

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 September 2024

Public Authority: Home Office
Address: 2 Marsham Street
London
SW1P 4DF

Decision (including any steps ordered)

1. The complainant requested the "asylum and immigration file data" for a named individual.
2. The Home Office refused to provide the requested file in its entirety, citing the FOIA exemptions at sections 21(1) (information accessible to applicant by other means), 31(1)(e) (law enforcement), 38(1)(a) (health and safety), 40(2) (personal information) and 41(1) (information provided in confidence). During the course of the Commissioner's investigation, the Home Office withdrew its reliance on section 21(1) and additionally cited section 38(1)(b) (health and safety) for a small amount of the withheld information.
3. The Commissioner's decision is that the Home Office was entitled to withhold the requested information in its entirety under sections 31(1)(e), 40(2) and 41(1) of FOIA. He did not deem it necessary to consider the Home Office's reliance on sections 38(1)(a) and (b) as he has determined that that information was caught by section 41(1) of FOIA.
4. The Commissioner requires no steps to be taken as a result of this decision.

Background

5. Although his previous decisions are not legally binding and each complaint will be considered on its merits, the Commissioner has taken

the following decision notice¹ (issued on 12 April 2023) into account when reaching his decision in this case.

6. In the earlier case, the same complainant made a request for the asylum/immigration record for a named **deceased** individual. The Home Office disclosed some information during the Commissioner's investigation and cited the same FOIA exemptions relied on in the current case to withhold the remainder.
7. In the earlier case, the Commissioner upheld the Home Office's reliance on all the cited exemptions (minus section 21 as the complainant had not complained about its application). The Commissioner found that section 40 (the exemption for personal information), can not be applied to a deceased individual. However, the two files in the earlier case also contained information on living third parties, such that section 40 was found to apply to that information.
8. The request below is for the same information (ie for an asylum/immigration record) but for a named **living** individual. In his role as Data Protection Regulator, the Commissioner has redacted all references to this individual's name in this notice.
9. By way of context to the complaint under consideration here, the Home Office has explained that it treats a person's immigration affairs as confidential, advising that:

"In the case of *FF v SSHD* [2021] EWHC 2566 (Admin)², the Court found that the Home Office is entitled to deal with a person's immigration affairs as being sensitive and confidential to them and cannot be obliged to make them available to third parties. The fact that the applicant in this case was convicted of murder does not remove the confidentiality of information provided by him to the Home Office.

As a general position we would not, therefore, consider that an asylum/immigration record is suitable for disclosure under the

¹ <https://ico.org.uk/media/action-weve-taken/decision-notices/2023/4024917/ic-183309-r8s3.pdf>

² [https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/Admin/2021/2566.html&query=\(FF+exclusion\)](https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/Admin/2021/2566.html&query=(FF+exclusion))

FOIA. The two previous cases referred to above³ were unusual in that the individuals are deceased, which allowed some limited disclosure of information while recognising that the confidentiality of information provided to the Home Office by third parties remained.”

Request and response

10. On 26 April 2024, the complainant wrote to the Home Office and requested information in the following terms:

“I request the asylum and immigration file data of [name redacted].

There is a legit interest in any personal data disclosure. The murder was racist and terroristic.

He was convicted of murder [URL redacted as it contains the name of the individual].”

11. The Home Office responded on 21 May 2024. It refused to provide the requested file citing section 40(2) of FOIA – the exemption for personal information.

12. The complainant requested an internal review on 21 May 2024, arguing that the Home Office had misjudged the legitimate interest inherent in the consideration of section 40(2).

13. Following its internal review, the Home Office wrote to the complainant on 3 July 2024. It maintained that section 40(2) of FOIA applied but explained that in order for the requested file to be withheld in its entirety, other FOIA exemptions should have been cited in addition, namely:

- Section 21(1) – information accessible to applicant by other means.
- Section 31(1)(e) – law enforcement, specifically the operation of the immigration controls.

³ The Commissioner is currently investigating another similar Home Office case from this complainant for a named deceased individual’s asylum/immigration file but this case has yet to be concluded.

- Section 38(1)(a) – health and safety, specifically endangerment to the physical or mental health of any individual and
- Section 41(1)(b) – information provided in confidence, specifically that the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.

