

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 15 May 2012

**Public Authority:** Ministry of Defence  
**Address:** Main Building  
Whitehall  
London  
SW1A 2HB

#### Decision (including any steps ordered)

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1. The complainant asked the Ministry of Defence (MOD) to provide him with briefing notes and submissions to the Secretary of State regarding the decision to scrap the Ark Royal and the decision to retire the Harrier Fleet announced as part of the Strategic Defence and Security Review. The MOD initially withheld all of the information on the basis of a number of exemptions contained within the Freedom of Information Act, although during the course of the Commissioner's investigation the complainant was provided with some of the information he had requested. The Commissioner has concluded that the remaining information is indeed exempt from disclosure either on the basis of section 36 (the effective conduct of public affairs exemption) or section 26 (the defence exemption).

#### Request and response

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2. On 29 March 2011 the complainant submitted the following request to the MOD:

*'Please disclose all briefing notes and submissions to ministers sent to the Secretary of State and his ministers on the subject of (i) the decision to scrap the Ark Royal (ii) the decision to retire Britain's Harrier fleet from May 1<sup>st</sup>, 2010 to present day'.*

3. After extending the time it needed to consider the balance of the public interest test, the MOD provided the complainant with a substantive response to his request on 15 June 2011. The MOD informed him that it

considered the requested information to be exempt from disclosure on the basis of section 36(2) of FOIA. This exemption relates to the effective conduct of public affairs.

4. The complainant contacted the MOD on 20 June 2011 and asked for an internal review of this decision.
5. The MOD informed him of the outcome of the review on 11 August 2011. The review upheld the application of section 36 and also explained that the exemptions contained at section 26 (defence) and section 43 (commercial interests) provided a basis to withhold parts of the requested information.

### **Scope of the case**

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6. The complainant contacted the Commissioner on 31 August 2011 in order to complain about the way his request for information had been handled. The complainant explained why he disputed the MOD's reasoning for relying on the three exemptions identified above. The Commissioner has not included the complainant's submissions here but has made reference to them in the appropriate parts of his analysis below.
7. During the course of the Commissioner's investigation the MOD provided him with a copy of the 22 documents that had been reviewed and withheld at both the refusal notice and internal review stage. The MOD explained to the Commissioner that it was now of the view that not all of the information contained within these documents was in fact within the scope of the request. As part of his investigation the Commissioner has therefore considered whether he agrees with the MOD's assessment with regard to what information falls within the scope of the request. Furthermore, during the course of the Commissioner's investigation the MOD explained that it was prepared to disclose some of the information which it did accept was in the scope of the request to the complainant. The MOD has now in fact disclosed this information. Therefore the Commissioner has not determined whether, at the time of the refusing this request, the MOD was entitled to withhold these parts of the requested information.

## Reasons for decision

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### Information in the scope of the request

8. When the MOD originally considered the request it considered 22 complete documents to fall within the scope of the request. However during the course of the Commissioner's investigation the MOD confirmed that in fact it only believed specific parts of a certain number of these documents to fall within the scope of the request. The MOD's reasoning for excluding certain documents, or certain parts of particular documents was two fold.
9. Firstly, although a number of documents were in submissions or briefing notes provided to the Secretary of State, only some of the information contained in these documents actually focussed on the discussions about the Ark Royal and Harrier decisions. The remaining information contained in these particular documents (or in some instances entire documents), focused on other aspects of the Strategic Defence and Security Review (SDSR). The MOD argued that the only parts of the documents which fell within the scope of the request were the parts that actually focused on the Ark Royal and Harrier.
10. Secondly, for one document in particular the MOD established that although it contained information which addressed the subject matter of the request (ie the Ark Royal and/or Harrier fleet) the document itself was not a 'submission' or 'briefing note' provided to the Secretary of State.
11. The Commissioner agrees with the MOD's amended approach to the information which falls within the scope of the request is correct. That is to say, only information which is contained within the documents provided to the Secretary of State that focuses on the decisions regarding Harrier fleet and Ark Royal falls within the scope of the request. For the vast majority of the documents the Commissioner's assessment as to the parts of the information which meet this definition accords with the MOD's. There is just a small amount of information which the Commissioner considers to be in the scope of the request which the MOD does not.
12. The Commissioner has included an annex to this notice which clarifies his findings with regard to whether a particular document or parts of documents falls within the scope of the request. This annex also summarises the Commissioner's findings in relation to the exemptions relied upon by the MOD. A more detailed version of this annex which refers directly to the withheld information has been provided to the MOD along with its copy of this decision notice.

