

## **Griffiths and Building Services Authority**

(S 75/96, 31 August 1998, Information Commissioner)

*(This decision has been edited to remove merely procedural information and may have been edited to remove personal or otherwise sensitive information.)*

1.-4. These paragraphs deleted.

### **REASONS FOR DECISION**

#### **Background**

5. This is a 'reverse FOI' application by Mr David Griffiths, who objects to a decision by the Building Services Authority (the Authority) to grant GND Developments Pty Ltd (GND) access under the FOI Act to documents and parts of documents contained on a file relating to his application for a builder's licence. Mr Griffiths contends that the matter remaining in issue is exempt under s.44(1) and/or s.45(1)(c) of the FOI Act.
6. By application dated 5 December 1995, GND sought access to documents concerning Mr Griffiths' application for a licence as a registered builder. Mr Griffiths' licence application appears to have been made to the Builders' Registration Board of Queensland (which I will refer to as "the Board", and which was the predecessor of the Authority). Mr Griffiths was initially granted a restricted builder's licence in April 1992. He was subsequently granted an unrestricted General Builders licence on 6 July 1993 and an unrestricted House Builders licence on 23 June 1994. The Authority treated GND's access application as extending to all documents on Mr Griffiths' licence file. In accordance with its obligations under s.51 of the FOI Act, the Authority notified Mr Griffiths of the FOI access application. Mr Griffiths opposed the release of any matter from his licence file.
7. The initial decision of the Authority, made by Mr R Potts, was to grant GND access to the documents sought, with the exception of 7 folios. Mr Griffiths then sought internal review of Mr Potts' initial decision. By letter dated 4 April 1996, Mr Griffiths was informed that Mr M Miller, the Authority's General Manager, had varied the initial decision by Mr Potts. Of the 87 folios contained on the licence file, Mr Miller had decided to refuse to give GND access to folios 1-2, 4, 6-8, 35-44, 46, 59a, and 83-84 on the basis that they contained information concerning the personal affairs of Mr Griffiths' clients or suppliers, but had decided to grant access to the balance of the file. By letter dated 3 May 1996, Mr Griffiths applied to me for external review, under Part 5 of the FOI Act, of Mr Miller's decision that parts of the relevant licence file should be disclosed to GND.

#### **External review process**

8. The documents in issue were obtained and examined, and consultations were entered into with the participants. In the course of consultations, a number of concessions were made by Mr Griffiths, with the result that most of the documents initially in issue have now been disclosed to GND, subject to the deletion of matter such as Mr Griffiths' address, telephone number, signature, details of assets and details of addresses of buildings constructed by him. GND has indicated that it does not seek access to that deleted matter. The matter remaining in issue, therefore is:
  1. the first sentence of a memorandum dated 9 March 1992, from the Registrations Officer of the Board to another officer, seeking to arrange for interview of Mr Griffiths (folio 10);
  2. two questionnaires completed by Mr Griffiths on 20 March 1992, for the purposes of his application for a licence (folios 12-27 and 28-33), except for the address of Mr Griffiths appearing on folios 27 and 33;
  3. an assessment by Building Inspector, P MacGregor, of Mr Griffiths' answers to the questionnaires, comprising the first 14 words of the sixth paragraph of a memorandum from Mr MacGregor, dated 20 March 1992, recommending the grant of a restricted builders licence to Mr Griffiths (folio 34).
9. In his external review application, the applicant claimed that if access to the documents on his file was given to GND it could "*affect my business and my family both personally and professionally*". Throughout the course of this external review, that contention has been approached on the basis that it raises for my consideration the application of s.44(1) and s.45(1)(c) of the FOI Act. The Authority has informed this office that no exemption under s.40(a) of the FOI Act (or any other exemption provision) is claimed in respect of the questions in the questionnaires, as they are no longer used by the Authority in its licensing processes.
10. By letters dated 16 January 1997, I explained the nature of the issues for determination in this review, and invited the Authority and GND to lodge written submissions and/or evidence in respect of them. In its written submission dated 7 February 1997, the Authority indicated a shift in its previous position in that it now contended that the questionnaires answers were exempt matter under s.44(1), but the Authority argued that the matter deleted from folios 10 and 34 was not exempt because it related to the qualifications of Mr Griffiths, and its disclosure was in the public interest. GND lodged a submission dated 5 February 1997, arguing that none of the matter was exempt. Copies of the submissions were provided to Mr Griffiths, who responded by letter dated 25 February 1997. GND was advised of the relevant part of Mr Griffiths' submission, and lodged a brief reply dated 3 April 1997.

