

17 October 2023

## **Case Reference IC-255397-R6Q0 & IC-255398-L0C8**

We are now in a position to provide the outcome of the public interest test relating to the application of section 42 to certain specific data found within a TRA in our response to the above requests.

### **Public Interest Test**

The factors in favour of lifting the exemption include:

- The public interest in the ICO being open and transparent, especially about how the data of stakeholders is processed
- The public interest in transparency about any potential transfers overseas, especially when using systems that involve processing in the US
- The fact that the determined risk was 'low' and that therefore the ICO has engaged in the processing

With the public interest factors in favour of maintaining the exemption including:

- The disclosure of legally privileged information threatens the important principle of legal professional privilege;
- Maintaining openness in communications between client and lawyer to ensure full and frank legal advice;
- The disclosure of legal advice could have a chilling effect on both policy officers and legal advisers by dissuading them from discussing such matters in the future in the knowledge that it could potentially be made public.

Taking into account the above factors we conclude that, in this instance, the public interest lies in s42 not being maintained. As such we are disclosing the information and you can find the requested TRA posted alongside this response.

Please note, the exemption under section 40(2) still applies and we have therefore withheld the personal data of individuals.

This concludes our response.  
We hope you find this information helpful.