Scope of the case

14. The complainant contacted the Commissioner on 3 July 2024 to complain about the way his request for information had been handled.
15. The complainant advised that he was not seeking details of any medical records for the named individual. The complainant did not submit any specific grounds of complaint to the Commissioner in relation to the Home Office's reliance on any of the cited exemptions. He instead requested a decision notice to be issued.
16. An information notice was issued in this case (on 5 August 2024) in order to elicit the Home Office's investigation response and a copy of the withheld file.
17. As part of its subsequent investigation response of 2 September 2024, the Home Office withdrew its reliance on section 21(1) of FOIA, explaining that:

"The internal review explained to [the complainant] that some limited details relating to this individual's immigration and asylum record are included in the record of the sentencing proceedings in the Crown Court which are available in the public domain. The information can be found at the following link, specifically in the numbered paragraph 1 on page 2 [URL redacted as it contains the name of the individual]: However, this record is dated 17 May 2024. It was therefore not available to [the complainant] at the date the request was received, so section 21(1) cannot apply. The internal review was also incorrect in stating that section 21(1) extended to the information 3 in paragraphs 2 and 3, since the information in these two paragraphs does not derive from the withheld information.

While the internal review correctly provided the link as 'advice and assistance', we accept that section 21(1) does not apply. The

information is nevertheless still exempt for the reasons consider [sic] in the rest of this letter.”

18. Given that section 21(1) of FOIA has been deemed by the Home Office not to apply for the reasons set out above, the Commissioner has excluded section 21(1) from any further consideration.
19. As part of its submissions to the Commissioner, the Home Office also advised that it wished to additionally rely on section 38(1)(b) for the small amount of information withheld under section 38(1)(a) of FOIA. This information was provided by the named individual about the basis for his asylum claim in the Initial Contact and Asylum Registration questionnaire (page 8 of the withheld information). The Home Office further advised that this information was also caught by sections 40 and 41 of FOIA, so the Commissioner has first considered whether it is caught by section 41 of FOIA.
20. In the analysis that follows, the Commissioner has considered whether the Home Office was entitled to rely on sections 31(1)(e), 40(2) and 41(1)(b) of FOIA to withhold the requested file in its entirety. The Commissioner has considered these exemptions below in chronological order.

Reasons for decision

Section 31 - law enforcement

21. In this case, the Home Office is citing section 31(1)(e), on the basis that disclosure would be likely to prejudice the operation of the immigration controls.
22. Consideration of section 31(1)(e) is a two-stage process: even if the exemption is engaged, the information must be disclosed unless the public interest in maintaining the exemption outweighs the public interest in disclosure.
23. The Home Office told the Commissioner that it had applied section 31(1)(e) of FOIA to the Initial Contact and Asylum Registration questionnaire and the record of the Travel History Interview.
24. The Home Office said:

“These documents provide information about the grounds upon which an asylum claim is likely to be assessed. Potential claimants could deduce from this what type of evidence is required to bolster an asylum claim or falsify their own evidence

to suit that end. This would prejudice the operation of immigration controls, because it would assist someone who might wish to make a false claim on these grounds in an attempt to evade immigration controls. We did not disclose the corresponding information in the [related] case [ie IC-183309-R8S3].”

25. The Commissioner acknowledges that disclosure would provide anyone who might wish to make a false claim with valuable information which could be used to ‘play’ the system and circumvent the controls which are in place. He, therefore, accepts that this is an interest protected by section 31(1)(e) and is satisfied that the Home Office has demonstrated that disclosure would be likely to prejudice that interest.

The public interest test

26. Section 31 is a qualified exemption. This means that, even if the exemption is engaged, the public authority must go on to consider whether the public interest in maintaining the exemption outweighs the public interest in its disclosure.

Public interest arguments in favour of disclosure

27. The complainant has argued for a public interest in disclosure of the information in the file because of the murder.
28. At internal review the Home Office recognised the following in favour of disclosure:

“The Home Office recognises that there is an inherent public interest in transparency and accountability of public authorities. The department also recognises the broad public interest in furthering public understanding of the issues with which public authorities deal.

Disclosure could promote public confidence in the operation of the department’s immigration controls and in the way the department carries out its work, particularly regarding the processes in place for asylum seekers.”