#### **Application of s.44(1) of the FOI Act**

11. Section 44(1) of the FOI Act provides:

*44.(1) Matter is exempt matter if its disclosure would disclose information concerning the personal affairs of a person, whether living or dead, unless its disclosure would, on balance, be in the public interest.*

12. In applying s.44(1) of the FOI Act, one must first consider whether disclosure of the matter in issue would disclose information that is properly to be characterised as information concerning the personal affairs of a person. If that requirement is satisfied, a *prima facie* public interest favouring non-disclosure is established, and the matter in issue will be exempt, unless there exist public interest considerations favouring disclosure which outweigh all identifiable public interest considerations in favour of non-disclosure.

### **Personal affairs of the applicant?**

13. In my reasons for decision in *Re Stewart and Department of Transport* (1993) 1 QAR 227, I identified the various provisions of the FOI Act which employ the term "personal affairs" and discussed in detail the meaning of the phrase "personal affairs" (and relevant variations thereof) as it appears in the FOI Act. In particular, I said that information concerns the "personal affairs" of a person if it concerns the private aspects of a person's life and that, while there may be a substantial grey area within the ambit of the phrase "personal affairs", that phrase has a well-accepted core meaning which includes:

4. family and marital relationships;
5. health and ill-health;
6. relationships and emotional ties with other people; and
7. domestic responsibilities and financial obligations.

14. Whether or not matter contained in a document comprises information concerning an individual's personal affairs is essentially a question of fact, to be determined according to the proper characterisation of the information in question. I have previously indicated that a distinction is to be drawn between personal affairs and business affairs (see p.239, paragraph 27, of *Re Stewart*). I have also indicated that a distinction will usually be drawn between personal affairs and employment affairs (see pp.261-264, paragraphs 91-102, of *Re Stewart*).

15. I will first consider the questionnaires. By posing random questions on aspects of the building trade, the questionnaires appear to have been designed to obtain some general indication of the state of Mr Griffiths' knowledge in relation to building in Queensland. One is entitled *House Builder Questionnaire*. The other is entitled *General Builder Questionnaire - Part A*. In a letter to Mr Griffiths dated 9 March 1992, the Registrar of the Board stated, "*The questionnaire is not a formal examination but contains a series of general knowledge and experience type questions relating to the building subtrades with particular reference to the State of Queensland.*" The questionnaires do not contain personal details relating to Mr Griffiths other than his home address (which is not in issue in this review). Mr Griffiths' answers contain information which relates to technical aspects of building practices. The questionnaires have not been marked and I am informed that no specific mark was assigned to them. The only assessment of them

seems to be the general statement by Mr MacGregor which is the matter in issue on folio 34.

16. In some ways, the questionnaires can be likened to examinations undertaken by students at an educational institution. In other ways, they are similar to material provided in support of a job application, since Mr Griffiths answered the questionnaires to support his application to obtain a licence necessary for him to carry on business which involved contracting directly with members of the public for the performance of building work. However, they are not precisely analogous to either.
17. In my view, the decision to undertake a course of study at a public or private educational institution, the time and effort expended in its pursuit, and the subject results thereby obtained, fall within the realm of an individual's personal affairs (notwithstanding that the study may have been undertaken as a step towards acquiring trade, professional or employment qualifications). I consider that examination answers and assignments, written for the purposes of such a course of study, comprise information concerning the personal affairs of the individual student. While, in one sense, the answers to an examination in (for instance) Ancient Greek History comprise information about Ancient Greek History, I consider that, given the context and purpose of their creation, their true character is that of information about the level of skill or knowledge that an individual student has attained in a course of study. Thus, I consider that examination answers and assignments are properly to be characterised as information concerning the personal affairs of the individual student.
18. GND submits that the questionnaires here are different in nature as they were not intended by the Authority to be a formal examination but were part of the process for obtaining a licence to carry on the trade of building. It is correct that answering the questionnaires was not undertaken for the purposes of a course of private study. On the material available to me, it appears that Mr Griffiths had previously worked in the building industry in New South Wales and Queensland, as an employee or sub-contractor for other builders who had the necessary licence to contract with members of the general public for the performance of building work. Mr Griffiths desired to obtain a licence of that kind, and therefore had to answer the questionnaires (and also submit to field assessment of building work he had performed) as part of the Board's assessment of whether he had the requisite knowledge, skill and experience to obtain such a licence.
19. I consider that Mr Griffiths' decision to apply for a builder's licence, and the time and effort expended in its pursuit, must be properly characterised as part of his personal affairs, rather than his business or employment affairs. Generally speaking, I consider that an individual's efforts to attain a particular trade or professional qualification fall within the realm of personal affairs, whereas that individual's conduct of his/her trade or profession (having obtained the necessary qualification) does not. If a person tries but fails to attain a particular trade or professional qualification, that information would ordinarily remain personal and private. If a person succeeds in obtaining a trade or professional qualification, that fact becomes information in the public domain rather than personal affairs information. (To that extent, there is a fairly precise analogy with

unsuccessful and successful job applications - the position there is explained in *Re Baldwin and Department of Education* (1996) 3 QAR 251 at pp.256-260, paragraphs 14-23.)

