



**IN THE MATTER OF AN APPEAL TO THE FIRST-TIER TRIBUNAL
(INFORMATION RIGHTS) UNDER SECTION 58 OF THE FREEDOM OF
INFORMATION ACT 2000**

Appeal No: EA/2010/0063

BETWEEN:

COMMISSIONER OF POLICE OF THE METROPOLIS

Appellant

and

THE INFORMATION COMMISSIONER

Respondent

CONSENT ORDER APPROVAL

PURSUANT to Rule 37(1) of the Tribunal Procedure (First-tier) (General Regulatory Chamber) Rules 2009, upon reading the parties' agreed statement dated 22 February 2011:

In accordance with the provisions of the above Rule, the Tribunal approves the consent order in this matter attached hereto.

Signed:

David Marks QC
Tribunal Judge

Dated: 24 February 2011



IN THE FIRST TIER TRIBUNAL (INFORMATION RIGHTS)

EA/2010/0063

BETWEEN:

COMMISSIONER OF POLICE OF THE METROPOLIS

Appellant

And

THE INFORMATION COMMISSIONER

Respondent

CONSENT ORDER

Pursuant to rule 37(1) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009, upon reading the parties' agreed statement (in Annex A),

IT IS ORDERED BY CONSENT THAT:

1. The appeal be allowed.
2. The Decision Notice FS50231561 dated 15 February 2010 to be substituted in the terms set out in Annex B
3. No further steps are required to be taken by the Appellant.
4. There be no order for costs.

Dated this 22nd day of February 2011

Signed:

Solicitor for the Respondent

Information Commissioner
Wycliffe House
Wilmslow
Cheshire, SK9 5AF

Dated: 22/02/2011

Signed:

for Director of Legal Services

Metropolitan Police Service
New Scotland Yard
Broadway
London, SW1H 0BG

Dated: 22/02/2011

ANNEX A

Statement of reasons for consent order

1. This appeal concerned the Respondent's Decision Notice FS50231561. That Notice sets out the terms of the original information request at paragraph 2.
2. In its review of 18 June 2009, the Appellant confirmed that sections 23(5) and 24(2), 31(3), 38(2) and 40(5) Freedom of Information Act 2000 were engaged.
3. In the said Decision Notice, the Respondent decided that none of the exemptions were engaged and required the requested information to be disclosed.
4. The Appellant appealed against the Decision Notice citing all the above subsections.
5. A hearing of this appeal took place before the First-tier Tribunal (Information Rights) on 1 October 2010. The argument advanced was that special branches work closely with security bodies and routinely share information with them such that, on the balance of probabilities, any information relating to the work of Special Branch would relate to, or have been supplied by, a section 23(3) body. Based on the evidence presented at the Tribunal, the Respondent now accepts that this argument is supported by cogent evidence and applies in the circumstances of this case. The relevant evidence had not previously been made available to the Commissioner prior to his Decision Notice.
6. Following the hearing of this appeal, the Respondent now accepts that (aside from the information in paragraph 6 below) the request which is the subject of this appeal, is subject to the absolute exemption in section 23, and that the exemption from the duty to confirm or deny provided by section 23(5) is engaged. Further the parties agree that the Appellant is not required to take any further steps. The parties have agreed that the other exemptions which are the subject of this appeal are not pursued as it is no longer necessary for them to be considered as section 23(5) is engaged.

7. The Appellant accepts that the exemption from the duty to confirm or deny provided by section 23(5) is not engaged in respect of the existence of information relating to a Special Branch investigation in 1987. The Appellant admits the existence of such information. However the parties agree that the information is exempt from disclosure by virtue of section 23(1).

8. In view of all the circumstances and subject to the Tribunal's views, the parties jointly submit that it is appropriate for these proceedings to be concluded by way of consent order, and that it is appropriate for the Tribunal to consider their joint application without holding a hearing (as envisaged by rule 37(2)).

ANNEX B

1. The requested information in this case (as identified in paragraph 2 of the Decision Notice and aside from the information referred to in paragraph 2 below) is subject to the absolute exemption in section 23 and that the exemption from the duty to confirm or deny provided by section 23(5) is engaged.
2. In so far as the requested information includes information relating to a Special Branch investigation in 1987, the public authority has acknowledged its existence. The public authority is not obliged to disclose the information because it is subject to the absolute exemption in s 23(1).
3. No further steps are required to be taken.