



Scottish Information
Commissioner

**Decision 056/2007 Mr Paul Hutcheon of the
Sunday Herald and the Scottish Executive**

Information about the policy of Free Personal Care in Scotland

**Applicant: Paul Hutcheon of the Sunday Herald
Authority: The Scottish Executive
Case No: 200500957 and 200501430
Decision Date: 3 April 2007**

**Kevin Dunion
Scottish Information Commissioner**

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Decision 056/2006 – Mr Paul Hutcheon of the Sunday Herald and the Scottish Executive

Request for information about the development of the Free Personal Care policy – the Commissioner partially upheld the decision of the Executive.

Relevant Statutory Provisions and other Sources

Freedom of Information (Scotland) Act 2002 sections 1(1) (General entitlement); 2(1)(b) (Effect of exemptions); 28 (Relations within the United Kingdom); 29(1)(a) and (b),(2),(3) and (4) (definition of “Ministerial communications”) (Formulation of Scottish Administration policy etc.); 30(a) and (b) (Prejudice to effective conduct of public affairs); 36(1) (Confidentiality) and 38(1)(b), (2)(a)(ii) and (b) (Personal information)

The text of each of these provisions is reproduced in the Appendix to this decision. The Appendix forms part of this decision.

Facts

Mr Paul Hutcheon asked the Scottish Executive (the Executive) for information relating to the development of the free personal care policy. He later asked for information about the Executive’s communications with the UK Government on the same issue.

The Executive released some factual and statistical information relating to his first request, but withheld the notes and minutes of meetings and correspondence about free personal care which he had also asked for. The Executive withheld all information relating to his second request.

The Scottish Information Commissioner found that in some cases the Executive had wrongly applied the exemptions cited in respect of the information withheld. In other instances he found that the exemptions had been correctly applied but that the public interest in disclosure outweighed the public interest in upholding the decision to withhold the information. In some instances the Commissioner found that the Executive had complied with FOISA in withholding the information.



Background

1. On 10 January 2005 Mr Paul Hutcheon sent an email to the Executive with the following five requests, which will be collectively referred to as “the first request” in this decision notice:
 1. Notes of all meetings between Scottish Executive Ministers and or officials regarding free personal care up until June 2001.
 2. Minutes of all meetings between Scottish Executive Ministers and or officials regarding free personal care up until June 2001.
 3. All correspondence, including emails, letters and memos, between Ministers and or officials regarding free personal care up until June 2001.
 4. All correspondence, including emails, memos and letters, sent from successive Finance Ministers to other Ministers and officials regarding free personal care up until June 2001.
 5. All financial and statistical documents on the viability or otherwise of free personal care, up until June 2001.
2. The Executive replied on 7 February 2005. It provided the demographic papers that were considered by the Care Development Group and early figures on the cost of free personal care, and provided electronic links to the Care Development Group Report and to papers submitted to the Scottish Parliament’s Audit Committee in November 2004. Other information was withheld on the grounds that it was exempt under section 29(1)(a) or 29(1)(b) of FOISA because it was material which related to the ‘formulation or development of government policy’ and to ‘Ministerial communications’ respectively.
3. Mr Hutcheon asked for a review of the decision to withhold some information (email on 8 February 2005). The Executive’s reply of 10 March 2005 upheld its initial decision, but noted that the papers prepared for the Care Development Group had not yet been published, as envisaged in the Scottish Executive’s publication scheme. The Executive assured Mr Hutcheon that publication of these papers on the Executive’s website would be arranged as soon as possible. (I note that some but not all of the background papers for the Care Development Group are available on the Executive’s website at time of writing.)



4. Mr Hutcheon applied to me for a decision on the matter on 14 March 2005, stating that in his view all the information covered by his request should be in the public domain.
5. In the meantime Mr Hutcheon had sent another email to the Executive with five additional requests for information about free personal care (8 February 2005). These five requests were later narrowed down to the following three, and will be collectively referred to as “the second request” in this decision notice:
 1. All letters sent from the First Minister’s Office, up until November 2001, to the UK Government on free personal care
 2. All emails sent from the Health Department to the UK Government, up until November 2001, on free personal care
 3. All memos sent from the Health Department to the UK Government, up until November 2001, on free personal care
6. On 2 March 2005 the Executive replied, confirming that information was held but refusing to provide it on the grounds that it was exempt from disclosure under section 29(1)(a) of FOISA (information relating to the formulation or development of government policy).
7. Mr Hutcheon asked for a review of this decision (2 March 2005) and the Executive replied on 31 March 2005. After review, the Executive decided that in addition to being exempt under section 29(1)(a), the information withheld from Mr Hutcheon was also exempt under section 28(1) of FOISA, which covers information which, if released, would or would be likely to prejudice substantially relations between administrations in the United Kingdom.
8. Mr Hutcheon applied to me for a decision on this matter on 9 April 2005.
9. Investigating officers were allocated to both cases. However, it was later decided to conjoin the cases as the subject matter of the requests was so closely related, and some of the Executive’s reasons for withholding the information applied to both cases.



The Investigation

10. Mr Hutcheon's applications for a decision were validated by establishing that he had made valid requests for information to a Scottish public authority, and in each case had applied to me only after requesting a review from the authority concerned.
11. The Executive was asked to provide comments on each of Mr Hutcheon's applications in terms of section 49(3)(a) of FOISA, and to supply information to assist with the investigation.
12. Regarding Mr Hutcheon's first request, the Executive provided copies of 174 documents which had been withheld from him, and submitted its reasons for believing the information to be exempt under section 29(1)(a) and 29(1)(b) of FOISA.
13. Regarding Mr Hutcheon's second request, the Executive provided copies of 9 documents which had been withheld from him, and submitted its reasons for believing the information to be exempt under section 29(1)(a) and 28(1) of FOISA. The Executive stated that its arguments in respect of the application of section 29(1)(a) were essentially the same as had been put forward in relation to Mr Hutcheon's first request. The Executive's submissions are considered later in this decision notice.
14. During the investigation the Executive informed the investigating officer that after further consideration it believed that certain other exemptions should have been applied to the information withheld under Mr Hutcheon's first request. The Executive provided a revised schedule of documents showing where these additional exemptions had been applied. The exemptions in question were section 30(a), 30(b)(i) & (ii) – prejudice to effective conduct of public affairs; section 28(1) – relations within the United Kingdom; section 36(1) – confidentiality; and section 38(1)(b) – personal information. With the exception of section 36(1), the Executive provided its reasons for believing that these exemptions applied and (where appropriate) that the public interest lay in withholding the information.



The Commissioner's Analysis and Comments

Information withheld under Section 29(1)(a)

15. The Executive has applied the exemption in section 29(1)(a) to most of the information withheld from Mr Hutcheon, often citing additional exemptions in relation to individual documents.
16. For information to fall under the section 29(1)(a) exemption, it must relate to the formulation or development of government policy, i.e. to the development of options and priorities for Scottish Ministers, who will subsequently determine which options should be translated into political action and when. The formulation of government policy suggests the early stages of the policy process where options are considered, risks are identified, consultation takes place and recommendations and submissions are presented to Scottish Ministers. Development suggests the processes involved in improving upon or amending already existing policy and could involve the piloting, monitoring, reviewing, analysing or recording the effects of existing policy.
17. The reasoning behind the section 29(1)(a) exemption in FOISA is to ensure that, where appropriate, Scottish Administration policy can be formulated and developed effectively by allowing the Administration to discuss matters in a candid and frank manner.
18. Section 29(1)(a) is a qualified exemption, which means that even if the exemption applies, the application of this exemption is subject to the public interest test required by section 2(1)(b) of FOISA.

Background to the case

19. It may be helpful at this point to provide some background information about the free personal care policy and the process by which it came to be introduced in Scotland.
20. Free personal care was a key recommendation of the "Sutherland Report" produced by the Royal Commission on Long Term Care. The decision whether or not to implement free personal care was the subject of much debate among politicians and public alike. The Scottish Ministers' initial response, announced by the Health Minister on 5 October 2000, included a £60m package of measures to improve care, but did not go as far as introducing free personal care.



21. After Henry McLeish took office as First Minister, he pledged to look again at the recommendation that personal care costs of the elderly should be funded by government. On 24 January 2001 the Health Minister made another statement to Parliament, in which she announced that the Executive would develop detailed proposals for extending free care and reducing the costs of care for a greater number of people. A development group was to be set up to take this forward.
22. Many MSPs felt that the country had been led to expect an announcement that the Sutherland Report recommendations would be implemented in full, and on 25 January 2001 a debate in the Scottish Parliament showed that there was a high level of support across the parties for full implementation. Later that day the Executive announced that it would bring forward proposals for the introduction of free personal care for all, as soon as practicable after consideration of the development group's report in August 2001. The introduction of free personal care for the elderly was announced in September 2001, and brought into effect through the Community Care and Health (Scotland) Act 2002 in July 2002.
23. Since the policy was introduced it has been the subject of much public discussion. In July 2004 Audit Scotland issued a report "Commissioning community care services for older people" which raised such questions as how the success of the policy was to be evaluated and how the costs of the policy had initially been estimated. The Audit Committee of the Scottish Parliament considered this report in detail in November 2004, taking evidence on some of the points it raised.
24. I have gone into detail about the background to the free personal care policy because I believe that an understanding of the context in which it developed and the public debate that it has generated are important in considering the public interest in disclosure of the information requested by Mr Hutcheon. (I should stress, however, that I considered the factors affecting the balance of public interest only as they existed at the time of Mr Hutcheon's request for review, disregarding any developments in the debate over free personal care since that time.)