## Section 36 – effective conduct of public affairs

13. The MOD has argued that all of the information falling within the scope of this request is exempt from disclosure on the basis of sections 36(2)(b)(i), 36(2)(b)(ii) and 36(2)(c).
14. Under section 36 information is exempt only if, in the reasonable opinion of a qualified person, disclosure of the information in question would, or would be likely to prejudice any of the activities set out in sub-sections of 36(2).

15. Section 36(2) states that:

*'Information to which this section applies is exempt information if, in the reasonable opinion of a qualified person, disclosure of the information under this Act-...*

*...(b) would, or would be likely to, inhibit-*

*(i) the free and frank provision of advice, or*

*(ii) the free and frank exchange of views for the purposes of deliberation, or*

*(c) would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.'*

16. In this case, the qualified person who gave their opinion, the Secretary of State, argued that all three of the above exemptions provided a basis upon which to withhold the requested information. In respect of sections 36(2)(b)(i) and (ii) the qualified person decided that the exemptions were engaged at the higher threshold, ie that disclosure would result in prejudicial consequences the exemptions are designed to protect. In respect of section 36(2)(c) the qualified person decided that the exemption was engaged at the lower threshold, ie that disclosure would be likely to result in the prejudicial consequences the exemption was designed to protect.
17. In determining whether these exemptions are engaged the Commissioner must determine whether he accepts that the qualified person's opinion was a reasonable one. In doing so the Commissioner has considered all of the relevant factors including:
  - Whether the prejudice relates to the specific subsection of section 36(2) that is being claimed. If the prejudice or inhibition envisaged is not related to the specific subsection the opinion is unlikely to be reasonable.

- The nature of the information and the timing of the request, for example, whether the request concerns an important ongoing issue on which there needs to be a free and frank exchange of views or provision of advice.
  - The qualified person's knowledge of, or involvement in, the issue.
18. Further, in determining whether the opinion is a reasonable one, the Commissioner takes the approach that if the opinion is in accordance with reason and not irrational or absurd – in short, if it is an opinion that a reasonable person could hold – then it is reasonable. This is not the same as saying that it is the only reasonable opinion that could be held on the subject. The qualified person's opinion is not rendered unreasonable simply because other people may have come to a different (and equally reasonable) conclusion. It is only unreasonable if it is an opinion that no reasonable person in the qualified person's position could hold. The qualified person's opinion does not even have to be the most reasonable opinion that could be held; it only has to be a reasonable opinion.

*Sections 36(2)(b)(i) and (ii)*

19. In the circumstances of this case the qualified person argued that disclosure of the requested information would have a negative impact on the processes of decision making, opinion forming and evaluation in the future. This is because it is likely that those offering advice will be less willing to do so, or more inhibited in giving unwelcome views, in the future. There was a risk that those offering advice would be less frank in their advice in the future and less likely to engage in written discussions as part of the deliberative process. Written advice in the future could be materially different from oral advice. The MOD noted that the decision making process employed in relation to the SDSR would be applied again in the future and thus the decision making processes evidenced in the withheld information could not be separated from any future deliberations on this subject.
20. With regard to whether this opinion is a reasonable one, the Commissioner notes that the nature of prejudice described by the MOD is based upon the concept of the 'chilling effect', ie that disclosure would inhibit the frankness and candour with which views are exchanged and advice given and there is a need for such frankness and candour as part of decision making process. The Commissioner has generally treated such arguments with some scepticism, albeit that such concerns should not be dismissed out of hand. In the particular circumstances of this case, given the frank and candid assessments that are contained in the withheld information and the fact that there is a clear link between the processes that were used as part of the SDSR being employed by MOD

in the future, the Commissioner is prepared to accept that the opinion in respect of sections 36(2)(b)(i) and (ii) is a reasonable one. Both exemptions are therefore engaged. The Commissioner has, however, discussed the particular weight that should be given to these chilling effect arguments in his consideration of the public interest test below.