20. The requisite knowledge on which Mr Griffiths was being tested to obtain a builder's licence was not obtained through a course of private study, but rather through 'on the job' training and experience. The information in Mr Griffiths' answers to the questionnaires affords a reflection (at a particular point in time, and subject to the pressures and exigencies of the testing procedure) of Mr Griffiths' technical knowledge in respect of a random sample of technical issues relevant to his chosen trade or business. In its context, I consider that it must be properly characterised as information about the level of technical knowledge that Mr Griffith had attained, early in 1992, through his experience as an employee or sub-contractor in the building industry. That knowledge was a personal attribute, or personal asset, of Mr Griffiths, and I consider that the information in Mr Griffiths answers to the questionnaires is properly to be characterised as information concerning his personal affairs. A tradesman's skill, knowledge and experience constitutes a personal asset which he may hire to an employer for wages, or employ in his own business. What the tradesman does with his skill, knowledge and experience when so hired or employed becomes part of his employment affairs (or his employer's business affairs) or his own business affairs (as the case may be), rather than his personal affairs. However, the submission of his individual skill, knowledge and experience to testing by the Board, and the answers he gave in that regard (albeit for the purpose of obtaining a trade or business qualification), remain part of Mr Griffiths' personal affairs.
21. I find that Mr Griffiths' answers to the questionnaires, contained on folios 12-27 and 28-33, comprise information concerning Mr Griffiths' personal affairs, and hence are *prima facie* exempt from disclosure under s.44(1) of the FOI Act, subject to the application of the public interest balancing test incorporated in s.44(1).
22. The matter deleted from folio 34 is the assessment (by Mr MacGregor of the Board) of Mr Griffiths' performance in his answers to the questionnaires. It is a brief and general comment. Consistently with the reasoning set out above, I find that the Board's assessment of how Mr Griffith performed in his answers to the questionnaires is information which concerns Mr Griffiths' personal affairs, and which therefore is *prima facie* exempt, subject to the application of the public interest balancing test in s.44(1).
23. The matter deleted from folio 10 indicates that Mr Griffiths does not possess a certain trade qualification in Queensland. Possession of a particular trade qualification might give rise to some difficulties of characterisation, i.e., whether it concerns the individual's personal affairs or employment/business affairs. However, I consider that the fact that a person does not possess a particular trade qualification ought logically to be characterised as information concerning that individual's personal affairs, unless the information is recorded in a context which concerns that individual's business or employment affairs. Here, that information is recorded in a document which concerns Mr Griffiths' application for a builders licence, which, as I have indicated above, falls

within the realm of Mr Griffiths' personal affairs. I find that the matter deleted from folio 10 is information which concerns Mr Griffiths' personal affairs, and which therefore is *prima facie* exempt, subject to the application of the public interest balancing test in s.44(1).

### **Public interest balancing test**

24. The basic rationale for government regulation of the building industry, by licensing builders who meet certain standards, is to endeavour to protect the public (or those members of it who wish to contract for the performance of building services), by affording them the comfort of: (a) knowing that a licensed builder has met certain standards of competence to the satisfaction of an independent regulatory authority, and (b) other protections provided for in the regulatory scheme. There is an obvious public interest in consumers being able to obtain relevant information held by the industry regulatory authority about builders, in order to assess the qualifications and expertise of builders they may wish to engage. However, I do not consider that Mr Griffiths' answers to the questionnaires, or the assessment of his answers, would significantly assist consumers in any choice as to whether or not to hire Mr Griffiths. Even in 1992, the information in question would have been of limited value in assessing Mr Griffiths' qualities as a builder. Given the length of time, and the further experience that Mr Griffiths has gained, since 1992, I do not consider that the information would be of any use in that regard.
25. There is also a public interest in enhancing the accountability of the Board and the Authority for the performance of their responsibilities in the licensing of builders in accordance with relevant legislation. The Board had, and the Authority has, an important role to play in protecting persons who secure the services of licensed builders by ensuring that those builders have undergone adequate assessment and scrutiny before they are granted a licence.
26. At the time the applicant completed the questionnaires and was granted a restricted builder's licence, it appears that the licensing of builders was administered by the Board under the *Builders' Registration and Home-owners' Protection Act 1979* Qld. In 1992, the Board was replaced by the Authority operating under the *Queensland Building Services Authority Act*, which incorporates an altered system of registration. The questionnaires undertaken by applicants for builders' licences were used by the Board prior to June 1992, and are no longer current.
27. The Authority has submitted that disclosure of Mr Griffiths' answers to the questionnaires would not further the public interest in the accountability of the Authority because the test was one which was administered prior to the introduction of the current legislation, and related to the Board's registration system in operation at that time. However, the Authority has submitted, in respect of the matter in issue in folios 10 and 34, that: "*in line with the Authority's mission of improving standards, equity and confidence in the building industry, ... consumers should be entitled to know the qualifications held by a person with whom they have contracted or intend to contract.*"

