

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

Date: 08 July 2009

**Public Authority:** Home Office  
**Address:** Seacole Building  
2 Marsham St  
London  
SW1P 4DF

### Summary

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The complainant made 50 requests relating to the detail of the workings of and performance in testing of a type of speed detector. The public authority answered the questions posed in some of the requests, stated that the information held that fell within the scope of some of the requests was exempt by virtue of sections 41(1) (information provided in confidence) and 43(2) (commercial interests) and stated that it held no information that fell within the scope of the remainder of the requests. The Commissioner finds that the public authority cited the exemption provided by section 41(1) correctly and that the public authority stated accurately that it held no information falling within the scope of some of the requests. In relation to two of the 50 requests, the Commissioner finds that the public authority failed to comply with the procedural requirements of sections 1(1)(a) and 10(1). The public authority is not required to take any steps.

### 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. The complainant's request was made on 7 February 2006. The wording of this request was as follows:

*[In connection with the Ultralyte 20 20 100 speed detector] All information regarding:*

1. *Tests made by the Home Office or its agents on the above device.*
2. *Tests made by the Home Office or its agents on the device after it came into service especially after BBC and Daily Mail and Motorcycle News publicity.*
3. *Technical history of device in operations in UK and USA especially Maryland.*
4. *Specifications of Ultralyte 20 20 100 including:*

*Optical:*

- a.i. output lens*
- a.ii. optical input lens*
- a.iii. power output of laser in watts*
- a.iv. laser type*
- a.v. wavelength*
- a.vi. frequency*
- a.vii. number of constituent parts of laser beam after transmission through output lens*
- a.viii. confirm the exact area of dispersal at 300m and 400m*
- a.ix. field of view of input lens*
- a.x. optical sights and adjustments types and instructions on how to adjust*
- a.xi. field of view of sights*
- a.xii. magnification of sights*

*Electronic components including:*

- b.i. processor type*
- b.ii. speed*
- b.iii. eproms*
- b.iv. ram*
- b.v. motherboard*
- b.vi. electronic comparitors*
- b.vii. electronic components and tolerances*
- b.viii. laser output device*
- b.ix. laser source output dimension/diameter*
- b.x. software storage medium*
- b.xi. electronic protection from external electromagnetic fields*
- b.xii. RS number of adjustment potentiometers and their shelf life under constant adjustment*
- b.xiii. Photodiode type and RS number with date of manufacture*
- b.xiv. dates of all modifications and associated serial numbers*
- b.xv. dates of compliance with European Community legislation on electromagnetic interference*
- b.xvi. date of compliance and/or tests conducted on device within 30 metres of high output telecommunications masts emitting 3G emf*
- b.xvii. minimum input power to trigger photodiode*

*b.xviii. minimum power required to differentiate from other background radiation*

*b.xix. minimum power required to differentiate from other background radiation*

*Software:*

*c.i. relating to send/receive signal, time elapsed/distance conversion, time elapsed before no signal results in reset, output to LCD interface, confirm there is no onboard clock which states exactly when reading was made and that all other previous readings were erased.*

*c.ii. confirm that there have been modifications to software to cure problem with 'slippage'*

*c.iii. explain the mathematics on which the software makes these assumptions*

*c.iv. how software knows that slippage is occurring so that it can disregard some data and not others*

*c.v. date when this software was applied to LTI 20 20 100 serial number 447536*

*c.vi. supply all software and updates and date of implementation such that it can be analysed*

*c.vii. software which can differentiate output wavelength from solar wavelength (either directly or via reflected objects)*

*c.viii. state time between recognition of slippage and reset condition before new train of pulses*

*d.i. confirmation that 904 nanometers output (or similar) was chosen for the transmission through atmosphere of Colorado state*

*d.ii. confirmation that solar conditions in Colorado are such that sun is normally much higher in sky*

*d.iii. provide all documentation of tests carried out on device by Home Office which takes account of precipitation, high humidity, mist drizzle, wet roads and sun 18 degrees lower in sky*

*e. provide all documentation related to all cases in which defendants have challenged this device including State of Maryland USA*

*f.i. state how coherent laser beam of monochromatic light of 904 nanometers remains coherent laser beam of monochromatic light of 904 nanometers after it has passed through c 5 mm of acrylic plastic numberplate and reflected off crystalline lambertini dispersal type reflector*