### *Sections 36(2)(c)*

21. The phrase 'otherwise prejudice' in section 36(2)(c) means that this exemption refers to prejudice not covered by section 36(2)(b). Information may be exempt under both 36(2)(b) and (c) but the prejudice claimed under (c) must be different to that claimed under (b). Based upon the papers provided to the Commissioner by the MOD, which include the submissions provided to the qualified person and the response confirming his opinion, the Commissioner is not at all clear what the nature of this 'other prejudice' actually is. It would appear to the Commissioner that the MOD's position is that if the information was disclosed and those contributing to future decision making were less candid in their submissions, and/or their submissions were not fully recorded, then this in itself could have a detrimental impact on the MOD's decision making in the future. It is this impact that in the MOD's opinion is the 'other prejudice' to the effective conduct of public affairs. In the Commissioner's opinion such arguments are so similar to those cited to engage sections 36(2)(b)(i) and (ii) that the MOD has failed to demonstrate that some sort of 'other prejudice' could occur. Therefore, as the nature of this prejudice has not been clearly identified the Commissioner does not accept that the qualified person's opinion in respect of section 36(2)(c) is a reasonable one. This exemption is therefore not engaged.

### **Public interest test**

22. Section 36 is a qualified exemption and therefore the Commissioner must consider whether in all the circumstances of the case the public interest in maintaining the exemptions contained at sections 36(2)(b)(i) and (ii) outweigh the public interest in disclosing the information. Although these are two separate exemptions, given the similarity of the public interest arguments relevant to each exemption he has considered the public interest arguments together.

### **Public interest arguments in favour of disclosing the requested information**

23. The MOD acknowledged that there is clearly a general public interest in helping the public to understand more about the deliberative and decision-making processes of government and participate in policy



debates. It also recognised that given the level of interest in the decisions of the SDSR disclosure may reassure the public about the rigour of the review. The MOD also noted that disclosure would provide greater transparency and understanding to inform the debate arising from the SDSR information already in the public domain, for example as a result of Parliamentary scrutiny and MOD Ministerial statements.

24. The complainant argued that the decision to scrap the Harrier fleet and the Ark Royal had a major impact on Britain's military capability and disclosure of information surrounding this decision was therefore firmly in the public interest. Understanding the deliberations and advice behind those decisions was therefore imperative.
25. The complainant rejected the MOD's assertion, as set out in its refusal notice and internal review, that it needed a 'safe space' in which to make decisions on the basis that in the particular circumstances of this case such decisions regarding the SDSR had already been taken.

### **Public interest arguments in favour of maintaining the exemptions**

26. In its submissions to the Commissioner the MOD explained that it was not seeking to rely on section 36 in order to protect the safe space needed for decision making in respect of the SDSR given that (as the complainant noted) such decisions have already been taken. Rather, section 36 was being relied on in order to protect the decision making process in respect of future decision making about similar operational issues. (As discussed above in relation to the engagement of the exemptions, the consequences of a 'chilling effect' occurring if the information was disclosed).
27. The MOD explained that it envisaged this chilling effect occurring in two different ways: firstly it would inhibit provision of advice itself and secondly, it would inhibit the efficient recording of this advice.
28. In relation to the first anticipated consequence, the MOD explained that expert views may not be provided as freely and frankly in the future because of the reluctance to engage where there is a concern that advice may be disclosed too soon after a decision had been announced. If senior officials, military officers and Ministers felt that their underpinning arguments would be disclosed they are likely to be far more reticent in the future in offering honest and if necessary stark, advice needed for effective decision making. In support of this particular point the MOD emphasised the sensitive, honest and robust assessments contained within the withheld information and the fact that the MOD faced many more sensitive and difficult decisions on a range of military capabilities that would require free and frank advice.

29. In relation to the second anticipated consequence, the MOD explained that expert advice may not be recorded as accurately in the future if there was a concern that such advice would be disclosed. This would mean that future decisions were less well documented, undermining due process and transparency within government. It could also lead to disputes as to exactly what advice had been given, debates had and the basis of decisions taken.

