

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

Date 29 July 2008

**Public Authority:** HM Revenue & Customs  
**Address:** 100 Parliament Street  
London  
SW1A 2BQ

### Summary

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The complainant asked the public authority for information about when it and Treasury ministers had first become aware of identity fraud in the Tax Credit system, and for any estimates of suspected identity fraud cases which it had made in 2005. The public authority noted that some of the information was already reasonably accessible and therefore exempt under section 21 of the Freedom of Information Act 2000 ('the Act'), while the rest was exempt under section 31(1)(a), although it provided a generalised explanation of its anti-fraud measures. After the Commissioner's intervention the public authority agreed that the greater part of the withheld information should have been released, its failure to do so in response to the request constituting a breach of section 10(1) of the Act and section 1(1)(b). The Commissioner decided that some further information withheld under section 31(1)(a) should also be disclosed. Further, he decided that information which the public authority considered not to fall within the request did in fact do. In respect of this information section 31(1)(a) is not engaged and therefore the failure to disclose it constituted a breach of section 1(1)(b) of the Act. The Commissioner also decided that the public authority had failed to comply with its duty to issue the refusal notices within the time limit set out in section 10(1) of the Act, which constitutes a breach of section 17(1) of the Act. Further the refusal notice of 10 April 2006 failed to refer to the section 21 exemption explicitly, a breach of section 17(1)(b) of the Act. Finally in failing to confirm and deny that it held information covered by the second part of the first request and to provide it to the complainant HMRC breached section 1(1)(a) and (b) of the Act.

## 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 requested from HM Revenue and Customs (HMRC) on 4 March 2006 the following information:

*'When were a. HMRC and b. Treasury ministers first aware of identity fraud in the Tax Credit system?*

*How many suspected cases of identity fraud were there at, say, 31 March, 30 June and 30 September 2005 (or the dates at which estimates were made)?'*

3. HMRC replied on 10 April 2006. In relation to the first part of the request, it claimed that the information was already reasonably accessible through the Paymaster General's response to a similar query. Regarding the second part, it stated that it did not hold the information *'in the form requested'*. It advised the complainant of his right to an internal review, and to complain to the Information Commissioner.
4. The complainant subsequently contacted HMRC with some queries. On 27 April 2006 he added a second request for:

*'details of the briefing given by officials to the PMG in June 2005 on the risk from fraud in the Tax Credits system. Please show the risk that was identified from identity theft. Please also provide details of the assessment of the risk that concluded that the e-portal could remain open.'*

5. After some further communication, HMRC emailed the complainant on 4 May 2006. It provided a generalised explanation of HMRC's processes for assessing potential fraud, and indicated that the report referred to in the request:

*'provided information about trends in suspects [sic] fraudulent activity. The effectiveness of current procedures to detect fraud and plans for further anti-fraud measures. In June, the advice given was that the compliance procedures were effectively managing the risk.'*

6. HMRC wrote formally to the complainant on 28 June 2006 dealing with all outstanding matters. It noted that it had exceeded the statutory deadline for responding to the original request on 4 March 2006, for which it apologised. It also apologised for the fact that its refusal notice of 10 April 2006 did not refer

- specifically to the section 21 exemption in dealing with the first part of the original request. In relation to the second part of the original request it maintained its view that it did not hold the information in the form requested, since estimates of suspected fraud were not made at fixed intervals, but it recognised that it *'should have provided more explanation as to why the information was not held in the format suggested by your request'*. However, HMRC noted that the complainant had subsequently been given information in the email of 4 May 2006 about processes for monitoring and detecting potential identity fraud, and concluded that it had therefore now taken reasonable steps to assist him in framing the request.
7. In relation to the second freedom of information request, made on 27 April 2006, it stated that it was not prepared to disclose details *'of the report or more specific information about our risk management and alert processes that you have requested'*. It claimed that this information was exempt by virtue of section 31(1)(a) of the Act, since disclosure could potentially damage its ability to challenge fraud. It advised the complainant of his right to approach the Commissioner.
  8. The complainant contacted HMRC again on 29 June 2006. Amongst other things, he claimed that HMRC's response had neglected to address his request for the number of estimated cases of identity fraud on *'the dates at which estimates were made'*, in addition to the dates specified. He also asked HMRC to confirm that its last communication constituted an internal review.
  9. HMRC informed the complainant on 13 July 2006 that it considered that it had dealt with the request in full, and reminded him of his right to approach the Commissioner.