*f.ii. state the tests done on dispersal cone of the non coherent, polychromatic reflected light*

*f.iii. state how the Home Office tested light arriving at vertical number plate incident angle 1-2 degrees above horizontal and had it defy Snells Law on angle of reflection*

*f.iv. state the area of dispersal of non laser beam after 385 metres and resultant power per cm<sup>2</sup> of returning light".*

3. The response to this was dated 13 March 2006 and stated that it had received the request on 22 February 2006. The stance of the public authority in response to each part of the request was as follows:

Exempt by virtue of sections 41(1) (information provided in confidence) and 43(2) (commercial interests):

1., 4.a.iii, 4.a.iv, 4.a.v., 4.a.x., 4.b.i., 4.b.iii., 4.b.vii., 4.b.viii., 4.b.ix., 4.b.x., 4.b.xviii.

No information held:

2.,3., 4.a.i., 4.a.ii., 4.a.vi., 4.a.vii., 4.a.viii., 4.a.ix., 4.a.xi., 4.a.xii., 4.b.ii., 4.b.iv., 4.b.v., 4.b.vi., 4.b.xi., 4.b.xii., 4.b.xiii., 4.b.xiv., 4.b.xv., 4.b.xvi., 4.b.xvii., 4.b.xix., 4.c.viii., 4.d.i., 4.d.ii., 4.d.iii., 4.e., 4.f.i., 4.f.ii., 4.f.iii., 4.f.iv.

The public authority provided an answer to the following parts of the request:

4.c.i., 4.c.ii., 4.c.iv., 4.c.v., 4.c.vii.

The public authority failed to address requests 4.c.iii. and 4.c.vi.

4. The complainant responded on 20 April 2006 and requested that the public authority carry out an internal review of its handling of his request and the public authority responded with the outcome to the review on 17 May 2007. The initial refusal was upheld.

## The Investigation

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### Scope of the case

5. The complainant contacted the Commissioner initially on 31 March 2007. At that stage, as well as objecting to the response to the information request set out above, the complainant stated that he now wished to access all information held by the public authority about the speed detector in question.
6. An exchange of correspondence followed in which the Commissioner focussed on the request above and the complainant clarified that he wished to have included within the scope of this case both those parts of the request refused as exempt and those in response to which the public authority had stated that it held no information. The complainant was also advised that those requests in response to which the public authority had provided an answer would be considered resolved and outside the scope of the case and accordingly requests 4.c.i., 4.c.ii., 4.c.iv., 4.c.v. and 4.c.vii are not considered further in this notice. This notice also covers those parts of the request to which no response was provided.
7. Early in the case handling process the complainant expressed his wish for this case to be extended to cover the Police Service of Northern Ireland and the Forensic Science Service. In response to this the Commissioner made clear to the complainant that this case would relate to his information request of 7 February 2006 to the Home Office. The complainant was recommended to make information requests to any public authorities from which he wished to receive

information.

8. In connection with request 4.a.x. the public authority amended its stance following the intervention of the Commissioner. The public authority stated that information conforming to this request was available on the Teletraffic website and contacted the complainant confirming this and advising where this information could be located. This request is not considered further in this notice.

## Chronology

9. The Commissioner contacted the public authority initially on 18 December 2008. In connection with those parts of the request in response to which the public authority had stated that it does not hold any information, the public authority was asked to respond detailing its searches for this information and giving any other reasons why this information would not be held. In connection with the citing of sections 41(1) and 43(2), the public authority was asked to respond explaining why it believed these exemptions to be engaged and, in connection with section 43(2), why it believed that the public interest favoured the maintenance of that exemption.
10. The public authority responded to this on 16 February 2009 and provided a copy of the information withheld from the complainant under sections 41(1) and 43(2). In connection with those parts of the request where its stance was that this information was not held, the public authority stated that it had searched again for the information and gave specific reasons for why information falling within the scope of some parts of the request was not held. These reasons are covered in depth in the Analysis section below.
11. In connection with section 41(1), the public authority stated first that this information had been provided to it by Teletraffic, the manufacturers of the speed detector. On the issue of the confidentiality of this information, the public authority referred to an undertaking of confidence provided at the end of the Type Approval process (the process by which the Home Office Scientific Development Branch approved the speed detector), the wording of which is as follows:  
  