### **Balance of public interest test**

30. With regard to the second consequence of disclosure anticipated by the MOD, the Commissioner is generally very sceptical about what can be described as the 'pure' record keeping argument. That is to say, concerns about potential disclosure mean that officials are less candid in putting their views in writing, that more discussions take place verbally and are not recorded, and that minutes of meetings are less detailed. The Commissioner's scepticism flows from the fact that while this argument is often advanced by public authorities, the evidence for it is largely anecdotal. Indeed, studies carried out by the Constitution Unit provide some evidence to the contrary. In its study of the effect of FOI on central government-policy making it found that:

*'FOI was part of a general trend towards fewer written records rather than the dominant factor behind the trend'.<sup>1</sup>*

31. Furthermore, the Information Tribunal (and its successor, the First-Tier Tribunal (Information Rights)) has been consistently sceptical of the 'pure' record keeping argument concluding that the good practice and professional standards would ensure that adequate records of meetings and provision of advice would, and should, be maintained even in the age of greater transparency.
32. Therefore for the information that has been withheld by the MOD and is contained in documents which are simply records of verbal discussions, ie minutes of meetings, the Commissioner does not accept that any weight in favour of maintaining the exemption should be given. This is because he does not accept that those responsible for drafting these minutes will alter how they record such meetings in the future. It follows that if the Commissioner believes that disclosure will not affect the

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<sup>1</sup> Para 7.23,  
[http://www.ico.gov.uk/upload/documents/library/freedom\\_of\\_information/research\\_and\\_reports/ucl\\_report\\_government\\_policy\\_in\\_the\\_context\\_of\\_foi.pdf](http://www.ico.gov.uk/upload/documents/library/freedom_of_information/research_and_reports/ucl_report_government_policy_in_the_context_of_foi.pdf)



creation of similar records in the future, he does not believe that disclosure will have a negative effect on future deliberations and discussions.

33. However, the Commissioner recognises that the traditional scenario in which the record is a set of minutes that is created after, and exists independently from the activity or discussion which it represents, does not always fit the reality of the administration of decision making. In many cases, documents which are part of the actual deliberation process, become records. For example, the discussion itself may be conducted by email or through memos or correspondence and those documents constitute both the discussion itself and, when it is concluded, the record of it. If officials are reluctant to commit themselves to unpopular views in that exchange of emails, then the Commissioner will accept that there is a chilling effect, but because, in effect, the record is that exchange of emails, there is also an effect on record keeping to the extent that due process is impacted. In this scenario the chilling effect means that the correspondence is less detailed and therefore the record of the discussion is less adequate. Nevertheless, this argument must still be specific to the information in question for the Commissioner to accept that notable weight should be given to it when considering the balance of the public interest.
34. In the circumstances of this case the Commissioner accepts that a number of pieces of information withheld under this exemption are taken from documents which form part of the deliberation process about the SDSR, for example written letters and memos sent directly to the Secretary of State. Furthermore, the Commissioner notes that these contributions are detailed ones that can accurately be described as sensitive, honest and robust assessments focusing on a range of options to be considered as part of the SDSR. Given the nature of these comments the Commissioner accepts that disclosure of them could clearly result in a chilling effect on similar contributions in the future. The Commissioner believes that this argument should be given significant weight given the likelihood of the MOD having to discuss similar issues in the near future and the fact that a similar decision making process would be used. Although the SDSR was complete by the time of the request it did not represent the end point for discussions within the MOD with regard to decisions involving the balancing of cost effectiveness with military capability.
35. In summary, the Commissioner does not believe any weight in respect of the chilling effect should be attributed to the information taken from documents which are simply records of verbal discussions. Such documents are those numbered as 6, 8, 10, 14 and 20. However, he accepts that significant weight in terms of the chilling effect arguments should be given to information taken from documents which themselves form part of the

decision making process. Such documents are those 1, 2, 5, 7, the 'unflagged' document, 9, 13, 17, 18, and 19 and 21.