Application of exemption in section 29(1)(a)

25. Having examined the documents withheld from Mr Hutcheon, I accept that in most cases they can be seen to relate to the formulation or development of government policy regarding the implementation of the recommendations of the Sutherland Report and the introduction of free personal care, and so fall under the exemption in section 29(1)(a).
26. The exceptions to this determination are indicated in Appendix 2 to this decision notice as Appendix 2. The Appendix forms part of this decision.



27. I found that the exemption in section 29(1)(a) could not apply to information which was solely concerned with the professional achievements and personal characteristics of potential members of the Care Development Group. Other exemptions were applied to this information which I have considered elsewhere in this Decision Notice. However, I have accepted that the exemption in 29(1)(a) could apply to information about the administrative arrangements for the Care Development Group.
28. Section 29(2) of FOISA makes it clear that once a decision as to policy has been taken, any statistical information used to provide an informed background to the taking of the decision is not to be regarded as relating to the formulation or development of the policy in question, for the purposes of section 29(1)(a). See Appendix 1 for the full text of section 29(2).
29. In its initial reply to Mr Hutcheon (7 February 2005) the Executive provided some statistical information and provided links to web-based documents where other statistical information had been made available. I found several other instances where documents withheld under section 29(1)(a) contained statistical information which should have been disregarded under 29(2). In such cases I have found that the exemption in section 29(1)(a) does not apply, but have considered whether the information should be withheld under any other exemptions cited by the Executive. Details of my determination are provided in Appendix 2 to this decision notice.
30. In any instances where I found that section 29(1)(a) of FOISA does not apply to information within a document, I am not required to consider the public interest in disclosing or withholding that information. However, where I have established that the information is covered by section 29(1)(a), I must go on to consider whether the public interest in disclosing the information is outweighed by that in maintaining the exemption.

The public interest test

31. Information is exempt by virtue of section 29(1)(a) of FOISA if it falls into a particular class of documents; that is, where the information is held by the Scottish Administration and relates to the formulation or development of government policy.
32. Section 29(3) of FOISA requires the Scottish Administration, when applying the public interest test in section 2(1)(b), to have regard to the public interest in the disclosure of factual information which has been used, or is intended to be used, to provide an informed background to the taking of a decision.



33. I have taken into account the Executive's views on the public interest in upholding the exemption in section 29(1)(a), as applied to the information requested by Mr Hutcheon. These views are discussed below, along with my own deliberations about the public interest in disclosing or withholding the information.
34. Mr Hutcheon was invited to provide his own comments on the public interest in disclosure, but chose not to do so.

Consideration of the public interest issues

35. In its submission to my Office, dated 15 April 2005, the Executive acknowledged that there is a public interest in a clear understanding of the free personal care policy both in its own right and in the wider context of the Executive's strategic approach to health and related policies. In considering this and other public interest factors the Executive stated that it had had regard to the information already in the public domain, in the form of the Care Development Group Report and papers submitted to the Audit Committee of the Scottish Parliament. The Executive considered that to disentangle the remaining factual information from advice and opinion would be time-consuming and costly to the taxpayer and would provide little additional material that would facilitate public understanding of this policy area.
36. I accept that the information already in the public domain may go some way towards satisfying the public interest on some matters: for instance, some of the information on which the policy conclusions were based has already been made available through the papers produced and considered by the Care Development Group. However, it does not necessarily follow that because some information is already in the public domain, additional information on that subject cannot be requested or disclosed to a member of the public. Section 1(1) of FOISA makes it clear that there is a general entitlement to information held by a Scottish public authority.
37. On the issue of cost to the tax-payer, my view is that section 12(1) of FOISA entitles a Scottish public authority to refuse to comply with a request if the costs of doing so is estimated to exceed the limit laid down in regulation 5 of the Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004 (currently £600). In this case the Executive has confirmed that the cost of providing the information would not exceed £600. I therefore do not accept that the cost of providing the information means that the public interest lies in non-disclosure.



38. The Executive argued that there would be significant public interest in ensuring that policy formulation and development could take place in an arena which would enable rigorous and frank debate about the merits and demerits of alternative courses of action, without fear that such considerations would be analysed out of context. The Executive referred to the Scottish Parliament's recognition (noted in the Scottish Executive Guidance to Ministers and Officials on Giving Evidence to Committees of the Scottish Parliament), in the context of debate about the Executive's accountability to Parliament, of the strength of the public interest in maintaining the confidentiality of exchanges between officials and Ministers regarding policy advice. I will discuss the issue of free and frank exchanges shortly and also when considering the application of the exemptions under section 30(b).
39. In a previous decision (166/2006, Mr Martin Williams and the Scottish Executive) I have addressed the Executive's contention, repeated in its submission in this case, that an authority can determine that it is in the public interest to withhold information if it fears that information may be misinterpreted. I will not repeat my views or reasoning here, but my conclusion remains unchanged, that it is not appropriate for public authorities to claim that it is in the public interest to withhold information from the public for fear of confusing it or on the basis that it might be misinterpreted.
40. On balance, the Executive concluded that release of non-factual information would be to the detriment of future decision making, inhibiting internal deliberations about sometimes contentious issues among Ministers and their officials. The Executive argued that if there was a perceived risk to these private discussions being routinely made publicly available, their quality and range would be significantly undermined.
41. Before going on to address the main substance of this argument, I wish to repeat the comments made in several previous decisions regarding the fear that information from internal discussion may be "routinely" made publicly available. In 041/2005, Mr Reiner Luyken and the Scottish Executive, I commented:

"In my view it is important for public authorities to treat each request for information on a case by case basis. Release of internal communications in one case should not be taken to imply that such communications will be "routinely" released in future. The individual circumstances of each case must be taken into consideration and the public interest in each case assessed on its own merits."



42. In 076/2006, Mr Paul Hutcheon and the Scottish Executive I made certain comments which are relevant to this case:

“it would appear that the Executive’s approach attempts to ring fence all internal deliberations on public interest grounds so that civil servants feel free, if they wish, to express strong views or potentially unwelcome advice. This approach aims to protect all information, regardless of the actual content, the context in which it was made or its proximity to actual policy formulation, on the basis that civil servants might feel inhibited in offering advice or exchanging views.”

43. I continued:

“I have already emphasised that due to the class nature of section 29(1)(a) authorities must consider the actual content of the information when considering the public interest test. I am unable to accept an approach which casts a blanket protection, on public interest grounds, over a class of information.

“In considering the public interest an authority may reasonably argue that the type and nature of the information or even process to which the information belongs raises an expectation of sensitivity; for example, where the information relates to ongoing negotiations. However, ultimately, that argument will only stand where the content of that information demands protection.”

44. A recent Information Tribunal decision concerning an appeal brought under the Freedom of Information Act 2000 gave detailed consideration to some of the issues encountered when assessing the balance of public interest in relation to information covered by a “class” exemption (appeal no. EA/2006/0066 between the Department for Education and Skills and the Information Commissioner and the Evening Standard). The Tribunal did not accept that the inclusion of information within a class presupposes any detriment to the public interest if it is disclosed. Instead it found:

“... inclusion within such a class of information simply indicates the need and the right of the public authority to examine the question of the balance of public interests when a request under s.1 is received.”

45. The Information Tribunal found the weighing exercise required in relation to the balance of the public interest “begins with both pans empty and therefore level”. The Tribunal noted that section 2(2)(b) of the Freedom of Information Act 2000 requires a public authority to disclose information unless the public interest in withholding the information outweighs the public interest in disclosure. If the scales are evenly balanced, the authority must disclose. The Tribunal pointed out that there may be many cases where the apparent interests in disclosure and in maintaining the exemption are equally slight.