## The Investigation

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### Scope of the case

10. On 17 July 2006 the complainant contacted the Commissioner to complain about the way his requests for information had been handled. He specifically asked the Commissioner to address why HMRC had not considered redaction of the information he requested on 27 April 2006, and its deliberate failure to treat the second part of the first request of 4 March 2006 as being for any identity fraud estimates made in 2005 rather than just the specific dates he had suggested.
11. The Commissioner has considered HMRC's compliance with sections 1, 10, 17 and 31. The Commissioner notes that the complainant has not complained about the application of section 21 to part of the request. Whilst not considering HMRC compliance with section 21 the Commissioner has noted the effect of HMRC's late application of section 21 in considering HMRC's adherence with its obligations under section 17.

## Chronology

12. The Commissioner asked the complainant on 31 July 2006 to provide further information. He then requested comments from HMRC on 26 November 2007.
13. HMRC replied on 21 December 2007. In that letter it provided further information about how it handled the second element of the complainant's first request of 4 March 2006. HMRC indicated that it would now consider the possibility of redacting the information relevant to the second request and would contact the Commissioner again by 25 January 2008.
14. HMRC provided its further comments in a letter dated 20 February 2008.

## Analysis

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### Procedural matters

#### Section 1(1)

15. The second part of the first request of 4 March 2006 was:

*'How many suspected cases of identity fraud were there at, say, 31 March, 30 June and 30 September 2005 (or the dates at which estimates were made)?'*

HMRC claimed that it did not hold the information in the form requested. In its letter to the complainant of 28 June 2006 it explained that estimates of suspected fraud were not made at fixed intervals, but recognised that it *'should have provided more explanation as to why the information was not held in the format suggested by your request'*. It noted that the complainant had subsequently been given information by its press office on 4 May 2006 about the processes which it had for monitoring and detecting potential identity fraud, and concluded that it had therefore now taken reasonable steps to assist him in framing the request.

16. The complainant objected that the response had wilfully misrepresented his request for identity fraud estimates in 2005, since he had clearly asked for details of any assessments made and not just for those on specific dates, and HMRC was incorrect in claiming that he had been given assistance in refining his request.
17. The Commissioner asked HMRC to comment on this issue. Its response was to accept that its letter of 28 June 2006 had been incorrect in its interpretation of the request. It also accepted that it should have done more to provide advice and assistance, although it explained that its inadequacies in this regard were not deliberate but instead resulted from confusion, exacerbated by the fact that the complainant was in regular contact with HMRC's Press Office as well as the HMRC official handling his request in this case. HMRC

stated that its original response of 10 April 2006 should have stated that it did not hold the information – rather than not holding it in the form requested – since it had estimates of the level of Tax Credit fraud resulting from organised crime but not separate estimates for the portion relating to identity fraud. HMRC further stated that it should have informed the complainant that the estimates for fraud relating to organised crime from May 2005 onward could be accessed on page R22 in the National Audit Office's report on HMRC's 2005/06 Accounts at:

[http://www.nao.org.uk/publications/nao\\_reports/05-06/05061159.pdf](http://www.nao.org.uk/publications/nao_reports/05-06/05061159.pdf).

The Commissioner notes that this report does contain information on levels of identity fraud in respect of the Tax Credit system. However, the Commissioner notes that the report was not published until approximately four months after the complainant's request of 4 March 2006 and shortly after HMRC's internal review decision of 28 June 2006. In this respect, having failed to confirm and deny that it holds information caught by the scope of the complainant's request and to provide it HMRC breached section 1(1)(a) and (b) of the Act.

18. HMRC has accepted that it did not adequately address the second part of the complainant's first request. Section 16(1) of the Act places a duty on public authorities to provide advice and assistance:

*'It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it.'*

Section 16(2) provides that:

*'Any public authority which, in relation to the provision of advice or assistance in any case, conforms with the code of practice under section 45 is to be taken to comply with the duty imposed by subsection (1) in relation to that case.'*

19. Paragraph 8 of Part II of the Code of Practice issued by the Secretary of State under section 45 states:

*'Public authorities are entitled to ask for more detail, if needed, to enable them to identify and locate the information sought. Authorities should, as far as reasonably practicable, provide assistance to the applicant to enable him or her to describe more clearly the information requested.'*

Therefore, if HMRC required more detail from the complainant in order to identify and locate the information sought then it should have referred back to him in order to clarify the request. However, the problem in fact seems to have been that HMRC initially misinterpreted the request. The Commissioner considers that the terms in which the request was framed were clear enough for HMRC to have been in a position to make the correct interpretation from the outset.