36. As the MOD has only relied on the chilling effect arguments to withhold the information, given the presumption under FOIA of disclosure, it follows that the balance of the public interest for the information contained documents 6, 8, 10, 14 and 20 favours disclosure even without the Commissioner determining what weight should be attributed to the public interest arguments in favour of disclosure.
37. However for the information contained in documents 1, 2, 5, 7, the 'unflagged' document, 9, 13, 17, 18, and 19 and 21 the Commissioner must consider whether the weight attributed to the chilling effect arguments outweighs that which should be attributed to the public interest arguments in disclosure. Given the detailed nature of the information that has been withheld the Commissioner is clear that disclosure of it would clearly reveal the rigour of the review, provide further transparency as to the issues discussed and undoubtedly inform the public debate surrounding the SDSR. The Commissioner accepts that such arguments should, as the complainant has argued, attract particular weight given the impact on Britain's military capability in light of the decisions in respect of the Harrier fleet and the Ark Royal. However, precisely because of the significance and magnitude of the decision making which would be harmed by disclosure – ie similar discussions in the near future discussions which focused on how to deliver a cost effective defence programme – the Commissioner finds that for the information contained in these documents the public interest favours maintaining the exemption.

## **Section 26 - defence**

38. The Commissioner has considered whether section 26(1)(b) provides a basis to withhold the information which he does not accept is exempt from disclosure on the basis of any of the exemptions contained in section 36. That is to say the information contained in the documents numbered 6, 8, 10, 14 and 20.
39. Section 26(1)(b) states that information is exempt from disclosure if its disclosure would, or would be likely to, prejudice the capability, effectiveness or security of any relevant forces.
40. In order for a prejudice based exemption, such as section 26, to be engaged the Commissioner believes that three criteria must be met:
  - Firstly, the actual harm which the public authority alleges would, or would be likely, to occur if the withheld information was disclosed has to relate to the applicable interests within the relevant exemption;

- Secondly, the public authority must be able to demonstrate that some causal relationship exists between the potential disclosure of the information being withheld and the prejudice which the exemption is designed to protect. Furthermore, the resultant prejudice which is alleged must be real, actual or of substance; and
- Thirdly, it is necessary to establish whether the level of likelihood of prejudice being relied upon by the public authority is met – ie, disclosure 'would be likely' to result in prejudice or disclosure 'would' result in prejudice. In relation to the lower threshold the Commissioner believes that the chance of prejudice occurring must be more than a hypothetical possibility; rather there must be a real and significant risk. With regard to the higher threshold, in the Commissioner's view this places a stronger evidential burden on the public authority to discharge.

#### *The MOD's position*

41. In its internal review response, the MOD explained that it believed that section 26(1)(b) applied to certain parts of the withheld information because its disclosure would expose the Armed Forces' capability and divulge their operational strengths and weaknesses to potential adversaries. This would put lives at risk in the military operations of today and those in the future. In its submissions to the Commissioner the MOD expanded on these arguments and emphasised that while the outcomes of the SDSR have been announced, details of the defence considerations of each option had not been disclosed. This is because such considerations include detailed capability assessments, including the effectiveness of platforms and the potential risks of cutting capability. The MOD confirmed that it was seeking to rely on the higher threshold that prejudice would occur if the information was disclosed, rather than just being likely to occur.

#### *The Commissioner's position*

42. The Commissioner is satisfied that the first of limb of the test set out at paragraph 40 is clearly met as the nature of the prejudice that the MOD envisages occurring falls squarely within the scope of the exemption. The Commissioner is also satisfied that there is a causal link between disclosure of the information and prejudice occurring and furthermore that such prejudice is real and of substance. Finally, the Commissioner is satisfied that disclosure would prejudice the capability, effectiveness or security of the Armed Forces. The Commissioner has reached this conclusion given the content of the information itself which includes detailed and candid assessments about the effectiveness of various

military options. The fact that the capability of both current and future military operations is covered in the withheld information supports the view that prejudice would not simply be likely to occur, but would occur. The Commissioner notes that the complainant has argued that as the decisions about the Ark Royal and Harrier fleet had been announced it was difficult to see how this exemption would be engaged. However, for the reasons highlighted by the MOD, and accepted by the Commissioner, this is because the withheld information goes far beyond simply stating that these two will be withdrawn but examines the military risks of doing so in the context of also assessing a range of different options.