46. I have accepted that this approach is consistent with the provisions of FOISA and it forms the basis of my consideration of the public interest test in this case.
47. In my view, it is for the authority to show why, on public interest grounds, the information should not be released. To proceed otherwise would leave us in a position where innocuous and non-sensitive information relating to policy formulation would rarely be released because no resounding public interest argument could be found to justify disclosure.
48. In this case the Executive has not advised that the content of the information withheld would retain the sensitivity it may have had during the period prior to the introduction of free personal care. Nor has it identified that any of the information is particularly contentious, confidential or controversial in nature. Instead, the Executive has confined its consideration of the public interest in disclosure or retention to the question of the general effect that disclosure may have on future policy discussions.
49. In general, I accept that it is in the public interest that the process of policy formulation and development should be able to be carried out with some degree of privacy, so that (for instance) officials are not inhibited from considering a wide range of policy options, expressing their views upon them, and discussing problems that present themselves during the process.
50. However, I come back again to the need to consider the content of the information withheld, taking into account the context in which it was created and which exists at the time a public authority responds to an information request, when weighing up the public interest in withholding or disclosing that information. The public interest arguments presented by the Executive must be considered alongside factors such as the timing of the request; whether policy formulation and development had already been completed when the request was made; whether the information was presented formally; and other factors affecting the level of sensitivity of the information.
51. In some cases it may also be relevant to consider whether the information discloses the views of senior or junior officials, and whether it was part of a formal process of discussion and deliberation or provided in a more informal context and from a more obviously personal viewpoint.



52. I have found that in addition to the public interest arguments submitted by the Executive there are some other considerations to take into account when weighing up the public interest for or against disclosure of the information. The public debate on the subject of free personal care had already started by the time Mr Hutcheon made his request, and after reviewing the issues raised in that debate I have identified several areas where I believe the public interest in disclosure of the information withheld under section 29(1)(a) is stronger than the public interest in preserving the privacy of policy discussion and development. These are:
- a) information which would show how the costs of the policy were calculated and how the Executive planned to fund it.
 - b) information which would explain the reasons for the substantial revision of the policy as originally announced in Parliament in October 2000(at which point there were no plans to provide free personal care for all).
 - c) information which would show the statistical basis for estimating likely demand for free personal care, and associated costs.
 - d) information which would provide additional guidance on what was intended to be included within the definition of “free personal care” (this was already the subject of some public debate at the time when Mr Hutcheon made his information request).
53. Details of my decision in respect to each document withheld can be found in Appendix 2 to this decision notice.

Information withheld under section 29(1)(b) of FOISA

54. Section 29(1)(b) of FOISA provides that information held by the Scottish Administration is exempt information if it relates to Ministerial communications. The Executive submitted that this exemption applied to a number of documents which comprised records of Ministerial discussions.
55. For information to fall under this exemption there must be a communication between Ministers. I accept that this exemption is not limited to direct written communications between Ministers, such as a letter or e-mail from one Minister to another, but could also cover records of discussions between Ministers.



56. Having examined the documents withheld under section 29(1)(b), I am satisfied that they fall within the definition of Ministerial communications as provided for by section 29(4) of FOISA. This includes correspondence between Ministers' private secretaries, who are corresponding on their respective Ministers' behalf. Such correspondence falls within the section 29(1)(b) exemption under FOISA since it is held by the Scottish Administration and relates to Ministerial correspondence.
57. The exemption in section 29(1)(b) of FOISA is a qualified exemption which means that even if the exemption applies, the application of this exemption is subject to the public interest test required by section 2(1)(b) of FOISA. I must therefore order release of the information unless, in all the circumstances of the case, the public interest in disclosing the information is outweighed by that in maintaining the exemption. .

The public interest test

58. In this case, only a limited number of documents fall under the definition of Ministerial communications. The Executive's arguments regarding the public interest in withholding this information under section 29(1)(b) are generally as stated above in relation to the section 29(1)(a) exemption. Similarly, my consideration of the public interest issues affecting information withheld under section 29(1)(b) was based on the issues discussed above in relation to section 29(1)(a). My conclusions regarding the balance of the public interest are therefore as stated in relation to section 29(1)(a); that is, I found that where information withheld under section 28(1)(b) would add to public understanding of the issues outlined in paragraph 52 above, the public interest would generally be best served by disclosure of the information.
59. In relation to the public interest in upholding the exemption in section 29(1)(b), the Executive has also argued that the release of records of Ministerial meetings before significant time has elapsed endangers the principle of collective responsibility. I consider this argument relates more directly to section 30(a) of FOISA than section 29(1)(b) and note that the Executive has chosen to apply the exemption in section 30(a) to some of the information withheld. Section 30(a) is considered later on in this decision notice.
60. In summary, I have examined all of the information that has been withheld by the Executive under section 29(1)(b) in this case, and have considered all of the points advanced in its submissions. Appendix 2 of this decision notice records my decision in relation to individual documents.



Information withheld under section 28(1) – Relations within the United Kingdom

61. Section 28(1) allows information to be withheld if its disclosure would, or would be likely to, prejudice substantially relations between any administration in the United Kingdom and any other such administration. The term “administration in the United Kingdom is defined in section 28(2) of FOISA. In this case the Executive considers that the disclosure of the documents relating to Mr Hutcheon’s second request would cause substantial prejudice to relations between the Scottish Administration and the UK Government.
62. Regarding the information relating to Mr Hutcheon’s first request, the Executive stated that some of the documents withheld recorded discussion of the Royal Commission Report (the Sutherland Report), the UK government’s approach, and liaison with Whitehall. The Executive was clear that the sensitivity of this information was sufficient to cause damage to relations between the devolved Scottish government and the UK administration.
63. Regarding the information relating to Mr Hutcheon’s second request, the Executive’s position was that the documents comprise communications with the UK Government regarding the development of free personal care in Scotland. Although this policy was unique to Scotland, its development had implications for areas of UK Government policy such as the Attendance Allowance administered by the Department of Work and Pensions. There had been substantial negotiations seeking an agreement suitable for both administrations on what was a sensitive issue. The routine release of such information, the Executive argued, would limit the confidence with which the two administrations can communicate, and an uninhibited free flow of information between the devolved Scottish government and the UK government is vital. It was therefore against the public interest to disclose the documents withheld.
64. I have commented above on the issue of the “routine” disclosure of information. In my view all information requests must be considered on a individual basis, and decisions to withhold or release information must relate to the specific information in each case. Section 28(1) does not give a blanket exemption for all correspondence between the Executive and the UK Government. I do not accept that the release of documents in one case should be seen as setting a precedent for the routine release of documents in all cases, which I accept might cause substantial prejudice to relations between the two administrations. In order for the exemption to apply to the information withheld in this case, the Executive must be able to demonstrate that the release of these particular documents would substantially prejudice relations between the two administrations.



65. In applying the exemption in section 28, the Executive has made no distinction between documents which, for example, simply request factual information from a Whitehall department and those which reveal the opinions of Ministers from each administration. It is clear to me that the sensitivity of the information in these documents varies considerably, along with the implications of disclosure. Section 28(1) can only be upheld where disclosure would, or would be likely to, prejudice substantially relations between administrations. The exemption cannot be upheld where the effect of disclosure would be less than substantial prejudice.
66. After examining the contents of the documents withheld I found that, at the time of Mr Hutcheon's request, the passage of time and the implementation of the policy through legislation had diminished the sensitivity or confidentiality of the information to a degree where disclosure was no longer likely to prejudice substantially relations between the Scottish and UK administrations (if indeed this had ever been the case).
67. I therefore found that the Executive was wrong to withhold information under the exemption in section 28(1). Other exemptions cited in relation to the information were considered before a final decision was taken to disclose or withhold the information. Full details of my findings in relation to individual documents can be found in Appendix 2 to this decision notice.

Information withheld under section 30 – prejudice to effective conduct of public affairs

68. I will now go on to consider the Executive's use of the exemptions contained in section 30 of FOISA. Where I have already determined that the information is exempt from disclosure under section 29 and that it is not in the public interest to release the information, then I do not intend to consider in every case whether the other exemptions claimed by the Executive apply.
69. The exemptions under section 30 of FOISA are concerned with prejudice to the effective conduct of public affairs. The Executive did not make reference to any of the section 30 exemptions in its original response to Mr Hutcheon's first request or in its review. However, in its submission to me of 15 April 2005, the Executive briefly advised that, "In retrospect...it would have been appropriate for Health Department also to have considered and cited the exemptions under section 30(a) and (b) (both (i) and (ii)) for much of the information considered exempt in this case." This view was confirmed in the Executive's letter of 28 April 2005, with the Executive providing a list of the documents which it now believed should be withheld under these exemptions.
70. The Executive did not provide any separate consideration of the public interest relating to the exemptions in section 30, beyond a description of the harm anticipated as a result of disclosure of the information.