20. In relation to the second request of 27 April 2006, the Commissioner notes that during the course of his investigation HMRC disclosed some information which it had previously withheld under section 31(1)(a) on the grounds that that exemption did not in fact apply. In failing to release this information to the complainant HMRC breached section 1(1)(b) of the Act.

## Section 10

21. In its letter to the complainant of 4 May 2006 HMRC apologised for exceeding the statutory deadline in relation to the first request. Section 10(1) of the Act 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.'*

A response may take the form of the supply of the requested information, confirmation that the information is not held, a formal refusal or an indication that additional time is required to consider the public interest in relation to specific exemptions. In respect of the first request made by the complainant of 4 March 2006, HMRC did not reply until 10 April 2006. HMRC therefore took 26 working days to respond to the information request. The Commissioner accordingly finds that the HMRC failed to comply with the time limit set out in section 10(1).

22. In relation to the second request, a reply was provided on 4 May 2006, but the substantial refusal notice was not issued until 28 June. HMRC therefore took 42 working days to respond to the request. Further as noted at paragraph 20 above HMRC failed to provide the complainant with information that was not subject to an exemption under Part II of the Act until the course of the Commissioner's investigation. As such HMRC failed to comply with the second request in accordance with the time limit set out in section 10(1) of the Act.

## Section 17

23. Section 17(1) of the Act provides that:

*'A public authority which ... is to any extent relying:*

*.....*

*- on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which –*

*(a) states that fact,*

*(b) specifies the exemption in question, and*

*(c) states (if that would not otherwise be apparent) why the exemption applies.'*

In failing to provide the complainant with refusal notices within the time for compliance set out at section 10 as referenced above the HMRC breached section 17(1) of the Act. Further since HMRC failed in its refusal notice dated 10 April 2006 to specify the exemption relevant to the first part of the first request, the Commissioner has decided that it was also in breach of section 17(1)(b).

24. The complainant's first request comprised two parts. The first stated:

*'When were a. HMRC and b. Treasury ministers first aware of identity fraud in the Tax Credit system?'*

HMRC's response was that the information was already reasonably accessible to the complainant in *'the Paymaster General's response to a similar query from David Laws MP in Hansard, 10 January cols 550-551W'*. It did not specifically refer to section 21 in its refusal notice, and its internal review decision dated 28 June 2006 apologised for that fact.

25. Furthermore, since HMRC subsequently informed the complainant that some of the requested information had been published, that was effectively an invocation of section 21 of the Act, the exemption for information accessible by other means. HMRC's failure to specify in its refusal notice that the section 21 exemption applied to some of the requested information amounted to a breach of section 17(1)(b).

### **Section 31(1)(a) exemption**

26. The complainant's second request was for:

*'details of the briefing given by officials to the PMG in June 2005 on the risk from fraud in the Tax Credits system. Please show the risk that was identified from identity theft. Please also provide details of the assessment of the risk that concluded that the e-portal could remain open.'*

In its response of 4 May 2006 HMRC gave the following details:

*'fraud in the general sense is something that HMRC have been aware of from day one...*

*The PMG receives reports on compliance which provide information about the nature of suspected fraudulent activity, attacks and attempted attacks on the Tax Credit system, the performance of existing checks that HMRC use to detect fraud and HMRC's plans for detecting and countering new or evolved fraud risks. The written answer of 10 January refers to a specific report she received in June 2005. This report provided information about trends in suspects [sic] fraudulent activity. The effectiveness of current procedures to detect fraud and plans for further anti-fraud measures. In June, the advice given was that the compliance procedures were effectively managing the risk.*

*In November, new information came to light about what appeared to be a specific and unprecedented attack on the system...In the light of the virulent and highly organised nature of this attack, HMRC judged that the balance of risk had changes significantly and recommended to Ministers to close the e-portal. This was done on 2 December.'*

HMRC refused to provide further details, citing the exemption under section 31(1)(a) of the Act.

27. Section 31(1)(a) provides that:

*'Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice-*

*(a) the prevention or detection of crime...'*

28. The relevant information which was held by HMRC was the briefing to the Paymaster General in June 2005 and the annexed risk assessment. The complainant objected that no consideration had been given to the possibility of redaction of this information. After the Commissioner raised this point, HMRC accepted that section 31(1)(a) did not apply to all of the information, and that it should have considered whether it could release some elements. Having considered redaction, HMRC concluded that the greater part of the information in these documents could be disclosed.

