



**HM Courts
& Tribunals
Service**

**IN THE MATTER OF AN APPEAL TO THE FIRST-TIER TRIBUNAL (INFORMATION RIGHTS)
UNDER SECTION 57 OF THE FREEDOM OF INFORMATION ACT 2000**

EA/2011/0105

B E T W E E N:-

CHRIS AMES

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 is allowed.
2. The Decision Notice FS50354351 dated 21 March 2011 to be amended in the terms set out in Annex B.

Dated this 16th day of May 2011

Signed...Signed on original...

Mr Chris Ames

(Appellant)

Signed...Signed on original...

For the Information Commissioner

(First Respondent)

ANNEX A

Statement of reasons for consent order

1. This appeal concerned the Commissioner's Decision Notice FS50354351 dated 21 March 2011. That Notice sets out, at paragraph 2, the terms of the original information request, made by the Appellant to the Cabinet Office on 14 September 2010.
2. The Cabinet Office responded to the request on 21 October 2010. It stated that it would be relying on several exemptions to withhold the requested information; some absolute exemptions (sections 23 and 24 FOIA) and some qualified exemptions (sections 24, 27 and 38 FOIA). However, the Cabinet Office stated that it needed more time to consider the public interest test in relation to the qualified exemptions it had cited.
3. At paragraph 11 of the Decision Notice, the Commissioner recorded that the Cabinet Office provided the Appellant with its decision on the balance of public interests on 8 March 2011.
4. In light of the above finding, whilst the Commissioner found that the Cabinet Office had failed to comply with sections 10(1), 17(1) and 17(3) FOIA, he ordered no further steps to be taken.
5. The Commissioner accepts that his finding that the Cabinet Office provided the Appellant with its decision on the balance of public interests on 8 March 2011 was incorrect and, as at the date of the Decision Notice, the Cabinet Office had not provided the Appellant with its decision.
6. In the circumstances, the parties jointly invite the Tribunal to dispose of this appeal under rule 37 by way of this consent order and by varying the Decision Notice in the terms set out in Annex B.

ANNEX B

1. Delete paragraph 11.
2. Replace the final sentence of paragraph 20 as follows -

“As the Cabinet Office has not provided the complainant with a notice containing its determination of the balance of the public interest test, it is in breach of section 17(3) FOIA.”

3. Amend the third bullet point of paragraph 21 as follows –
4. “In failing to provide reasons for claiming that the public interest in maintaining the qualified exemptions it relies on outweighs the public interest in disclosure, the Cabinet Office breached section 17(3) FOIA”.
5. Replace paragraph 22 as follows –

“Steps Required

The Cabinet Office is required to provide the complainant with its reasons for claiming that the public interest in maintaining the qualified exemptions it relies on outweighs the public interest in disclosure within the next 14 days.”