Public interest arguments in favour of maintaining the exemption

29. In relation to the complainant’s point, the Home Office said:

“[The complainant] has argued for a public interest in disclosure of the information in the file because of the murder, but we do not accept that this necessarily implies a public interest in disclosure of detailed information about an asylum claim and the

way it was assessed which might enable someone to 'game the system' and make a fake claim more convincing. Indeed, the opposite is the case: the public interest lies in not disclosing information which would make fake claims any easier."

30. In favour of maintaining the exemption, the Home Office argued at internal review that there is a strong public interest in avoiding any disclosure because:

"Disclosure of the requested information would be likely to harm the department's law enforcement capabilities, as it would prejudice its operation of immigration controls.

Asylum and immigration files contain confidential information and personal data provided to the Home Office in confidence. This information is essential in informing the operation of the department's immigration controls. Individuals may be less likely to provide confidential information and cooperate with the department's requests for personal data, if they believe there is a likelihood that the department will disclose this information to other parties, and therefore harming our ability to process asylum claims in future."

Balance of the public interest

31. In reaching a view in this case, the Commissioner accepts that it is important for the general public to have confidence in the UK's law enforcement capabilities in connection with its immigration control systems. Accordingly, there is a general public interest in disclosing information that promotes accountability and transparency in order to maintain that confidence and trust.
32. However, he also recognises that there is a very strong public interest in protecting the law enforcement capabilities of public authorities. The Commissioner considers that appropriate weight must be afforded to the public interest inherent in the exemption – that is, the public interest in avoiding prejudice to the operation of the immigration controls.
33. In the context of this case, the Commissioner recognises the public interest in preventing individuals intending to circumvent immigration controls – and those who wish to assist them – from having access to information which could assist them in building a picture of how they can best achieve their aims.
34. Clearly, the disclosure of any information that would assist people to circumvent immigration controls would not be in the public interest. Having given due consideration to the opposing public interest factors in this case, the Commissioner has concluded that the factors in favour of

disclosure do not equal or outweigh those in favour of maintaining the exemption. Accordingly, the Commissioner is satisfied that section 31(1)(e) of FOIA was appropriately applied in this case.

Section 40 - personal information

35. Section 40(2) of FOIA provides that information is exempt from disclosure if it is the personal data of an individual other than the requester and where one of the conditions listed in section 40(3A)(3B) or 40(4A) is satisfied.
36. In this case the relevant condition is contained in section 40(3A)(a). This applies where the disclosure of the information to any member of the public would contravene any of the principles relating to the processing of personal data ('the DP principles'), as set out in Article 5 of the UK General Data Protection Regulation ('UK GDPR').
37. The first step for the Commissioner is to determine whether the withheld information constitutes personal data as defined by the Data Protection Act 2018 ('DPA'). If it is not personal data then section 40 of FOIA cannot apply.
38. Secondly, and only if the Commissioner is satisfied that the requested information is personal data, he must establish whether disclosure of that data would breach any of the DP principles.
39. Section 3(2) of the Data Protection Act 2018 defines personal data as:

"any information relating to an identified or identifiable living individual".
40. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.
41. An identifiable living individual is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.
42. Information will relate to a person if it is about them, linked to them, has biographical significance for them, is used to inform decisions affecting them or has them as its main focus.
43. Having seen a copy of the withheld information, the Commissioner accepts that the information withheld by virtue of section 40(2) of FOIA includes details of individuals as well as the individual named in the

request, including Home Office officials. That information includes names, contact details and photographs.

44. The file also contains the names of junior Home Office officials, an interpreter and someone to whom the named individual states that he was engaged, albeit identified only by a first name which is difficult to read in the interview record.
45. This information therefore falls within the definition of 'personal data' in section 3(2) of the DPA.
46. The fact that information constitutes the personal data of an identifiable living individual does not automatically exclude it from disclosure under FOIA. The second element of the test is to determine whether disclosure would contravene any of the DP principles.
47. The most relevant DP principle in this case is principle (a).

Would disclosure contravene principle (a)?

48. Article 5(1)(a) of the UK GDPR states that:

"Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject".

49. In the case of an FOIA request, the personal data is processed when it is disclosed in response to the request. This means that the information can only be disclosed if to do so would be lawful, fair and transparent.
50. In order to be lawful, one of the lawful bases listed in Article 6(1) of the UK GDPR must apply to the processing. It must also be generally lawful.