Information withheld under section 30(b)(i) and 30(b)(ii)

71. The Executive applied the exemptions in section 30(b)(i) and 30(b)(ii) to every document withheld in relation to Mr Hutcheon's first request. I have only considered it in relation to those documents where I have not upheld the use of sections 29(1)(a), or 29(1)(b) to withhold information.
72. Generally speaking, the exemptions in section 30(b) of FOISA allow for information to be withheld if its disclosure would, or would be likely to, inhibit substantially the imparting or commissioning of advice, or the offering or requesting of opinions or considerations. Section 30(b)(i) of FOISA states that information is exempt information if its disclosure under FOISA would, or would be likely to, inhibit substantially the free and frank provision of advice. Section 30(b)(ii) of FOISA states that information is exempt information if its disclosure under FOISA would, or would be likely to, inhibit substantially the free and frank exchange of views for the purposes of deliberation. These exemptions are both subject to the public interest test required by section 2(1)(b) of FOISA.
73. By applying the exemptions in section 30(b)(i) and (ii) to every document, the Executive has indicated that every document withheld would, if disclosed, have the effect of substantially inhibiting officials engaged in the free and frank provision of advice or the free and frank exchange of views for the purposes of deliberation. I regard this as an untenable position. The exemption can only be engaged if the inhibition stemming from disclosure would be, or would be likely to be, substantial in nature. I do not accept that the disclosure of any communication between officials, regardless of its content, context, or timing, would have the substantially inhibiting effect that is anticipated by the Executive.
74. The Executive has argued that the process by which policy decisions are made rests on the uninhibited exchange of advice and views from officials specialising in each relevant policy area. The Executive considered that there would be a sufficiently restraining effect on such exchanges if they were to be released, that it would result in damage to the quality of the decision making itself.
75. In decision 166/2006 I discussed in detail my views on the issues that should be considered in deciding whether the exemptions in section 30(b)(i) and (ii) can apply. I will not repeat my comments in full in this decision notice, but they can be summarised as follows. Information must be treated on a case by case basis: release of information in one case need not imply release in another case. The nature of the information in question must be considered, rather than considering "advice" or "exchange of views" as categories of information. If the information withheld does not in itself constitute advice or an exchange of views, the argument for exemption under section 30(b) is weaker. The standard to be met in applying the tests in 30(b) is high.



76. The contents of some of the documents withheld are of such a routine and mundane nature that I cannot accept that disclosure would ever have been likely to have had a substantially inhibiting effect on officials providing similar information. I have found that the exemptions in section 30(b)(i) and (ii) should not have been applied to such information and cannot be upheld.
77. I found that other documents withheld contain free and frank advice or a free and frank exchange of views for the purposes of deliberation. I accept that in these cases it is more likely that the exemptions in 30(b)(i) and (ii) may apply to the information withheld. However, it is not enough for a public authority simply to assert that disclosure of such information will substantially inhibit officials from participating fully in such exchanges in future. I expect the public authority to be able to justify the use of these exemptions by explaining where the inhibition is likely to occur, who will be affected, and why. The authority should be able to be specific about the inhibition resulting from disclosure of the information withheld.
78. The Executive has not attempted to explain why inhibition would follow disclosure of the information in each document to which it seeks to apply this exemption, but rather has taken a broad brush, quasi-class based approach, applying this exemption without regard, it seems, to the content or manner of the advice or exchange. Whether innocuous or contentious, the Executive's view seems to be that by simply exposing advice or exchanges to public scrutiny would, or would be likely to, inhibit substantially those participating in the exchanges in question or providing advice on this subject matter or have that effect on those who are or might be engaged in other such exchanges or provision of advice.
79. In a recent case in the Court of Session *Scottish Ministers v Scottish Information Commissioner (re Alexander's Application) 2007 G.W.D. 3-48 Times, January 29, 2007* this approach was found wanting. The Court concluded that when considering whether the exemption applies, "...one will necessarily begin with the scrutiny of relevant individual documents and the ascertainment of whether they contain particular information which, read in the context of related information, has or is likely to have the specified prejudicial effect. That is because it is only after such scrutiny that it will be possible to say whether such information will have or is likely to have such an effect. The circumstance that one ends up with a "class", namely, with pieces of information of that particular kind, does not mean that a class-based approach to the exercise is ever legitimate."



80. The Court took the view that “We are unable to find any error of law in the alternative approach which he [the Commissioner] adopted, namely, (1) that each case was to be assessed on the facts and circumstances of that case and (2) that the proper approach was to assess whether the release of the advice or opinion contained within each document would be capable of having an inhibiting effect. That approach acknowledges and applies the principle that a piece of information viewed in context may qualify as being non-disclosable, albeit viewed in isolation it might have appeared to be innocuous. An approach to section 30 based on some *a priori* classification would appear to inhibit rather than to advance the requisite exercise.”
81. In most of documents considered, I found that the information to which the Executive had applied either or both of the exemptions in section 30(b) contained advice or views which had largely lost any sensitivity which they might have had at the time of Mr Hutcheon’s request. I do not accept that disclosure of such information was then likely to cause officials to be substantially inhibited from providing similar views or advice in the future.
82. Where I found that there was still sensitivity around the advice provided or the views expressed, I have upheld the use of the exemptions in section 30(b)(i) or (ii).
83. I accept that there is a strong public interest in preventing officials from being substantially inhibited in providing advice or expressing views, as this may affect decision-making by leading to less candid and robust discussions, insufficient records being created, hard choices being avoided and, ultimately, the quality of government being undermined. For this reason I require a compelling public interest in disclosure to be evident before ordering disclosure of information where the exemptions in section 30(b)(i) and (ii) apply. I have found such a compelling interest in disclosure only in relation to document DKT 1/16/11/1/1, which contains information relating closely to the public interest issues identified in paragraph 52 above.
84. In all other cases I have found that, where the exemptions in section 30(b)(i) and (ii) apply, the public interest lies in withholding the information.

Section 30(a) – collective responsibility of Scottish Ministers

85. Section 30(a) of FOISA states that information is exempt information if its disclosure under FOISA would, or would be likely to, prejudice substantially the maintenance of the convention of the collective responsibility of the Scottish Ministers. The concept of collective ministerial responsibility is a long-standing constitutional convention, which is not regulated by statute, but is formalised in the Scottish Ministerial Code which provides guidance on the convention.



86. As with the exemptions in section 30(b)(i) & (ii), I have only considered the application of the exemption in section 30(a) where I have not already found that the information should be withheld under other exemptions.
87. Regarding the documents withheld under section 30(a), the Executive noted that these documents set out particular Ministers' views on the policy options presented to them during the process of decision making. The Executive argued that, by revealing particular Ministers' views, disclosure of these documents would substantially prejudice the maintenance of the convention of collective Ministerial responsibility, which required the privacy of opinions expressed to be maintained.
88. I understand that the Executive is applying the exemption in section 30(a) of FOISA to the documents in question on the basis that they contain information about views expressed by Ministers. However, FOISA requires exemptions to be applied to information, rather than documents. There is no evidence that the Executive considered whether Ministers' views might be redacted and the remainder of the information in the document released. Nor does the Executive seem to have considered whether the views expressed would in fact compromise the collective responsibility of Ministers. Instead, the Executive has applied the exemption wholesale to any document which refers to an individual Minister's view on an issue.
89. In order to rely on the exemption in section 30(a) of FOISA, the Executive is required to do more than assert that the documents contain views expressed by a Minister and therefore should be protected. It is required to show that disclosure would, or would be likely to, prejudice substantially the maintenance of the convention of the collective responsibility of the Scottish Ministers.
90. In order to judge whether disclosure of information would have such an effect, I need to consider what the information reveals about the Ministers' views and the context in which they were expressed. I have considered whether the views expressed were at variance with the final policy; whether the information reveals disagreement among Ministers; and whether the views expressed relate to a matter beyond the scope of the Minister's responsibilities.
91. I have also taken into account the fact that the Free Personal Care policy had, by that time, been implemented through the Community Care and Health (Scotland) Act 2002 in July 2002.



92. I consider that in some instances the Executive has failed to demonstrate why the exemption in section 30(a) applies to the information withheld or how disclosure of this information would, or would be likely to, prejudice substantially the maintenance of the convention of the collective responsibility of the Scottish Ministers. I have not upheld the application of the exemption in such cases. These instances are indicated in Appendix 2 to this decision notice.
93. Where I have found that the Executive was justified in applying the exemption, I have not found any instances where the public interest in the information, as discussed in paragraphs 44 – 52, would be sufficient to outweigh the public interest in maintaining the convention of collective responsibility of Ministers. I have therefore upheld the use of the exemption to withhold information in these instances. Again, Appendix 2 shows where I have upheld the use of the exemption in section 30(a).

Information withheld under section 36(1) - confidentiality

94. The Executive applied the exemption in section 36(1) to two documents. Section 36(1) exempts information in respect of which a claim to confidentiality of communications could be maintained in legal proceedings. It covers legally privileged advice from a solicitor to a client and privileged information passed by a client to their solicitor. The public authority, as client, has the right to waive this privilege. The exemption is subject to the public interest required by section 2(1)(b) of FOISA.
95. I accept that the documents in question contain advice from the Executive's solicitors and as such do constitute information in respect of which a claim to confidentiality of communications could be maintained in legal proceedings. In neither case have I found that there is any strong public interest in disclosure, along the lines outlined in paragraph 46 or for any other reasons, which would outweigh the public interest in protecting the principle that communications between a legal adviser and their client should remain confidential.
96. I have therefore accepted that all the information in document ATI/2/2/1/15 and part of the information in document ATI/2/2/1/14 should be withheld under the exemption in section 36(1).