29. At this stage in the Commissioner's investigation, HMRC also claimed that a small amount of the information, comprising the distribution list for the briefing, a list of related papers and a discussion of handling and presentation, fell outside the scope of the request because it had no bearing on the assessment of risk from Tax Credit fraud. Having considered this information, the Commissioner does not accept that it falls outside the scope of the complainant's request of 27 April 2006, and therefore HMRC was required to consider whether this could be provided to the complainant. In the Commissioner's view this information is inextricably linked to the subject of the complainant's request and as such forms part of the detail of the briefing given by officials to the Paymaster General in June 2005. Therefore in reviewing HMRC's application of section 31(1)(a) the Commissioner has also considered this information.

### *Prejudice test*

30. HMRC continued to maintain the section 31(1)(a) exemption in relation to some other elements of the information. To engage the exemption it is necessary for the public authority to demonstrate that disclosure of the information would or would be likely to cause some relevant prejudice. The Commissioner's interpretation of 'likely to prejudice' is that there should be evidence of a significant risk of prejudice to the subject of the exemption. The degree of risk must be such that there 'may very well' be prejudice to those

interests. Whether prejudice exists is to be decided on a case by case basis. The prejudice test is a dynamic concept and different levels of prejudice will occur at different times according to the varying circumstances in which the relevant enforcement activity takes place.

31. In this case HMRC stated that the information covered, in considerable detail, measures which it was taking to identify fraudulent Tax Credit claims. It claimed that organised criminals and fraudsters had demonstrated that they would quickly and effectively exploit any weakness in the Tax Credit system, and if the information at issue was disclosed it would enable criminals to gain a better understanding of the steps being taken to address such fraud and thereby assist them in devising strategies for attacking the system. The Commissioner accepts this argument that disclosure of the information would cause some prejudice, in that it could allow criminals to draw conclusions about the effectiveness of HMRC's fraud prevention measures and suggest which 'lines of attack' might prove most effective. The section 31(1)(a) exemption is therefore engaged.
32. However, in relation to the distribution list for the briefing, the list of related papers and the discussion of handling and presentation – which HMRC had claimed fell outside the scope of the request – the Commissioner does not accept that disclosure of these elements of the information would produce a relevant prejudice. In particular, he does not believe that disclosure would allow criminals to draw conclusions about the effectiveness of HMRC's fraud prevention measures. Since this information does not engage section 31(1)(a) it should be disclosed.

#### *Public interest test*

33. Since section 31 is a qualified exemption it is subject to a public interest test under section (2)(2)(b) of the Act. This favours disclosure unless, *'in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosure of the information'*.
34. In its letter of 28 June 2006, HMRC accepted that there was a clear public interest in ensuring that it was taking effective action to combat fraud, that adequate safeguards were in place to protect individual's identity, and that the Tax Credits system was administered effectively and public funds were adequately protected. However, it claimed that its arrangements to address Tax Credit fraud were subject to *'intensive scrutiny by the National Audit Office'*, and the Chairman of HMRC and other senior officials were *'regularly held to account on this issue by the Public Accounts Committee'*.
35. The Commissioner agrees that disclosure of this information would have a number of positive effects which would be in the public interest. It would promote public understanding of the current situation regarding Tax Credit fraud and the issues surrounding it, which is an important area of government activity involving public finances and serious criminal activity. It would also facilitate and inform the existing public debate on the matter. Furthermore, disclosure of the information would promote the accountability and

transparency of HMRC's decisions, particularly the measures which it has taken to combat fraud. Finally, in his complaint the complainant made the specific point that there was a strong public interest in establishing whether HMRC had responded appropriately to threats against its e-portal which had been identified a year earlier, these threats later materialising as significant frauds on the Tax Credit system which led to the online application system being closed down.