Lawful processing: Article 6(1)(f) of the UK GDPR

51. The Commissioner considers that the lawful basis most applicable is basis 6(1)(f) which states:

"processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child"⁴.

⁴ Article 6(1) goes on to state that:-

52. In considering the application of Article 6(1)(f) of the UK GDPR in the context of a request for information under FOIA, it is necessary to consider the following three-part test:-
- i) **Legitimate interest test:** Whether a legitimate interest is being pursued in the request for information;
 - ii) **Necessity test:** Whether disclosure of the information is necessary to meet the legitimate interest in question;
 - iii) **Balancing test:** Whether the above interests override the legitimate interest(s) or fundamental rights and freedoms of the data subject.
53. The Commissioner considers that the test of 'necessity' under stage (ii) must be met before the balancing test under stage (iii) is applied.

Legitimate interests

54. In considering any legitimate interest(s) in the disclosure of the requested information under FOIA, the Commissioner recognises that such interest(s) can include broad general principles of accountability and transparency for their own sakes, as well as case specific interests.
55. Further, a wide range of interests may be legitimate interests. They can be the requester's own interests or the interests of third parties, and commercial interests as well as wider societal benefits. They may be compelling or trivial, but trivial interests may be more easily overridden in the balancing test.
56. In this case, the complainant has not identified an interest of his own in any personal data in the withheld information.
57. The Home Office said it had considered the legitimate interest primarily "in terms of the public" rather than [the complainant] as an individual. It stated that it would not normally disclose personal data provided to the Home Office about an asylum application or immigration status, since it

"Point (f) of the first subparagraph shall not apply to processing carried out by public authorities in the performance of their tasks".

However, section 40(8) FOIA (as amended by Schedule 19 Paragraph 58(8) DPA) provides that:-

"In determining for the purposes of this section whether the lawfulness principle in Article 5(1)(a) of the UK GDPR would be contravened by the disclosure of information, Article 6(1) of the UK GDPR (lawfulness) is to be read as if the second sub-paragraph (dis-applying the legitimate interests gateway in relation to public authorities) were omitted".

regards such information as personal to the asylum seeker and/or the provider of the information and not something to be disclosed to anyone else.

58. Additionally, the Home Office stated that anyone who provides information to the Home Office in respect of an asylum application has a legitimate expectation that the Home Office will not disclose this information.
59. The Home Office also said:

“[The complainant] states that there is a legitimate public interest in disclosure of the personal data because the appellant was convicted of murder and ‘The murder was racist and terroristic’. We disagree. It does not follow from a legitimate interest in information relating to the crime that there is a legitimate public interest in disclosure to the world at large of a full immigration/asylum record. The Court Sentencing record gave some background information about the immigration/asylum to the extent that this was relevant to the case. Again, it does not follow that this in effect opens up the whole of the record to public scrutiny.”

60. The Commissioner accepts that there is potentially a legitimate interest in securing the requested asylum/immigration file; however, his view is that this stems more from public curiosity, particularly given all the attention focussed on asylum seekers and migrants currently.
61. However, the Commissioner has gone on to consider the necessity test in the event that his decision is appealed and the First tier Tribunal forms a different view regarding the legitimate interest aspect.

Is disclosure necessary?

62. ‘Necessary’ means more than desirable but less than indispensable or absolute necessity. Accordingly, the test is one of reasonable necessity and involves consideration of alternative measures which may make disclosure of the requested information unnecessary. Disclosure under FOIA must therefore be the least intrusive means of achieving the legitimate aim in question.
63. The Commissioner cannot identify another route by which the complainant could potentially secure the requested file. The Commissioner is satisfied in this case that there are no less intrusive means of achieving the legitimate aim identified.