Information withheld under section 38(1)(b) – personal information

97. The exemption under section 38(1)(b), read in conjunction with section 38(2)(a)(i) or 38(2)(b), is an absolute exemption in that it is not subject to the public interest test required by section 2(1)(b) of FOISA. In order for a public authority to rely on this exemption it must show that the information which has been requested is personal data for the purposes of the Data Protection Act 1998 (the DPA), and that release of the information would contravene any of the data protection principles laid down in the DPA.
98. The first data protection principle states that personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless at least one of the conditions in Schedule 2 to the DPA is met (and, in the case of sensitive personal data (as defined by section 2 of the DPA), at least one of the conditions in Schedule 3 is also met). In this case, I am satisfied that none of the information is sensitive personal data.
99. Condition 6 of Schedule 2 to the DPA allows information to be processed (in this case, disclosed) where:
- “The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject.”
100. I must apply a number of tests to establish whether condition 6 supports disclosure of personal data in this case. The first test is whether it can be established that the third party or parties to whom the data would be disclosed has/have a legitimate interest in the processing of the personal data (in this case by disclosure to a member of the public) to which the request relates. The second is whether the processing is necessary for the purposes of those legitimate interests. The third is whether that processing can be seen to be unwarranted in this particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject. Both competing interests must then be balanced.
101. In considering the first test, it seems to me that there is a legitimate and significant interest in disclosing information which would promote understanding of the decision-making process behind one of the Executive’s key policies, or which would promote accountability for that policy. I refer to my findings regarding the public interest as discussed previously in this Decision Notice. In this case I believe that both the applicant (who is an investigative journalist) and the general public have a legitimate interest in the disclosure of some of the personal data withheld.



102. In determining whether disclosure is necessary for the purposes of the legitimate interests identified in the previous paragraph, I have considered whether these interests might be met equally effectively by any alternative means. I have concluded that the legitimate interests in question cannot be met without disclosure of some of the personal data withheld and therefore disclosure of these data is necessary for the purposes of the legitimate interests.
103. As mentioned above, I am required to balance Mr Hutcheon's legitimate interests against those of the various data subjects. My findings in respect of each of the balancing exercises I have carried out are discussed below.
104. Withheld under this exemption is information about potential members of the Care Development Group. This information focuses on their professional lives and achievements. The Information Commissioner's guidance on when it might be fair to disclose personal information ("Freedom of Information Awareness Guidance 1") would normally lead me to conclude that the first data protection principle would not be breached by disclosure of this information. However, it is not apparent whether some of the individuals concerned were aware that they were being considered for membership of the Care Development Group by officials and Ministers. For this reason, I find that it would not now be fair to disclose the personal information relating to those individuals even though it might be fair to release similar information in other circumstances.
105. Given that I have found that it would not be fair to disclose this information, I am not required to go on to consider whether the disclosure of the information would be lawful or would be permitted by condition 6 of schedule 2 to the DPA. I have therefore concluded that all information relating to individuals who were not appointed to the Care Development Group should be withheld, on the grounds that disclosure would breach the first data protection principle. The exemption in section 38(1)(b) therefore applies to this information.
106. Information about the individuals who were ultimately appointed to the Care Development Group is in the public domain and I do not consider that it would breach the data protection principles to disclose information from the documents withheld which has already been published. However, within the information withheld there are evaluative views and opinions about the personal qualities of some of these individuals. I have taken the view that this constitutes personal information about the individuals concerned which it would not be fair to disclose. I have therefore upheld the decision that such information should be withheld under section 38(1)(b) of FOISA.



Information not covered by scope of request

107. Among the documents withheld from Mr Hutcheon were notes of the Care Development Group meetings and papers considered at those meetings. During the investigation the Executive questioned whether these documents could, in fact, be said to come within the scope of Mr Hutcheon's request.
108. Part 1 of Mr Hutcheon's first request asked for "Notes of all meetings between Scottish Executive Ministers and or officials regarding free personal care up until June 2001". Part 2 asked for "Minutes of all meetings between Scottish Executive Ministers and or officials regarding free personal care up until June 2001".
109. The Care Development Group was chaired by the Deputy Minister for Health, but was otherwise made up of a panel of experts from outside the Scottish Executive. As such, I accept that the meetings of this group cannot be described as "meetings between Scottish Executive Ministers and or officials", even though it is evident that some civil servants did attend some of the meetings. I have therefore accepted that the notes from the Care Development Group meetings do not fall within the scope of Mr Hutcheon's request. It is open to him to make a separate request for the notes of these meetings.
110. However, I found that the papers considered by the Care Development Group included some statistical information which would fall under part 5 of Mr Hutcheon's first request: "All financial and statistical documents on the viability or otherwise of free personal care, up until June 2001". Where the statistical information relates to the viability of free personal care and has not already been made available to Mr Hutcheon or on the Scottish Executive's website, I have considered whether the exemptions cited by the Executive should be upheld, on the lines discussed above in relation to section 29(1)(a) and 30(b)(i) & (ii).

Additional information which the Executive has agreed to release

111. During the course of the investigation the Executive agreed to release the following information and I have not considered them further in this decision:
 - Attachment to ATC/20/15/4/13 (Briefing on Royal Commissioner' Report)
 - Table of costings attached to document ATC/20/15/5/9
 - DKT/1/16/2/1/13
 - DKT/1/16/4/1/2
 - DKT/1/16/6/1/3
 - DKT/1/16/6/3/10 (attached to DKT/1/16/2/1/13)



Decision

I find that the Scottish Executive (the Executive) did not act entirely in accordance with the Freedom of Information (Scotland) Act 2002 (FOISA) in applying and in subsequently maintaining the exemptions contained in sections 29(1)(a), 29(1)(b), 28(1), 30(a), 30(b)(i) and 30(b)(ii) and 38(1)(b) to some of the information requested by Mr Hutcheon, although I have found that the exemptions were correctly applied (and maintained) to some of the information withheld.

I find that the Executive complied with FOISA in applying and maintaining the exemption in section 36(1) to information in two documents withheld from Mr Hutcheon.

I find that by refusing to release some of the information covered by Mr Hutcheon's request, the Executive failed to comply with the requirements of section 1(1) of FOISA and, in doing so, failed to comply with Part 1 of FOISA. I now require the Executive to release the information to Mr Hutcheon as set out Appendix 2 to the decision.

I am obliged to give the Executive at least 42 calendar days in which to supply Mr Hutcheon with the information as set out above. In this case, I require the Executive to take these steps within 45 calendar days of the date of receipt of this notice.

Appeal

Should either Mr Hutcheon or the Executive wish to appeal against this decision, there is an appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days of receipt of this notice.

Kevin Dunion
Scottish Information Commissioner
3 April 2007



APPENDIX

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002

1 General entitlement

- (1) A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority.

2 Effect of exemptions

- (1) To information which is exempt information by virtue of any provision of Part 2, section 1 applies only to the extent that –
 - (a) the provision does not confer absolute exemption; and
 - (b) in all the circumstances of the case, the public interest in disclosing the information is not outweighed by that in maintaining the exemption.

28 Relations within the United Kingdom

- (1) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice substantially relations between any administration in the United Kingdom and any other such administration.
- (2) In subsection (1), “administration in the United Kingdom” means –
 - (a) the Government of the United Kingdom;
 - (b) the Scottish Administration
 - (c) the Executive Committee of the Northern Ireland Assembly; or
 - (d) the National Assembly for Wales.

29 Formulation of Scottish Administration policy etc.

- (1) Information held by the Scottish Administration is exempt information if it relates to-
 - (a) the formulation or development of government policy;
 - (b) Ministerial communications;



(...)

- (2) Once a decision as to policy has been taken, any statistical information used to provide an informed background to the taking of the decision is not to be regarded, for the purposes of –
 - (a) paragraph (a) of subsection (1), as relating to the formulation or development of the policy in question; or
 - (b) paragraph (b) of that subsection, as relating to Ministerial communications.
- (3) In determining any question under section 2(1)(b) as respects information which is exempt information by virtue of subsection (1)(a), the Scottish Administration must have regard to the public interest in the disclosure of factual information which has been used, or is intended to be used, to provide an informed background to the taking of the decision.
- (4) In this section –
...
“Ministerial communications” means any communications between Ministers and includes, in particular, communications relating to proceedings of the Scottish Cabinet (or of any committee of that Cabinet) ...

30 Prejudice to effective conduct of public affairs

Information is exempt information if its disclosure under this Act –

- (a) would, or would be likely to, prejudice substantially the maintenance of the convention of the collective responsibility of the Scottish Ministers;
- (b) would, or would be likely to, inhibit substantially-
 - (i) the free and frank provision of advice; or
 - (ii) the free and frank exchange of views for the purposes of deliberation;

(...)