*“the Secretary of State shall ensure that, so far as is practical, the commercial confidentiality of the information supplied by the company (or its agents) about the device will be maintained”*
12. The public authority also believed that the information is not trivial, that it has not been disclosed into the public domain previously, and that prejudice would result to Teletraffic through the disclosure of this information in that it would assist their competitors to construct a rival device and this would be unfairly disadvantageous to them.
13. In connection with section 43(2), the public authority stated that commercial prejudice would occur to Teletraffic for the reasons set out above in connection with section 41(1); that is, that disclosure of detailed specifications of the speed detector would advantage the competitors of Teletraffic. The public authority also provided a copy of a letter from Teletraffic in which it made clear its objections to

disclosure.

## Analysis

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### Procedural matters

#### Section 1

14. The public authority failed to address requests 4.c.iii. and 4.c.vi. at either the refusal notice or internal review stage. In so doing the public authority failed to comply with the requirement of section 1(1)(a). This section is set out in full in the attached legal annex, as are all other sections of the Act referred to in this Notice.

15. Turning to whether the stance of the public authority in relation to those parts of the request where it states that no information is held is accurate, the Commissioner has been guided by the approach the Information Tribunal adopted in the case *Linda Bromley and others v Information Commissioner and the Environment Agency* (EA/2006/0072). In this case the Tribunal indicated that the test for establishing whether information was held by a public authority was not certainty, but rather whether on the balance of probabilities the information is held:

*"...we must consider whether the IC's decision that the EA did not hold any information covered by the original request, beyond that already provided, was correct. In the process, we may review any finding of fact on which his decision is based. The standard of proof to be applied in that process is the normal civil standard, namely, the balance of probabilities..."*  
(paragraph 10)

*"...there can seldom be absolute certainty that information relevant to a request does not remain undiscovered somewhere within a public authority's records..."* (paragraph 13)

16. In deciding where the balance lies, the Commissioner will consider the scope, quality, thoroughness and results of the searches carried out by the public authority as well as considering, where appropriate, any other reasons offered by the public authority to explain why the information is not held. This is in line with the direction provided at paragraph 12 of *Linda Bromley and others v Information Commissioner and the Environment Agency* (EA/2006/0072):

*"...we may only consider, in light of the evidence placed before us, whether the scope, quality, thoroughness and results of those searches entitles us to conclude that the Environment Agency does not hold further information falling within the scope of the original request..."*

17. The Commissioner will also consider any other reasons given by the public authority for why it does not hold information falling within the scope of the request. This is in line with the direction provided by the Information Tribunal in

the case *Fowler and Brighton & Hove City Council* (EA/2006/0071), where it referred to the following as factors to take into account when considering whether information is held:

*“...evidence of a search for the information which had proved unsuccessful: or some other explanation for why the information is not held. This might be evidence of destruction, or evidence that the information was never recorded in the first place...”* (para 24)

18. In relation to the following requests the public authority did not provide any explanation for why relevant information was not held, but stated that a further search for relevant information had been carried out following the intervention of the Commissioner:

4.a.i., 4.a.ii., 4.a.iv., 4.a.vii., 4.a.viii., 4.a.ix., 4.a.xi., 4.a.xii., 4.b.ii., 4.b.iv., 4.b.vi., 4.b.xi., 4.b.xii., 4.b.xiii., 4.b.xv., 4.b.xvii., 4.b.xix., 4.c.viii., 4.d.iii.

19. The Commissioner's conclusion is that, on the balance of probabilities, information falling within the scope of these requests is not held. In reaching this conclusion, the Commissioner has given weight to the representations from the public authority that a further search for information falling within the scope of these requests was carried out following the receipt of his letter of 18 December 2008. The Commissioner is also aware of no credible evidence, provided by the complainant or available from any other source, that suggests that, on the balance of probabilities, information falling within the scope of these parts of the request is held.

20. Turning to those requests where the public authority has given reasons for why information relevant to these is not held, these requests and the reasoning given are as follows.

2. The public authority was aware of the media coverage referred to by the complainant but did not believe that this contained any information that warranted further testing.