28. Mr Griffiths submitted that:

*The licence was granted on a restricted basis after several interviews, requiring site inspections of current projects. The inspector, Mr Peter McGregor then gave a recommendation to have a full licence granted, both commercial and general. These detailed inspection reports and photographs of work being carried out over a twelve month period, have already been given to GND and this information is the information which is relevant to the public wishing to verify my capabilities/integrity. There is no public interest in private exams, only licence details and details of inspected work whether satisfactory or not are in the public interest.*

29. GND submitted that the questionnaires and their evaluation formed part of the requirements for obtaining a building licence to allow the applicant to deal directly with the public and that this meant that the rules and practices followed by the government in its dealings with the public should be scrutinised. GND argued that "*the system of registration for builders is about to change for the third time in the last 5 years, the Board cannot judge themselves in relation to accountability in the public interest.*"
30. I consider that disclosure of the questionnaires together with Mr Griffiths' answers could enable members of the public to assess the performance of the Board in deciding to grant a restricted licence to Mr Griffiths. I acknowledge that the questionnaires were only one factor in the Board's decision to grant a restricted licence. In addition, as Mr Griffiths has pointed out in his submissions, an ongoing assessment of his house building and general building work was carried out by Board inspectors prior to his being granted unrestricted licences. The various inspectors' reports in that regard have been disclosed to GND, thus furthering the accountability of the Authority in the licensing of builders in the industry. It also appears from perusal of the *Queensland Building Services Authority Regulation 1992*, that questionnaires are no longer used by the Authority in assessing whether House Builder or General Builder licences should be granted. These factors reduce the strength of the public interest in disclosure of Mr Griffiths' answers to the questionnaires.
31. There remains a public interest in establishing how the predecessor to the Authority carried out its functions, both from the point of view of the accountability of its officers and for the purposes of future informed debate about procedures which should be undertaken by the Authority. In my view, disclosure of the questions contained in the relevant questionnaires is sufficient in that regard. Disclosure of Mr Griffiths' answers would have negligible value in terms of accountability, unless the answers of all other applicants for a builder's licence who responded to that questionnaire (both those who were successful and unsuccessful) were also disclosed, to enable meaningful comparisons. In my opinion, that would intrude too far into a process where the information of individual licence applicants is, as I have found, information which concerns their personal affairs.

32. Weighing the competing considerations discussed above, I am not satisfied that disclosure of Mr Griffiths' answers to the questionnaires would, on balance, be in the public interest, and hence I find that they comprise exempt matter under s.44(1) of the FOI Act.
33. With respect to the small amount of matter in issue on folio 34 and folio 10, I accept the argument put by the Authority, as recorded in paragraph 27 above. The matter in issue on folio 34 appears to be the only record that Mr Griffiths completed the answers to the questionnaires to a standard that was satisfactory to the Board's assessor. I consider that it is in the public interest that that information be available as a matter of record. The matter in issue on folio 10 reveals that Mr Griffiths does not possess a particular trade qualification in Queensland, but that fact has proved no bar to his obtaining a builder's licence. I find that disclosure of the matter in issue on folio 10 and on folio 34 would, on balance, be in the public interest, and hence I find that it is not exempt matter under s.44(1) of the FOI Act.

#### **Application of s.45(1)(c) of the FOI Act**

34. Section 45(1)(c) of the FOI Act provides:

*45.(1) Matter is exempt matter if—*

...