36. On the other hand, HMRC expressed its view that there was a very strong public interest in maintaining the section 31(1)(a) exemption, in order to ensure that its strategies to deal with concerted and sophisticated attacks on the Tax Credit system were not undermined by disclosure of detailed information. HMRC's conclusion was therefore that the balance of the public interest *'overwhelmingly'* favoured maintaining the exemption, since disclosure *'would, potentially, seriously damage our ability to successfully challenge both fraud by individuals and attacks made on the Tax Credit system by organised fraudsters'*.
37. The Commissioner accepts that where disclosure of information about anti-fraud strategies would undermine the very operation of those strategies, the public interest is likely to lie in keeping the information confidential, since the benefits of public scrutiny in such circumstances would tend to be self-defeating. In other words, in demonstrating that the anti-fraud strategies were effective the disclosure of the information would tend to render them ineffective. On the other hand, where disclosure would not have this effect, any public interest in maintaining the exemption would be very weak.
38. The Commissioner has considered the information to which HMRC continues to apply the section 31(1)(a) exemption. Part of this information refers to concrete fraud techniques, data about which types of fraud are most likely to be successful, specific indicators triggering anti-fraud actions, technical details about the process of individual fraud investigations, and information about HMRC's cooperation with other agencies to combat fraud. The Commissioner takes the view that this information could provide potential fraudsters with inspiration to commit crimes and potentially facilitate evasion of the measures which HMRC and other agencies seek to take against the threat of fraud. He accepts that disclosure of this information would therefore prejudice the anti-fraud strategies, and that this factor weighs more heavily in the public interest than the countervailing factors relating to public scrutiny. The Commissioner has therefore concluded that the public interest in maintaining the exemption under section 31(1)(a) does outweigh the public interest in disclosure in relation to this information.
39. Some of the information, however, is much more general, and of similar nature to that which HMRC has already accepted should be disclosed. In the Commissioner's view, while this could provide background information regarding anti-fraud strategies and is therefore likely to have some prejudicial effect, it is of such generality that it would not directly facilitate fraudulent activity. Accordingly, the public interest factors in favour of maintaining the exemption are weak. In the Commissioner's view disclosure would serve the

various public interest factors relating to public scrutiny of HMRC's effectiveness in addressing potential fraud. The Commissioner has therefore decided that in respect of this information the public interest in maintaining the exemption does not outweigh the public interest in disclosure. The relevant information is identified in a separate Schedule which is to be provided to HMRC.

## The Decision

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40. The Commissioner's decision is that the public authority did not deal with the request for information in accordance with the Act. HMRC failed to comply with its duty to issue refusal notices within the time limit set out in section 10(1), and in breach of section 17(1) of the Act. Additionally, in failing in its refusal notice of 10 April 2006 to specify the exemption relevant to the first part of the first request and to inform the complainant at the outset that some of the information was accessible by other means constituted a breach of section 17(1)(b). In relation to the second part of the first request HMRC failed to confirm that it held information covered by the request and to provide this information to the complainant in accordance with section 1(1)(a) and (b).
41. Regarding the second request, the Commissioner notes that HMRC has now accepted that it should have disclosed the greater part of the relevant documents, its failure to do so within 20 working days of the request constituting a breach of sections 1(1)(b) and 10 of the Act. The Commissioner has also decided that information which HMRC considered not to fall within the request did in fact do so. Further on considering this information the Commissioner has decided that section 31(1)(a) is not engaged, and so this information should have been disclosed under section 1(1)(b) of the Act.
42. In respect of some of the remaining information the Commissioner has decided that whilst the exemption at section 31(1)(a) is engaged the public interest in maintaining the exemption does not outweigh the public interest in disclosure and so should be provided to the complainant. The relevant information is identified in a separate Schedule which is to be provided to HMRC. However, in respect of the other remaining information the Commissioner's decision is that HMRC correctly applied the exemption at section 31(1)(a) and the public interest in maintaining the exemption outweighs the public interest in disclosure.

## Steps Required

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

- HMRC should disclose to the complainant the information which it has accepted is not exempt, together with the information identified in the Schedule to this Decision Notice.

44. The public authority must take the steps required by this notice within 35 calendar days of the date of this notice.

### **Failure to comply**

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45. 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.

### **Other matters**

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46. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matters of concern. HMRC has acknowledged that more could have been done to provide advice and assistance to the complainant, in accordance with section 16 of the Act. The Commissioner therefore wishes to remind the authority that Part II of the section 45 Code of Practice sets out some practices which it would be desirable to follow in this regard.

47. The full text of the section 45 Code of Practice can be accessed at:

<http://www.dca.gov.uk/foi/reference/impref/codepafunc.htm>

## Right of Appeal

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48. 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).  
Website: [www.informationtribunal.gov.uk](http://www.informationtribunal.gov.uk)

If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.

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

**Dated the 29th day of July 2008**

**Signed .....**

**Nicole Duncan  
Head of FOI Complaints**

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

## Legal Annex

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

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

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.'