36 Confidentiality

- (1) Information in respect of which a claim to confidentiality of communications could be maintained in legal proceedings is exempt information.



38 Personal information

- (1) Information is exempt information if it constitutes-
 - (...)
 - (b) personal data and either the condition mentioned in subsection (2) (the “first condition”) or that mentioned in subsection (3) (the “second condition”) is satisfied;
(...)
- (2) The first condition is –
 - (a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of “data” in section 1(1) of the Data Protection Act 1998 (c.29), that the disclosure of the information to a member of the public otherwise than under this Act would contravene –
 - (i) any of the data protection principles ...
 - (b) in any other case, that such disclosure would contravene any of the data protection principles if the exemptions in section 33A(1) of that Act (which relate to manual data held) were disregarded



Appendix 2 – Schedule of documents

Key: Y = Exemption applies or public interest is in favour of disclosure

N = Exemption does not apply

n/c = Application of exemption not considered

File ATC/20/14 Part 5 – Care in the Community – Royal Commission on Funding Long Term Care of the Elderly – Feb 1999

Doc.	Exemptions cited	Exemptions upheld	Public interest lies in disclosure?	Release/Withhold
1	29(1)(a), 30(b)(i)&(ii)	29(1)(a) - Y 30(b)(i)&(ii) - N	Y	Release
2	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
3	29(1)(a), 30(b)(i)&(ii) (Annexes - info otherwise accessible – s.25)	29(1)(a) – Y 30(b)(i)&(ii) – N 25 (annexes) - Y	Y	Release

File ATC/20/15 Part 4 – Care in the Community – Government Response to Royal Commission on Funding Long Term Care of the Elderly June – Oct 2000

Doc No.	Exemptions cited	Exemptions upheld	Public interest lies in disclosure?	Release/Withhold
1	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
2	29(1)(a), 28, 30(b)(i)&(ii),	29(1)(a) – Y 28 – N 30(b)(i)&(ii) – N	Y	Release
3	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
4	29(1)(a), 29(1)(b), 28, 30(b)(i)&(ii)	29(1)(a) – Y 28 – N 30(b)(i) & (ii) - N	Y – covering email N – remainder	Withhold with exception of covering email.
5	29(1)(a), 29(1)(b), 30(b)(i)&(ii)	29(1)(a) – Y 29(1)(b) – Y 30(b)(i)&(ii) - N	Y	Release email.
6	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i) & (ii) - N	Y	Release
7	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y (part) 30(b)(i) – Y (part) 30(b)(ii) – Y (part)	Y with exception of two sentences exempt under s. 30(b)(i) & (ii)	Release with exception of second last paragraph, from “As I see it” to “in that way.”
8	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – N 30(b)(i) &(ii) - Y	N	Withhold
9	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) – N	Y	Release
10	29(1)(a),	29(1)(a) - Y	Y	Release



	30(b)(i)&(ii)	30(b)(i)&(ii) - N		
11	29(1)(a), 30(a) 30(b)(i)&(ii)	29(1)(a) – Y 30(a) - N 30(b)(i) & (ii) – N	Y	Release
12	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
13	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – N for email, Y for attachment. 30(b)(i)&(ii) - N	Y	Release (Executive has already agreed attachment 2 will be released.)
14	29(1)(a), 29(1)(b), 30(a) 30(b)(i)&(ii),	29(1)(a) – Y 29(1)(b) – Y 30(a) – N 30(b)(i)&(ii) – N	Y	Release
15	29(1)(a), 30(a) 30(b)(i)&(ii)	29(1)(a) – Y 30(a) – N 30(b)(i)&(ii) – N	Y	Release
16	29(1)(a), 29(1)(b), 30(a), 30(b)(i)&(ii),	29(1)(a)&(b) - Y 30(a) – N 30(b)(i) & (ii) – N	N	Withhold
17	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – N, as 29(2) would apply 30(b)(i)&(ii) - N	Y	Release
18	29(1)(a), 28 30(b)(i)&(ii),	29(1)(a) – Y 28 - N 30(b)(i)&(ii) – N	Y	Release
19	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
20	29(1)(a), 29(1)(b), 30(b)(i)&(ii)	29(1)(a) – Y 29(1)(b) – Y 30(b)(i)&(ii) – N	Y	Release
21	29(1)(a), 28 30(b)(i)&(ii),	29(1)(a) – Y 28 - N 30(b)(i)&(ii) – N	Y	Release

**File ATC/20/15 Part 5 - Care in the Community – Government Response to Royal Commission
on Funding Long Term Care of the Elderly
September 2000 – Jan 2001**

Doc. No	Exemptions cited	Exemptions upheld	Public interest lies in disclosure?	Release/Withhold
1	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
2	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
3	29(1)(a),	29(1)(a)&(b) - Y	Y	Release



	29(1)(b) 30(a) 30(b)(i)&(ii),	30(a) – N 30(b)(i) & (ii) – N		
4	29(1)(a), 29(1)(b), 30(a) 30(b)(i)&(ii)	29(1)(a) – Y 29(1)(b) – Y 30(a) – N 30(b)(i) – N 30(b)(ii) – Y	N	Withhold
5	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - Y	Y (factual summary); N (minute)	Withhold minute. Release factual summary attached.
6	29(1)(a), 29(1)(b), 30(a), 30(b)(i)&(ii)	29(1)(a) – Y 29(1)(b) - Y 30(a) - N 30(b)(i)&(ii) - N	Y with exception of last sentence.	Release after redaction of last sentence.
7	29(1)(a), 29(1)(b), 30(a), 30(b)(i)&(ii)	29(1)(a) – Y 29(1)(b) - Y 30(a) - N 30(b)(i) & (ii) – N	Y	Release
8	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
9	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i) – Y (part) 30(b)(ii) - N	Y with exception of sentences 2 & 3 of para 2 (email from Stewart AJS) where public interest lies in upholding s.30(b)(i)	Release after redaction of sentences 2 & 3 of para 2 (email from Stewart AJS). Executive already agreed that attachment will be released.
10	29(1)(a), 29(1)(b) 30(a) 30(b)(i)&(ii),	29(1)(a) – Y 29(1)(b) – Y 30(a) – N 30(b) (i)&(ii) – N	Y	Release
11	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)& (ii) - Y	N	Withhold
12	29(1)(a), 29(1)(b), 30(a), 30(b)(i)&(ii)	29(1)(a) – Y 29(1)(b) - Y 30(a) - Y 30(b)(i)& (ii) – n/c	N	Withhold
13	29(1)(a), 29(1)(b), 30(a), 30(b)(i)&(ii)	29(1)(a) – Y 29(1)(b) – Y 30(a) - Y 30(b)(i)& (ii) – n/c	N	Withhold
14	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
15	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
16	29(1)(a),	29(1)(a) – Y	N	Withhold



	30(b)(i)&(ii)	30(b)(i) – N 30(b)(ii) - Y		
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File ATI/2/2 Part 1 – Long Term Care Bill – Free Personal and Nursing Care – Dec 2000 to June 2001

Doc. No	Exemptions cited	Exemptions upheld	Public interest lies in disclosure?	Release/Withhold
1	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y (part) 30(b)(i)&(ii) - N	Y	Release
2	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y (part) 30(b)(i)&(ii) - N	Y	Release
3	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
4	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
5	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
6	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – N 30(b)(i)&(ii) - N	Y	Release
7	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
8	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
9	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
10	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
11	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
12	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
13	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
14	29(1)(a), 36(1), 30(b)(i)&(ii)	29(1)(a) – N 36(1) – Y (part) 30(b)(i)&(ii) – N	N for information exempt under s.36(1). Other information not exempt.	Release minute after redacting second paragraph. Withhold instructions.
15	29(1)(a), 36(1) 30(b)(i)&(ii),	29(1)(a) – Y 36(1) – Y 30(b)(i)&(ii) – Y (part)	N	Withhold
16	29(1)(a), 29(1)(b), 30(a), 30(b)(i)&(ii)	29(1)(a) – Y 29(1)(b) – Y 30(a) – N 30(b)(i)&(ii) – N	Y	Release
17	29(1)(a), 29(1)(b), 30(a), 30(b)(i)&(ii)	29(1)(a) – Y 29(1)(b) – Y 30(a) – N 30(b)(i)&(ii) – N	Y	Release



File ATI 2/2 Part 2 - Long Term Care Bill – Free Personal and Nursing Care – June 2001

Doc. No	Exemptions cited	Exemptions upheld	Public interest lies in disclosure?	Release/Withhold
1	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release

File DKT 1/16 Part 1 – Elderly – Sutherland Report into Long Term Care of the Elderly – DKT1/16/1/ - Feb & Sept 2000 except no. 10 (Feb 2001)