Balance between legitimate interests and the data subject's interests or fundamental rights and freedoms

64. It is necessary to balance the legitimate interests in disclosure against the data subject's interests or fundamental rights and freedoms. In doing so, it is necessary to consider the impact of disclosure. For example, if the data subject would not reasonably expect that the information would be disclosed to the public under FOIA in response to the request, or if such disclosure would cause unjustified harm, their interests or rights are likely to override legitimate interests in disclosure.
65. In considering this balancing test, the Commissioner has taken into account the following factors:
- the potential harm or distress that disclosure may cause;
 - whether the information is already in the public domain;
 - whether the information is already known to some individuals;
 - whether the individual expressed concern to the disclosure; and
 - the reasonable expectations of the individual.
66. In the Commissioner's view, a key issue is whether the individuals concerned have a reasonable expectation that their information will not be disclosed. These expectations can be shaped by factors such as an individual's general expectation of privacy, whether the information relates to an employee in their professional role or to them as individuals, and the purpose for which they provided their personal data.
67. It is also important to consider whether disclosure would be likely to result in unwarranted damage or distress to that individual.
68. The Commissioner is satisfied that the grounds for withholding names and other personal details of officials below Senior Civil Servant level are well established. He accepts that those details have been correctly withheld.
69. With regard to the remaining information withheld by virtue of section 40, the Home Office explained that it does not have consent from the individuals concerned for their information to be disclosed; nor has it sought consent. It argued that the individuals concerned would have a strong and reasonable expectation that their information would not be disclosed under FOIA.

70. It also told the Commissioner that the legitimate expectations with regard to privacy derive from established Home Office policy and practice.
71. Based on the above factors, the Commissioner has determined that there is insufficient legitimate interest to outweigh the data subjects' fundamental rights and freedoms. The Commissioner therefore considers that there is no Article 6 basis for processing and so the disclosure of the information would not be lawful.
72. Given the above conclusion that disclosure would be unlawful, the Commissioner considers that he does not need to go on to separately consider whether disclosure would be fair or transparent.
73. The Commissioner has therefore decided that the Home Office was entitled to withhold the information under section 40(2), by way of section 40(3A)(a) of FOIA.

Section 41- information provided in confidence

74. In its submissions to the Commissioner, the Home Office has explained that section 41 has been applied to the information provided by the individual named in the request in relation to his claim for asylum. In the Commissioner's view, this incorporates much of the history and chronology given by the named individual, as well as his specific reasoning for seeking asylum.
75. The Commissioner has also considered whether the small amount of information exempt under section 41, but also withheld under sections 38(1)(a) and (b), is caught by section 41 of FOIA. This concerns the specific reason for him seeking asylum.
76. In this case, the Home Office told the Commissioner:

"Information provided in relation to an asylum claim, whether by the applicant themselves or by a third party, is provided in confidence. Paragraph 339IA of the Immigration Rules states that information provided in support of an asylum application and the fact that an application has been made shall not be disclosed to 'the alleged actor(s) of persecution of the applicant'. Information relating to an asylum application is provided to the Home Office as part of the application process in confidence, due to the nature of an asylum claim in general. The fact that in this case the applicant was convicted of a serious crime does not, in our view, affect the fact that information relating to the application was provided in confidence."

77. Section 41 sets out an exemption from the right to know where the information was provided to the public authority in confidence.

78. Information will be covered by section 41 if:

- it was obtained by the authority from any other person,
- its disclosure would constitute a breach of confidence,
- a legal person could bring a court action for that breach of confidence, and
- that court action would be likely to succeed.

79. The ICO's guidance on section 41⁵ says that when determining if disclosure would constitute a breach of confidence, the authority will usually need to consider:

- whether the information has the quality of confidence;
- whether it was imparted in circumstances importing an obligation of confidence;
- whether disclosure would be an unauthorised use of the information to the detriment of the confider.

80. In this case, the Home Office told the Commissioner:

"That the information was provided in confidence and has the quality of confidence is, we would submit, self-evident from the nature of the information and the nature of the process to which it relates.

The guidance says that when determining if an action for breach of confidence would be likely to succeed, the authority will need to consider whether there would be a public interest defence to the disclosure. We understand that the test is whether there is a public interest in disclosure which overrides the competing public interest in maintaining the duty of confidence. We note that guidance says:

'This test doesn't function in the same way as the public interest test for qualified exemptions, where the public

⁵ <https://ico.org.uk/media/for-organisations/documents/1432163/information-provided-in-confidence-section-41.pdf>

interest operates in favour of disclosure unless outweighed by the public interest in maintaining the exemption. Rather, the reverse is the case. The test assumes that the public interest in maintaining confidentiality will prevail unless the public interest in disclosure outweighs the public interest in maintaining the confidence.'

