

IN THE FIRST TIER TRIBUNAL (INFORMATION RIGHTS)

EA/2010/0181

BETWEEN:

MINISTRY OF JUSTICE

Appellant

and

THE INFORMATION COMMISSIONER

Respondent

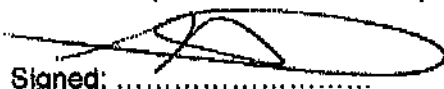
CONSENT ORDER

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 FS50277147 dated 1 September 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 10 day of MARCH 2011


Signed:

Dated: 10-03-2011

Michele Voznick
Solicitor for the Respondent
Information Commissioner
Millbank Tower
London SW1P 4QP


Signed:

Dated: 10 MARCH 2011

Khaleel Desai
Solicitor for the Appellant
Treasury Solicitors
One Kemble Street
London WC2B 4TS

ANNEX A

Statement of reasons for consent order

1. This appeal concerned the Respondent's Decision Notice FS50277147. That Notice sets out the terms of the original information request at paragraph 2.
2. In its review of 4 November 2009, the Appellant confirmed that it held information falling within the request, but withheld the information relying on sections 35(1)(b), 36(2)(b)(i), 36(2)(b)(ii) and 41(1) of the Freedom of Information Act 2000.
3. In the said Decision Notice, the Respondent decided that the Appellant was correct to withhold some of the information falling within the request under section 36(2)(b)(i). However, he also determined that the rest of the information was not exempt and ordered it to be disclosed.
4. The Appellant appealed against one aspect of the Decision Notice only, concerning the memo from the former Secretary of State for Justice to the former Prime Minister dated 20 July 2007 (the Disputed Information). The appeal accepted the Respondent's finding that the Disputed Information fell within the exemption under section 35(1)(b), but alleged that the Respondent erred in finding the public interest in disclosure outweighed the public interest in maintaining the exemption.
5. The Appellant has filed witness evidence for the purposes of the appeal. The Respondent has in particular noted the evidence of Kier Hopley, which refers specifically to the content of the Disputed Information and the convention of collective cabinet responsibility, and addresses factors against disclosure in the public interest relating to the timing of the original request. In the light of that evidence, the Respondent now accepts that the Disputed Information is exempt under section 35(1)(b) and that the public interest balance favours the maintaining of the exemption. The Respondent does not require disclosure and the parties agree that the Appellant is not required to take any further steps. The

Respondent has, however, written to the original requester in broad terms similar to that set out above informing her of the change to the Respondent's position and that she may make any representations to the Tribunal as she sees fit.

6. 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 memo dated 20 July 2007 between the former Secretary of State to the former Prime Minister is exempt from disclosure under sections 35(1)(b) and 2(2)(b) of the Freedom of Information Act 2000.
2. No further steps are required to be taken.



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/2010/0181.

BETWEEN:

MINISTRY OF JUSTICE

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 10 March 2011.

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

Signed:

Chris Ryan

Judge

Dated: 21 March 2011