Doc No.	Exemptions cited	Exemptions upheld	Public interest lies in disclosure?	Release/Withhold
1	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
2	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – N 30(b)(i)&(ii) - N		Release
3	29(1)(a), 30(b)(i)&(ii)			duplicate of ATC/20/15/4/18 already considered (release)
4	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
5	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
6	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - Y	N	Withhold
7	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
8	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
9	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
10	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release

File DKT 1/16/1 Part 1 – Elderly – Sutherland: Care Development Group Commission – Feb 2001

Doc No.	Exemptions Cited	Exemptions upheld	Public interest lies in disclosure?	Release/withhold
1	29(1)(a), 29(1)(b), 30(a), 30(b)(i)&(ii)			Duplicate of AT1/2/2/1/13, considered already
2	29(1)(a), 29(1)(b), 30(a), 30(b)(i)&(ii)	29(1)(a) – N 29(1)(b) – Y 30(a) – n/c 30(b)(i)&(ii) – n/c	N	Withhold
3	29(1)(a), 29(1)(b), 30(a),	29(1)(a) – N 29(1)(b) – Y 30(a) – n/c	N	Withhold



	30(b)(i)&(ii)	30(b)(i)&(ii) – n/c		
4	29(1)(a), 30(b)(i)&(ii)	29(1)(a) - N 30(b)(i)&(ii) – Y (part)	N where information is exempt under s.30(b). Other information not exempt.	Release after redaction of first sentence, second name on list, and sentence beginning “Mr Chisholm...”.
5	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) – Y (part)	Y with exception of information exempt under 30(b)(i) & (ii)	Release with redaction of paragraphs 2 & 3 (from “In the meantime” to “available today”. and paragraphs 8 & 9 (from “I have spoken” to “Mr Chisholm”.)
6	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – N 30(b)(i) – Y (part) 30(b)(ii) - N	Y with exception of information exempt under 30(b)(i)	Release first sentence but withhold the rest.
7	29(1)(a), 30(b)(i)&(ii), 38(1)(b)	29(1)(a) – N 30(b)(i)&(ii) – Y 38(1)(b)- n/c	N	Withhold
8	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y - covering emails N - remainder	Release emails; withhold remainder
9	29(1)(a), 30(b)(i)&(ii), 38(1)(b)	29(1)(a) – Y (part) 30(b)(i)&(ii) – Y 38(1)(b) – N for minute; n/c for attachment	Y where only s29(1)(a) exemption applies. N for information exempt under s. 30(b).	Withhold attachment; release covering minute after redacting 4 th paragraph.
10	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
11	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	N	Withhold
12	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y (part) 30(b)(i)&(ii) – Y (part)	Y with exception of information exempt under s.30(b)	Release last paragraph.
13	29(1)(a), 30(b)(i)&(ii)	29(1)(a) - Y 30(b)(i)&(ii) – Y (part)	N with exception of information exempt under s.30(b)	Release after redacting last sentence.
14	29(1)(a), 30(b)(i)&(ii), 38(1)(b)	29(1)(a) – N 30(b)(i)&(ii) – Y (part) 38(1)(b) – Y (part)	N where information exempt under section 30(b). Some information not covered by any exemption.	Release email 17 Jan from TS Teale; withhold reply.
15	29(1)(a), 30(b)(i)&(ii), 38(1)(b)	29(1)(a) – N 30(b)(i)&(ii) – Y (part) 38(1)(b) – Y (part)	N	Withhold
16	29(1)(a), 30(b)(i)&(ii), 38(1)(b)	29(1)(a) – Y (part) 30(b)(i)&(ii) – Y (part) 38(1)(b) – Y (part)	Y with exception of information exempt under s.30(b)	Release first two paragraphs, to “use them all”. Withhold



				remainder of the document.
17	29(1)(a), 30(b)(i)&(ii), 38(1)(b)	29(1)(a) – N 30(b)(i)&(ii) – Y (part) 38(1)(b) – Y (part)	N	Withhold
18	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – N 30(b)(i)&(ii) – Y	N	Withhold
19	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y (part) 30(b)(i)&(ii) – Y (part)	Y with exception of information exempt under s.30(b)	Release body of email; withhold list of names / titles underneath.
20	29(1)(a), 30(b)(i)&(ii), 38(1)(b)	29(1)(a) – Y (part) 30(b)(i)&(ii) – Y (part) 38(1)(b) – Y (part)	Y with exception of information exempt under s.30(b)	Release email from Thea Teale. Withhold reply.
21	29(1)(a), 30(b)(i)&(ii), 38(1)(b)	29(1)(a) – n/c 30(b)(i)&(ii) – Y 38(1)(b) – n/c (Original message considered as part of doc 20 above, so not considered here.)	N	Withhold
22	29(1)(a), 30(b)(i)&(ii), 38(1)(b)	29(1)(a) – Y n/c 30(b)(i)&(ii) – Y 38(1)(b) – n/c (Original message considered as part of doc 20 above, so not considered here.)	N	Withhold
23	29(1)(a), 30(b)(i)&(ii), 38(1)(b)	29(1)(a) – n/c 30(b)(i)&(ii) – Y 38(1)(b) – n/c (Original message considered as part of doc 20 above, so not considered here.)	N	Withhold
24	29(1)(a), 29(1)(b), 30(a), 30(b)(i)&(ii)	29(1)(a), - Y 29(1)(b) – Y (part) 30(a) – N 30(b)(i)&(ii) – (part)	Y with exception of information exempt under s.30(b)	Release after redacting names of proposed members (p10)

File DKT1/16/2 Part 1 – Elderly – Remit: Terms of Reference and Membership – Jan/Feb 2001

Doc. No	Exemptions cited	Exemptions upheld	Public interest lies in disclosure?	Release/Disclose
1	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y but should be disregarded under 29(2). 30(b)(i)&(ii) - N	Y	Release
2	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) – N Email from Liz Lewis	Y	Release



		is duplicate of AT1/2/2/1/4 considered above so not considered here.		
3	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) – N	Y	Release
4	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) – N	Y	Release
5	29(1)(a), 29(1)(b), 30(b)(i)&(ii)	29(1)(a) – Y 29(1)(b) – Y 30(b)(i)&(ii) – N	Y	Release
6	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
7	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
8	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – N 30(b)(i) – Y (part) 30(b)(ii) – N	Y with exception of information exempt under s.30(b)	Release after redaction from “Finally and for the record”
9	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y in disclosure	Release
10	29(1)(a), 30(b)(i)&(ii)			Duplicate (without annotations) of AT1/2/2/1/12 considered above.
11	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
12	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y (part) 30(b)(i)&(ii) - N	Y	Release
13	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release. Release of workplan attached already agreed.
14	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release

File DKT 1/16/4 Part 1 – Elderly – Ministerial Correspondence and Parliamentary Questions

Doc. No	Exemptions cited	Exemptions upheld	Public interest lies in disclosure?	Release/Withhold
1	30(b)(i)&(ii)	30(b)(i)&(ii) - N		Release
2	30(b)(i)&(ii)	30(b)(i)&(ii) - N		Release email; Executive already agreed attached letter can be released
3	30(b)(i)&(ii) attachment – 30(b)(ii)	30(b)(i) – N 30(b)(ii) – N for email, Y for attachment which is draft of doc released.	N	Disclose email, already agreed attachment can be released.
4	30(b)(i)&(ii)	30(b)(i)&(ii) - N		Release
5	30(b)(i)&(ii)	30(b)(i)&(ii) - N		Release
6	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
7	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
8	29(1)(a),	29(1)(a) – N	Y	Release



	29(1)(b), 30(b)(i)&(ii)	29(1)(b) – Y 30(b)(i)&(ii) - N		
9	29(1)(a), 30(b)(i)&(ii)	29(1)(a) - Y 30(b)(i)&(ii) - N	Y	Release
10	30(b)(i)&(ii)	30(b)(i)&(ii) - N		Release
11	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - Y	N	Withhold
12	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i) & (ii) – N Attached is copy of email in DKT1/16/2/1/8, considered above so not considered here.	Y	Release first email without redaction.
13	29(1)(a), 29(1)(b) 30(b)(i)&(ii)	29(1)(a) – Y 29(1)(b) – Y 30(b)(i)&(ii) – N	Y	Release
14	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) – N (as applied to information not duplicated in other docs attached which have been previously considered.	Y	Release minute.
15	29(1)(a), 30(b)(i)&(ii)	29(1)(a)- Y 30(b)(i)&(ii) – Y (part)	Y with exception of information exempt under s.30(b)	Release after redacting point 6 and point 7 from the words “and to indicate...”
16	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) – N	Y	Release
17	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) – N	Y	Release
18	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) – Y (part)	Y with exception of information exempt under s.30(b)	Release email, withhold remainder
19	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – N 30(b)(i)&(ii) – Y (second last sentence of annotation only)	N	Release all except second last sentence of annotation.
20	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
21	29(1)(a), 30(b)(i)&(ii), 29(1)(b)	29(1)(a) – Y 29(1)(b) – Y 30(b)(i)&(ii) – Y (part)	Y with exception of information exempt under s.30(b)	Release with redaction of second sentence in covering minute and annotation by MC at top of second minute.
22	29(1)(a), 30(b)(i)&(ii)	29(1)(a)- Y 30(b)(i)&(ii) – N Have only considered email on p1 as other document already discussed (DKT/1/16/4/1/20)	Y	Disclose email on p1 (30 Jan 2001 09:19).
23	29(1)(a),	29(1)(a) – N	N	Withhold