**Section 1(2)** provides that -

'Subsection (1) has the effect subject to the following provisions of this section and to the provisions of sections 2, 9, 12 and 14.'

**Section 1(3)** provides that –

'Where a public authority –

(a) reasonably requires further information in order to identify and locate the information requested, and

(b) has informed the applicant of that requirement,

the authority is not obliged to comply with subsection (1) unless it is supplied with that further information.'

**Section 1(4)** provides that –

'The information –

(a) in respect of which the applicant is to be informed under subsection (1)(a), or

(b) which is to be communicated under subsection (1)(b),

is the information in question held at the time when the request is received, except that account may be taken of any amendment or deletion made between that time and the time when the information is to be communicated under subsection (1)(b), being an amendment or deletion that would have been made regardless of the receipt of the request.'

**Section 1(5)** provides that –

'A public authority is to be taken to have complied with subsection (1)(a) in relation to any information if it has communicated the information to the applicant in accordance with subsection (1)(b).'

**Section 1(6)** provides that –

'In this Act, the duty of a public authority to comply with subsection (1)(a) is referred to as 'the duty to confirm or deny'.'

**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 10(6)** provides that –

‘In this section –

‘the date of receipt’ means –

- (a) the day on which the public authority receives the request for information, or
- (b) if later, the day on which it receives the information referred to in section 1(3);

‘working day’ means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.’

**Section 16(1)** provides that -

‘It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it’.

**Section 16(2)** provides that -

‘Any public authority which, in relation to the provision of advice or assistance in any case, conforms with the code of practice under section 45 is to be taken to comply with the duty imposed by subsection (1) in relation to that case.’

**Section 21(1)** provides that –

‘Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.’

**Section 21(2)** provides that –

‘For the purposes of subsection (1)-

- (a) information may be reasonably accessible to the applicant even though it is accessible only on payment, and
- (b) information is to be taken to be reasonably accessible to the applicant if it is information which the public authority or any other person is obliged by or under any enactment to communicate (otherwise than by making the information available for inspection) to members of the public on request, whether free of charge or on payment.’

**Section 21(3)** provides that –

‘For the purposes of subsection (1), information which is held by a public authority and does not fall within subsection (2)(b) is not to be regarded as reasonably accessible to the applicant merely because the information is available from the

public authority itself on request, unless the information is made available in accordance with the authority's publication scheme and any payment required is specified in, or determined in accordance with, the scheme.'

**Section 31(1)** provides that –

'Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice-

- (a) the prevention or detection of crime,
- (b) the apprehension or prosecution of offenders,
- (c) the administration of justice,
- (d) the assessment or collection of any tax or duty or of any imposition of a similar nature,
- (e) the operation of the immigration controls,
- (f) the maintenance of security and good order in prisons or in other institutions where persons are lawfully detained,
- (g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2),
- (h) any civil proceedings which are brought by or on behalf of a public authority and arise out of an investigation conducted, for any of the purposes specified in subsection (2), by or on behalf of the authority by virtue of Her Majesty's prerogative or by virtue of powers conferred by or under an enactment, or
- (i) any inquiry held under the Fatal Accidents and Sudden Deaths Inquiries (Scotland) Act 1976 to the extent that the inquiry arises out of an investigation conducted, for any of the purposes specified in subsection (2), by or on behalf of the authority by virtue of Her Majesty's prerogative or by virtue of powers conferred by or under an enactment.'

**Section 31(2)** provides that –

'The purposes referred to in subsection (1)(g) to (i) are-

- (a) the purpose of ascertaining whether any person has failed to comply with the law,
- (b) the purpose of ascertaining whether any person is responsible for any conduct which is improper,
- (c) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise,
- (d) the purpose of ascertaining a person's fitness or competence in relation to the management of bodies corporate or in relation to any profession or other activity which he is, or seeks to become, authorised to carry on,
- (e) the purpose of ascertaining the cause of an accident,
- (f) the purpose of protecting charities against misconduct or mismanagement (whether by trustees or other persons) in their administration,

- (g) the purpose of protecting the property of charities from loss or misapplication,
- (h) the purpose of recovering the property of charities,
- (i) the purpose of securing the health, safety and welfare of persons at work, and
- (j) the purpose of protecting persons other than persons at work against risk to health or safety arising out of or in connection with the actions of persons at work.'

**Section 31(3)** provides that –

'The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice any of the matters mentioned in subsection (1).'