### **Public interest test**

43. Section 26 is also a qualified exemption and therefore the Commissioner must again consider the balance of the public interest test.

### **Public interest arguments in favour of disclosing the requested information**

44. The Commissioner considers that the public interest arguments in favour of disclosure are effectively the same as set out above in relation to section 36.

### **Public interest arguments in favour of maintaining the exemption**

45. The MOD argued that the public interest was clearly best served by ensuring the protection and effectiveness of the UK's armed forces.

### **Balance of public interest test**

46. As discussed above in the context of section 36, the Commissioner accepts that the public interest arguments in favour of disclosure of the withheld information do deserve significant weight. However, given the level and nature of the threat to the capability of the armed forces if the withheld information was disclosed the Commissioner is firmly of the opinion that the public interest favours maintaining the exemption.

## Right of appeal

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47. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

48. 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.
49. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Gerrard Tracey  
Principal Policy Advisor  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**

Document number	Commissioner's view as to whether document contains information in scope of request	Contains information now disclosed to complainant?	Commissioner's findings re: exemptions cited by MOD
1	Yes	Yes	Remaining in scope information exempt under sections 36(2)(b)(i) and (ii), public interest favours maintaining exemptions.
2	Yes	No	In scope information exempt under sections 36(2)(b)(i) and (ii), public interest favours maintaining exemptions.
3 and 4	Yes	Yes	No exemptions to consider, all information in scope of request now been disclosed to the complainant.
5	Yes	Yes	Remaining in scope information exempt under sections 36(2)(b)(i) and (ii), public interest favours maintaining exemptions.
6	Yes	No	Section 36(2)(c) not engaged.  Section 36(2)(b)(i) and (ii) engaged but public interest favours disclosure.  Withheld information exempt under section 26(1)(b), public interest favours maintaining the exemption.
7	Yes	No	In scope information



			exempt under sections 36(2)(b)(i) and (ii), public interest favours maintaining exemptions
8	Yes	Yes	<p>Section 36(2)(c) not engaged.</p> <p>Section 36(2)(b)(i) and (ii) engaged but public interest favours disclosure.</p> <p>Withheld information exempt under section 26(1)(b), public interest favours maintaining the exemption.</p>
9	Yes	No	Withheld information exempt under sections 36(2)(b)(i) and (ii), public interest favours maintaining exemptions.
'Flagged, unlabelled'	Yes	No	Withheld information exempt under sections 36(2)(b)(i) and (ii), public interest favours maintaining exemptions
10	Yes	No	<p>Section 36(2)(c) not engaged.</p> <p>Section 36(2)(b)(i) and (ii) engaged but public interest favours disclosure.</p> <p>Withheld information exempt under section 26(1)(b), public interest favours maintaining the exemption.</p>
11	Yes	Yes	No exemptions to consider, all information in scope of request now

			disclosed to complainant.
12	No, entire document out of scope	No	No need to make assessment of exemptions.
13	Yes	No	Withheld information exempt under sections 36(2)(b)(i) and (ii), public interest favours maintaining exemptions.
14	Yes	Yes	Section 36(2)(c) not engaged.  Section 36(2)(b)(i) and (ii) engaged but public interest favours disclosure.  Withheld information exempt under section 26(1)(b), public interest favours maintaining the exemption.
15	No, entire document out of scope	No	No need to make assessment of exemptions.
16	No, entire document out of scope	No	No need to make assessment of exemptions.
17	Yes	No	Withheld information exempt under sections 36(2)(b)(i) and (ii), public interest favours maintaining exemptions.
18	Yes	No	Withheld information exempt under sections 36(2)(b)(i) and (ii), public interest favours maintaining exemptions.

19	Yes	No	Withheld information exempt under sections 36(2)(b)(i) and (ii), public interest favours maintaining exemptions.
20	Yes	No	<p>Section 36(2)(c) not engaged.</p> <p>Section 36(2)(b)(i) and (ii) engaged but public interest favours disclosure.</p> <p>Withheld information exempt under section 26(1)(b), public interest favours maintaining the exemption.</p>
21	Yes	Yes	Withheld information exempt under sections 36(2)(b)(i) and (ii), public interest favours maintaining exemptions.