3. There is no requirement to collect information of this kind during the Type Approval process.

4.b.v. The speed detector does not have a motherboard.

4.b.xiv. No modifications to the speed detector have been made.

4.b.xvi. No tests conforming to the description given by the complainant in this request were carried out.

4.c.iii. No problem with 'slippage' exists.

4.c.vi. This information was not obtained as part of the Type Approval process.

4.d.i. Information on the performance or testing of the speed detector in the USA

was not obtained during the Type Approval process.

4.d.ii. Information on the performance or testing of the speed detector in the USA was not obtained during the Type Approval process.

4.e. Information on the performance or testing of the speed detector in the USA was not obtained during the Type Approval process.

4.f.i - iv. These questions show a misunderstanding of the workings of the speed detector.

21. The Commissioner accepts these explanations provided by the public authority for why information falling within the scope of these parts of the request is not held and, therefore, concludes that, on the balance of probabilities, relevant information is not held. In reaching this conclusion the Commissioner has taken into account that no evidence has been given to him to dispute these explanations provided by the public authority.
22. The overall conclusion of the Commissioner is that the public authority complied with the requirement of section 1(1)(a) in relation to these requests in that the denial that information is held that falls within the scope of these parts of the request is accurate. In relation specifically to requests 4.c.iii. and 4.c.vi., as noted above the Commissioner has found the public authority in breach of section 1(1)(a) in failing to respond to these requests at either the refusal notice or internal review stage. The Commissioner is now satisfied with the explanations provided by the public authority for why information falling within the scope of these requests is not held.

## Section 10

- 23 In failing to confirm or deny whether it held information falling within the scope of requests 4.c.iii. and 4.c.vi. within 20 working days of receipt of the request, the public authority did not comply with the requirement of section 10(1).

## Exemption

### Section 41

- 24 In connection with requests 1., 4.a.iii, 4.a.iv, 4.a.v., 4.b.i., 4.b.iii., 4.b.vii., 4.b.viii., 4.b.ix., 4.b.x. and 4.b.xviii., the Commissioner has reviewed the information provided to his office as that falling within the scope of these requests and has verified that this information does fall within the scope of these requests.
- 25 Section 41(1) provides that information provided to the public authority in confidence is exempt. For this exemption to be engaged there are two conditions that must be fulfilled. First, the information must have been provided to the public authority by a third party; this exemption cannot be engaged in relation to information created by the public authority itself. This is referred to here as an "A to B transfer".



26 Secondly, the disclosure of this information must constitute an actionable breach of confidence. The Commissioner's approach in this case is that for the purposes of section 41(1), a breach of confidence will be actionable if:

- the information has the necessary quality of confidence;
- the information was imparted in circumstances importing an obligation of confidence; and
- there was an unauthorised use of the information to the detriment of the confider (the element of detriment is not always necessary).

27 This is in line with the direction provided by the High Court in the case *Coco v A N Clark (Engineers) Limited* [1968] FSR 415:

*"In my judgment, three elements are normally required if, apart from contract, a case of breach of confidence is to succeed. First, the information itself [...] must 'have the necessary quality of confidence about it.' Secondly, that information must have been imparted in circumstances importing an obligation of confidence. Thirdly, there must be an unauthorised use of that information to the detriment of the party communicating it..."*

The Commissioner recognises that *Coco v Clark* does not represent the only test of confidentiality, however he considers it an appropriate test to use in the present context.

28 However, as stated in the Ministry of Justice guidance on section 41, a breach of confidence will no longer be actionable if there is a defence that this breach was in the public interest.

29. The following analysis refers to the entirety of the information withheld under section 41(1), that is all that falling within the scope of each request listed at paragraph 24. Given the close relationship between each request and the information conforming to these requests, the Commissioner considers this an appropriate approach rather than carrying out a separate analysis for each request. The Commissioner also considers this proportionate for a notice relating to 50 information requests.

#### **A – B transfer?**

30. The position of the public authority is that this condition is fulfilled as the information in question was provide to it by Teletraffic as part of the Type Approval process. In its letter to the Commissioner of 16 February 2009, the public authority stated the following about the Type Approval process:

*"...speed camera manufacturers, in this case Teletraffic, are required to submit a variety of technical documents to the Home Office Scientific Development Branch (HOSDB) for the purpose of obtaining Home Office Type Approval."*

31. The Commissioner accepts this as an accurate description of the Type Approval

process and also that the information identified by the public authority as relevant to these requests was provided to it as part of the Type Approval process. An A – B transfer did, therefore, take place and this condition of section 41(1) is satisfied.

