cause, especially given the particular circumstances of this case. In considering this issue he believes that it is important to note that the Audit Report was ordered by the Chief Executive of the Trust. The Trust has not provided the Commissioner with any compelling arguments to support its position that such a disclosure would have a “chilling effect” on the openness of staff in cooperating with a report ordered by the Trust's Chief Executive. Whilst the Commissioner is open to the idea that such a disclosure may discourage staff members, or members of the public, from coming forward on a voluntary basis in the future, he is not convinced that this would have the same effect on staff members who were called on to cooperate with an external financial audit that had been ordered by the Chief Executive.
46. In considering this case, the Commissioner has been mindful of the strong generic public interests in openness, transparency, public understanding and accountability, in relation to the activities of public authorities.
47. He has gone on to consider these generic public interest issues in the light of the individual circumstances of this case.
48. In the Trust's Annual Report 2004-2005 it announced that it was £8.8 million in deficit, and that approximately half of that deficit, “was caused by failings in our budgetary and invoicing systems.”³ According to the figures given in the Audit Letter (see paragraph 5) the deficit for the previous financial year had been £498,000. This represents a considerable increase in the deficit by just over £8 million in one year.⁴

³ South Warwickshire General Hospitals NHS Trust, Annual Report 2004-2005, page 15

⁴ South Warwickshire General Hospitals NHS Trust 2004/05 Audit Letter, page 4.

49. The Annual Report also stated that both the Trust and the Strategic Health Authority had agreed that, “the Trust’s internal auditors, Deloitte, who had provided ‘substantial assurance’ regarding the system of internal controls operating over the financial ledger system in the first half-year, would undertake a review of the budgetary control and financial reporting” – the Audit Report was the result of this review.⁵
50. The Commissioner believes that there is a substantial public interest in public understanding of issues surrounding the funding of the NHS, especially given the impact this has on such issues as hospital beds, staffing levels and patient waiting lists. He also believes that there is a substantial public interest in the efficient running of the NHS, given the fact that the NHS has such a fundamental role in the life of the population of the country as a whole.
51. This substantial public interest is illustrated in the particular circumstances of this case. Prior to the request being made there was speculation in the local press that the deficit announced in the Annual Report for 2004-2005 would lead to the loss of jobs, wards and services in the local hospitals, which would lead to a major impact on services to the local community as a whole. The Commissioner believes that it is reasonable to assume in this case that the speculation in the local press would be indicative of the concerns of the local community at this time, especially given the possible impact such a deficit could have on local NHS services.
52. Given the above, the size of this deficit and the substantial increase of the deficit between the two financial years, the Commissioner believes that there is a substantial public interest in increasing public understanding of how this situation arose. This would assist the public in engaging with the Trust over this issue, questioning events, and increase the Trust’s accountability. The disclosure of this information would also help inform the public, enabling them to consider and question how the failure of ‘budgetary and invoicing systems’ had contributed to approximately half of the deficit of £8.8 million.
53. Furthermore, the Commissioner believes that there is a significant public interest in the public gaining an understanding of the results of a review of these failures, and what recommendations were made by the external auditors.
54. The Commissioner acknowledges that the Trust has argued that the disclosure of the Audit Letter to the complainant, has already informed the public’s understanding of this issue. However, the Commissioner does not accept the Trust’s reasoning on this, and he believes that the disclosure of this Audit Report could only add further to the understanding of these events. In doing this, the Commissioner has followed the approach taken by the Tribunal in *Department for Education and Skills vs. the Information Commissioner and the Evening Standard*, where the Tribunal stated, “If the information requested is not in the public domain, we do not regard publication of other information relating to the

⁵ South Warwickshire General Hospitals NHS Trust, Annual Report 2004-2005, page 14.

same topic for consultation, information or other purposes as a significant factor in a decision as to disclosure.”⁶

55. In conclusion the Commissioner has considered the competing public interest arguments, as set out above. He has considered all the public interest arguments the Trust has stated in favour of maintaining the exemption. However, he believes that in all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosing the Audit Report.

The Decision

56. The Commissioner’s decision is that the Trust has not dealt with the request for information in accordance with the Act in that:

The Trust incorrectly withheld the requested information under section 36(2)(b).

57. As the Trust failed to provide the information in question, the Commissioner also finds that the Trust has acted in breach of section 1 of the Act.

58. The Commissioner has also decided that when it informed the complainant that it would be unable to respond to his request within twenty working days, the Trust failed to satisfy the requirements of section 17(1) in that it issued an inadequate refusal notice.

Steps Required

59. The Commissioner requires the Trust to take the following steps to ensure compliance with the Act:

The requested information should be disclosed to the complainant within 35 calendar days of the date of this notice.

Failure to comply

60. 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.

⁶ Appeal number EA/2006/0006, paragraph 75(vi).

Right of Appeal

61. Either party has the right to appeal against this Decision Notice to the Information Tribunal. Information about the appeals process may be obtained from:

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@dca.gsi.gov.uk

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

Dated the 14th day of June 2007

Signed

Steve Wood
Assistant Commissioner

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

Legal Annex

Section 17

- (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

- (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 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.