We see little or no public interest in disclosure of the information about [the named individual] provided in confidence. It does not further public understanding or accountability. There are, on the other hand, strong arguments in favour of maintaining the confidence, in terms of the wider public interest in preserving the principle of confidentiality, the impact of disclosure on the interests of the confider and maintaining the principle of confidentiality in the context of an asylum application. As the guidance says, individuals and organisations may be discouraged from confiding in public authorities if they do not have a degree of certainty that this trust will be respected.

Strong grounds for a public interest defence to any action for breach of confidence would appear to be lacking."

81. The Home Office has explained that some of the information within the file is 'Eurodac information'. Eurodac (European Asylum Dactyloscopy Database) holds fingerprint details for asylum seekers⁶. The Home Office said:

"The Eurodac search results are different in nature from the other information subject to section 41(1), in that they do not derive from named or private individuals, but they were provided from sources outside the Home Office and we have no doubt that they were provided in confidence.

Eurodac search results are covered in Article 35 of the Eurodac Regulations:

<https://www.legislation.gov.uk/eur/2013/603/article/35>

Personal data obtained by a Member State or Europol pursuant to this Regulation from the Central System shall not be transferred or made available to any third country, international organisation or private entity established in or outside the Union. We understand that the UK is no longer subject to these Regulations (we are no longer part of Eurodac) and the information in this

⁶ https://knowledge4policy.ec.europa.eu/dataset/ds00008_en

case no longer constitutes personal data, but this does serve to emphasise the confidential nature of Eurodac information. An action for breach of confidence against the Home Office by Eurodac is, in practice, very unlikely. Nevertheless, our understanding is that the test for section 41(1) is not whether an action is in practice likely to be brought but whether an action is legally possible and whether it would be likely to succeed. We consider that the Eurodac search information meets this test.”

82. The Commissioner is satisfied that all the information withheld under section 41 meets the criteria set out above. He has reached that conclusion on the basis that the information was obtained from another person, has the necessary quality of confidence, was imparted in circumstances importing an obligation of confidence, and that disclosure would be an unauthorised use of the information to the detriment of the confider.
83. Having considered the arguments put forward by the Home Office, and consulted his guidance on section 41 of FOIA, the Commissioner is satisfied that the four parts of the test for engaging section 41 are made out.
84. Section 41 is an absolute exemption, so there is no public interest test to be carried out under FOIA.
85. However the common law duty of confidence contains an inherent public interest test. With regard to section 41(1), this test is whether there is a public interest in disclosure which overrides the competing public interest in maintaining the duty of confidence.
86. The complainant put forward a generic public interest argument in favour of disclosure, namely that terrorism is a matter of public interest.
87. The Home Office told the Commissioner it sees little, or no, public interest in disclosure of the information provided in confidence, arguing that it does not further public understanding or accountability.
88. In contrast, in the circumstances of the case, it considered there were strong arguments in favour of maintaining the confidence, in terms of the wider public interest in preserving the principle of confidentiality and the impact of disclosure on the interests of the confider.
89. The role of the Commissioner is to regulate access to recorded information under FOIA. His role in this case is simply to consider if, at the time of the request, the public interest in disclosure outweighs the competing public interest in maintaining a confidence.

90. In weighing the above public interest arguments for and against disclosure, the Commissioner has taken account of the wider public interest in preserving the principle of confidentiality. He is mindful of the need to protect the relationship of trust between confider and confidant and not to discourage, or otherwise hamper, a degree of public certainty that such confidences will be respected by a public authority. Having considered all the circumstances of this case, the Commissioner has concluded that there is a stronger public interest in maintaining the obligation of confidence than in disclosing the information.
91. Therefore, the Commissioner finds that the information was correctly withheld under section 41(1) of FOIA, including the small amount additionally withheld under sections 38(1)(a) and (b) of FOIA. The Commissioner therefore, has not deemed it necessary to consider the Home Office's reliance on section 38 of FOIA further.

Other matters

92. The Commissioner would remind the Home Office of the requirement to provide a timely response to his investigation and to provide the withheld information on request.

Right of appeal

93. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

94. 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.
95. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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