

FOIA s.44(1) – Absolute exemption: prohibitions on disclosure

Brian Higginson v IC

EA/2005/0008

2nd May 2006

Cases:

Facts

The Independent Police Complaints Commission (IPCC) received a request from the Appellant for full copies of the files relating to earlier complaints made by the Appellant to the Police Complaints Authority (PCA). The IPCC refused this request, on the basis that s.80 of the Police Act, 1996 states that information received by the PCA in connection with any of its functions shall not be disclosed and any improper disclosure is punishable by a fine. They therefore relied on s.44(1) of the FOIA which holds that information is subject to an absolute exemption if its disclosure ‘*is prohibited by or under any enactment*’.

The IC upheld the IPCC’s refusal.

Findings

The Tribunal considered that s.80 plainly amounted to a prohibition on disclosure, and that FOIA s.44(1) therefore provided an unanswerable objection to disclosure.

Conclusion

The Tribunal dismissed the appeal.