	30(b)(i)&(ii), 38(1)(b)	30(b)(i)&(ii) – Y 38(1)(b) – Y (part) Have only considered exemptions in relation to email on p1 as other doc previously considered (DKT1/16/1/1/16).		
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File DKT 1/16/5 Part 1 – Elderly – Correspondence with Department of Work and Pensions

Doc. No	Exemptions cited	Exemptions upheld	Public interest lies in disclosure?	Release/Withhold
1	29(1)(a), 28, 30(b)(i)&(ii)	29(1)(a) – Y 28 - N 30(b)(i)&(ii) – N	Y	Release
2	29(1)(a), 28, 30(b)(i)&(ii)	29(1)(a) – Y 28 - N 30(b)(i)&(ii) – N	Y	Release
3	29(1)(a), 28, 30(b)(i)&(ii)	29(1)(a) – Y 28 - N 30(b)(i)&(ii) – Y (part)	Y with exception of information exempt under s.30(b)	Release after redaction of 3 rd sentence.
4	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
5	29(1)(a), 28, 30(b)(i)&(ii)	29(1)(a) – Y 28 - N 30(b)(i)&(ii) – N	Y	Release
6	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i) & (ii) - N	Y	Release

File DKT1/16/6 Part 1 – Elderly – Care Development Group Meeting

Doc. No	Description	Exemptions cited	Exemptions upheld	Release/Withhold
1	Papers for CDG 1 meeting	(none)		Withhold as outside scope of request
2	Note of CDG 1 meeting	(none)		Withhold as outside scope of request
3	Additional info for CDG 1 meeting	Executive agreed release (2/11/06)	Stats within scope & not already supplied.	Release

DKT1/16/6 Part 2



Doc. No	Description	Exemptions cited	Exemptions upheld	Release/Withhold
1	Notes and papers of CDG 2 meeting	No exemptions cited as believed it fell outside scope.	Accept falls outside scope except for statistical and financial information – already released.	Withhold as outside scope of request

File DKT 1/16/6 Part 3 - Elderly – Care Development Group Meeting

Doc. No	Description	Exemptions cited	Exemptions upheld	Public interest lies in disclosure?	Release/Withhold
1	Care Development Group (CDG) Paper 7	No exemptions cited as believed it fell outside scope.			Withhold as outside scope of request
2	CDG Paper 8	No exemptions cited as believed it fell outside scope.			Available on Scottish Executive website
3	CDG Paper 9	No exemptions cited as believed it fell outside scope.			Withhold as outside scope of request
4	Note of CDG Meeting 3	No exemptions cited as believed it fell outside scope.			Withhold as outside scope
5	CDG Paper	Already released			Already released
6	CDG Meeting 16/3/01 additional paper	Already released			Already released
7	CDG Meeting 30/3/01 additional paper	No exemptions cited as believed it fell outside scope.			Withhold as outside scope of request
8	Email Shaun Eales	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
9	CDG paper			Statistical information already provided	Already released
10	CDG Workplan	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
11	Email Stephen Gallagher with attachment	29(1)(a), 30(b)(i)&(ii).	29(1)(a) – Y 30(b)(i)&(ii) - Y (part)	Y with exception of information exempt under s.30(b)	Release with redaction of last 3 sentences of email from Stephen Gallagher
12	Email Shaun	29(1)(a),	29(1)(a) – Y	Y	Release



	Eales	30(b)(i)&(ii)	30(b)(i)&(ii) - N		
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File DKT1/16/6 Part 4 - Elderly – Care Development Group Meeting

Doc. No	Description	Exemptions cited	Exemptions upheld	Public interest lies in disclosure?	Release/Withhold
1	Minutes of CDG 4 meeting	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – n/c 30(b)(i)&(ii) – n/c (information outside scope of request or already released)		CDG 11 & 14 already released. Withhold other information - outside scope of request

File DKT1/16/6 Part 5 - Elderly – Care Development Group Meeting

Doc. No	Description	Exemptions cited	Exemptions upheld	Public interest	Release/Withhold
1	Notes and Papers of CDG Meeting 5	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – n/c 30(b)(i)&(ii) – n/c (information outside scope of request)		Withhold - information outside scope of request

File DKT1/16/6/ Part 6 - Elderly – Care Development Group Meeting

Doc. No	Description	Exemptions cited	Exemptions upheld	Public interest	Release/Withhold
1	Notes and papers of CDG 6 Meeting	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – n/c 30(b)(i)&(ii) – n/c (information outside scope of request)		Withhold - information outside scope of request

File DKT 1/16/6 Part 7 - Elderly – Care Development Group Meeting

Doc. No	Description	Exemptions cited	Exemptions upheld	Public interest	Release/Withhold
1	Note of CDG Meeting 7	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – n/c 30(b)(i)&(ii) – n/c (information outside scope of request)		Withhold – information outside scope of request



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File DKT1/16/6 Part 8 - Elderly – Care Development Group Meeting

Doc. No	Description	Exemptions cited	Exemptions upheld	Public interest lies in disclosure?	Release/Withhold
1	Notes and papers of CDG 8 meeting	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i) & (ii) - N	Y	Release 4 tables towards end of document, covered by part 5 of request. Other information outside scope of request

File DKT/1/16/6 Part 9 - Elderly – Care Development Group Meeting

Doc. No	Description	Exemptions cited	Exemptions upheld	Public interest lies in disclosure?	Release/Withhold
1	CDG 27 papers	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – n/c 30(b)(i)&(ii) – n/c (information outside scope of request)		Withhold – information outside scope of request
2	CDG 28 papers	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N Includes some stats/financial info not previously provided	Y	Release CDG 28 after redacting chairman's briefing which is outside scope of request.
3	CDG 29 papers	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – n/c 30(b)(i)&(ii) – n/c (information outside scope of request)		Withhold – information outside scope of request
4	Note of Meeting	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N Includes some stats/financial info not previously provided		Release slides from presentation at end of this document. Other info is outside scope of request.

File DKT 1/16/11 Part 1 – Elderly – Care Development Group Report

Doc. No	Exemptions cited	Exemptions upheld	Public interest lies in disclosure?	Release/Withhold



1	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30b(i)&(ii) – Y	Y	Release
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Local Government Finance (LGF) papers – April – June 2001

Doc. No	Exemptions cited	Exemptions upheld	Public interest lies in disclosure?	Release/Withhold
LGF1	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) – N (paper CDG 11 already released)	Y	Release email and minute. CDG 11 already released.
LGF2	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
LGF3	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
LGF4	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	N	Withhold
LGF5	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	N	Withhold
LGF6	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	N	Withhold
LGF7	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
LGF8	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y – (email) Paper appears in final form as LGF15, have considered below.	Release email
LGF9	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y (email) 29(2) applies to spreadsheet. 30(b)(i)&(ii) - N	Y (email)	Release spreadsheet data and email
LGF10	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
LGF11	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
LGF12	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) - N	Y	Release
LGF13	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) – N	Y	Release
LGF14	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) – N	Y	Release
LGF15	29(1)(a), 30(b)(i)&(ii)	29(1)(a) – Y 30(b)(i)&(ii) – N Email in response to LGF 13 (copy attached) with final version of paper attached to LGF8.	Y	Release

Documents withheld in case 200501430

Doc.	Exemptions	Exemptions upheld	Public interest lies in	Release/Withhold
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No	cited		disclosure?	
1		Information outside scope of request		Withhold as information outside scope of request
2	29(1)(a) 28(1)	29(1)(a) - Y 28(1) - N	Y	Release
3	29(1)(a) 28(1)	29(1)(a) - Y 28(1) - N	Y	Release
4	29(1)(a) 28(1)	29(1)(a) - Y 28(1) - N	Y	Release
5	29(1)(a) 28(1)	29(1)(a) - Y 28(1) - N	Y	Release
6	29(1)(a) 28(1)	29(1)(a) - N 28(1) - N		Release after redacting information not within scope of request (from paragraph 3 "The paper" to paragraph 6 "Health Departments")
7	29(1)(a) 28(1)	29(1)(a) - Y 28(1) - N	Y	Release
8	29(1)(a) 28(1)	29(1)(a) - Y 28(1) - N	Y	Release
9	29(1)(a) 28(1)	29(1)(a) - Y 28(1) - N	Y	Release