### **Quality of confidence?**

32. The approach of the Commissioner is that information will have the necessary quality of confidence if it is not otherwise accessible and if it is more than trivial. On the issue of whether the information in question is otherwise accessible, the public authority acknowledges that a significant amount of information about the speed detector has previously been disclosed, including via media coverage. However, it maintains that the information in question here is not otherwise accessible. In the absence of evidence that the information in question is otherwise accessible, the Commissioner considers that it is not.
33. Turning to the issue of whether the information is more than trivial, the public authority has pointed to the level of detail about the device within the information as indicating that this information could not be characterised as trivial. The Commissioner notes that the information does indeed include a great deal of detail about the speed detector and accepts that this indicates that the manufacturers of the camera would not regard this information as trivial. The Commissioner accepts that where the opinion of the confider is that information is worthy of protection, it cannot be fairly characterised as trivial.
34. As the Commissioner has accepted both that the information is not otherwise accessible and that it is not trivial, his conclusion is that this information does have the necessary quality of confidence.

### **Obligation of confidence?**

35. An obligation of confidence will most obviously exist where this has been expressed explicitly, through a written agreement at the time of the imparting of the information for example. However, an implicit obligation of confidence can also exist, where the nature of the information imparted makes it sufficiently clear that the confider would expect it to be held in confidence, for example.
36. In this case the stance of the public authority is that the information is subject to an explicitly expressed obligation of confidence, the wording of which is given above at paragraph 11. The public authority also referred to a letter to it from Teletraffic which states:

*“[information supplied during Type Approval is] ... provided against undertakings, indeed signed agreements, of strict confidentiality...”*

37. The Commissioner accepts that the information was the subject of an obligation of confidence at the time that it was imparted. This conclusion is not based on a detailed analysis of the wording referred to by the public authority and given above at paragraph 11, instead this conclusion is based on the fact that this information was not shared in public and that Teletraffic clearly believed that this

information was subject to at least an implied obligation of confidence.

### **Detriment to the confider?**

38. Although detriment is not always necessary for section 41(1) to be engaged, the approach of the Commissioner is that where commercial information is purported to have been imparted in confidence there would have to be a detrimental impact to the commercial interests of the confider for the exemption to be engaged. The Commissioner has considered here whether Teletraffic would suffer any detriment through disclosure of the information in question.
39. The public authority has argued that detriment would result to Teletraffic through disclosure. This is based on the detail given about the speed detector within the information, which includes a list of the components of the speed detector, and details of how it performed in the Type Approval tests. In correspondence with the public authority Teletraffic asserted that:

*“...it would not be too strong a point to say that the information held by yourselves is sufficient to enable manufacture of the device...”*

40. Whilst the Commissioner would reserve judgment on whether this statement is accurate, he does accept that disclosure of this information would result in detriment to the commercial interests of Teletraffic. This is on the basis that Teletraffic would be placed at a disadvantage as their competitors would not be required to disclose similar information. The Commissioner also considers it conceivable that the competitors of Teletraffic may gain a commercial advantage through the great detail about the speed detector included within the information in question.

### **A public interest defence?**

41. As noted above at paragraph 28, an actionable breach of confidence will not have occurred where there is a public interest defence to that breach. Consideration of the public interest in relation to section 41(1) is not the same as consideration of the public interest test in relation to qualified exemptions. That test is whether the public interest in maintenance of the exemption outweighs the public interest in disclosure. The test here is whether the public interest in disclosure of the information exceeds the public interest in the maintenance of confidence.
42. The view of the Commissioner is that an express obligation of confidence should not be overridden on public interest grounds lightly and that a balancing test based on the individual circumstances of the case will always be required. There must be specific and clearly stated factors in favour of disclosure for this to outweigh the public interest in the maintenance of confidence.
43. The protection provided by the duty of confidence here is to the Type Approval process in that manufacturers of speed detectors, or other devices that go through this process, are confident when providing information to the public authority that it will not be disclosed. The Commissioner believes there to be a public interest in the ability of the public authority to carry out the Type Approval

process effectively as this process is intended to ensure that speed detectors and other devices that go through this process are suitable for use on the transport network. If disclosure would prejudice the ability of the public authority to carry out the Type Approval process effectively, by discouraging organisations from cooperating fully with this process for example, this would be counter to the public interest. The Commissioner accepts that the weight that this factor carries is reduced due to engagement with the Type Approval process being compulsory for those wishing to contract with the public authority. However, he believes that the Type Approval process could be prejudiced to at least some degree were potential providers obliged to engage with this process against their will.

44. Further to this point, the Commissioner also believes it possible that potential providers could be discouraged from offering their services to the public authority if they did not wish the information provided to the public authority during the Type Approval process to be disclosed. If the public authority was unable to secure the services of the best quality and value providers, this would be counter to the public interest.
45. The Commissioner also recognises a valid public interest in favour of disclosure in that speed detectors are the subject of controversy and debate and full disclosure of information relating to speed detectors would be in the public interest in order to inform this debate. However, this factor must be weighed against the harm to the confider that would result through the breach of confidence, which in this case is the harm to the commercial interests of Teletraffic. The Commissioner concludes that the general public interest in disclosure of information relating to speed cameras does not outweigh the harm that would result to the confider. Were there a specific public interest in the particular content of the information in question here, the Commissioner may have reached a different conclusion. The Commissioner does not, however, believe that the public interest here is related to the specific content of the information in question, rather it is a general public interest in the disclosure of speed detector related information.
46. The Commissioner concludes that a valid defence could not be made in this case that the breach of confidence was in the public interest. The breach of confidence would, therefore, be actionable.

## **Conclusion**

47. The Commissioner concludes that the exemption provided by section 41(1) is engaged in relation to the information in question. This conclusion is based on his findings that the information was provided to the public authority from a third party; and the information is subject to the quality and obligation of confidence, and any breach of this confidence would result in detriment to the confider, meaning that disclosure of this information would constitute an actionable breach of confidence. The Commissioner has also found that a breach of this confidence would not cease to be actionable due to a defence that the breach would be in the public interest.

## Section 43

48. As the section 41(1) conclusion relates to the entirety of the information in connection with which section 43(2) has also been cited, it has not been necessary to consider this exemption.

## The Decision

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49. The Commissioner's decision is that the public authority dealt with the following requests in accordance with the Act in that it stated accurately and in accordance with section 1(1)(a) that it held no information falling within the scope of these requests:

2.,3., 4.a.i., 4.a.ii., 4.a.vi., 4.a.vii., 4.a.viii., 4.a.ix., 4.a.xi., 4.a.xii., 4.b.ii., 4.b.iv., 4.b.v., 4.b.vi., 4.b.xi., 4.b.xii., 4.b.xiii., 4.b.xiv., 4.b.xv., 4.b.xvi., 4.b.xvii., 4.b.xix., 4.c.viii., 4.d.i., 4.d.ii., 4.d.iii., 4.e., 4.f.i., 4.f.ii., 4.f.iii., 4.f.iv.

50. In relation to requests 4.c.iii. and 4.c.vi., the Commissioner finds that the public authority breached sections 1(1)(a) and 10(1) in failing to address these requests at either the refusal notice or internal review stage, but is now satisfied with the explanations provided for why information falling within the scope of these requests is not held.

51. The Commissioner's decision is that the public authority dealt with the following requests in accordance with the Act in that it concluded correctly that the information held that fell within the scope of these requests was exempt by virtue of section 41(1):

1., 4.a.iii, 4.a.iv, 4.a.v., 4.b.i., 4.b.iii., 4.b.vii., 4.b.viii., 4.b.ix., 4.b.x., 4.b.xviii.

## Steps Required

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52. The Commissioner requires no steps to be taken.

## Failure to comply

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

55. 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 8th day of July 2009**

**Signed .....**

**Anne Jones  
Assistant Commissioner**

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

## **Legal Annex**

### **Section 1**

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 10**

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 41**

Section 41(1) provides that –

“Information is exempt information if-

- (a) it was obtained by the public authority from any other person (including another public authority), and
- (b) the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.”

### **Section 43**

Section 43(2) provides that –

“Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).”