*(c) its disclosure—*

- (i) would disclose information (other than trade secrets or information mentioned in paragraph (b)) concerning the business, professional, commercial or financial affairs of an agency or another person; and*
- (ii) could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of such information to government;*

*unless its disclosure would, on balance, be in the public interest.*

35. The correct approach to the interpretation and application of s.45(1)(c) of the FOI Act is explained in *Re Cannon and Australian Quality Egg Farms Limited* (1994) 1 QAR 491 at pp.516-523, paragraphs 66-88. In summary, matter will satisfy the test for *prima facie* exemption under s.45(1)(c) of the FOI Act if:
- (a) the matter in issue comprises information concerning the business, professional, commercial or financial affairs of an agency or another person; and



- (b) disclosure of the matter could reasonably be expected to have either of the prejudicial effects contemplated by s.45(1)(c)(ii), namely:
  - (i) an adverse effect on the business, professional, commercial or financial affairs of the agency or other person, which the information in issue concerns; or
  - (ii) prejudice to the future supply of such information to government.

If the matter in issue meets those requirements, it will be exempt unless it is established that disclosure would, on balance, be in the public interest.

### **Business, etc., affairs**

36. At p.239 (paragraph 27) of *Re Stewart*, I made it clear that the term "personal affairs" as used in the FOI Act, does not include the business or professional affairs of a person. Therefore, if the information in issue in folios 10 and 34 is properly characterised as personal affairs information under s.44(1) (as I have found it to be), it would not ordinarily also be capable of being properly characterised as business affairs information under s.45(1)(c) of the FOI Act. On that basis, I find that the matter deleted from folio 10 and from folio 34 cannot qualify for exemption under s.45(1)(c), because it does not satisfy the requirements of s.45(1)(c)(i).

### **Requirements of s.45(1)(c)(ii)**

37. Even if I were mistaken in the preceding finding, I could not be satisfied that disclosure of the matter in issue on folio 10 or on folio 34 could reasonably be expected to have either of the prejudicial effects contemplated by s.45(1)(c)(ii) of the FOI Act.
38. In my reasons for decision in *Re "B" and Brisbane North Regional Health Authority* (1994) 1 QAR 279 (at pp.339-341, paragraphs 154-160), I analysed the meaning of the phrase "*could reasonably be expected to*" by reference to relevant Federal Court decisions interpreting the identical phrase as used in exemption provisions of the Commonwealth FOI Act. Those observations are also relevant here. In particular, I said in *Re "B"* (at pp.340-341, paragraph 160):

*The words call for the decision-maker ... to discriminate between unreasonable expectations and reasonable expectations, between what is merely possible (e.g. merely speculative/conjectural "expectations") and expectations which are reasonably based, i.e. expectations for the occurrence of which real and substantial grounds exist.*

The ordinary meaning of the word "expect" which is appropriate to its context in the phrase "could reasonably be expected to" accords with these dictionary meanings: "to regard as probable or likely" (Collins English Dictionary, Third Aust. ed); "regard as likely to happen; anticipate the occurrence ... of" (Macquarie Dictionary, 2nd ed); "Regard as ...

likely to happen; ... Believe that it will prove to be the case that ..." (The New Shorter Oxford English Dictionary, 1993).

39. At p.521, paragraph 85, of *Re Cannon*, I stated:

85. *The second kind of prejudice contemplated by s.45(1)(c)(ii) focuses not on the protection of the legitimate commercial interests of agencies and private sector business undertakings, but on protecting the continued supply to government of information (of the kind referred to in s.45(1)(c)(i)) which it is necessary for the government to have to undertake the functions expected and required of it in the public interest (including those functions identified in paragraph 28 above). The words "prejudice the future supply of such information" also appear in s.46(1)(b) of the FOI Act, and what I said about those words in Re "B" and Brisbane North Regional Health Authority (at paragraph 161) is also apposite in the context of s.45(1)(c)(ii):*

Where persons are under an obligation to continue to supply such ... information (e.g. for government employees, as an incident of their employment; or where there is a statutory power to compel the disclosure of the information) or persons must disclose information if they wish to obtain some benefit from the government (or they would otherwise be disadvantaged by withholding information) then ordinarily, disclosure could not reasonably be expected to prejudice the future supply of such information. In my opinion, the test is not to be applied by reference to whether the particular [supplier] whose ... information is being considered for disclosure, could reasonably be expected to refuse to supply such information in the future, but by reference to whether disclosure could reasonably be expected to prejudice future supply of such information from a substantial number of the sources available or likely to be available to an agency.

40. Mr Griffiths has not argued, and I do not consider, that disclosure of the matter in issue would prejudice the future supply of information to the Authority by builders seeking licences. If builders wish to be licensed, they must comply with the requirements of the Authority in terms of providing relevant information, including submission to any assessment of their relevant technical knowledge which the Authority requires. It could not be reasonably expected that builders would fail to apply for licences and provide required information, merely because of disclosure of the matter in issue.

41. The common link between the words "business, professional, commercial or financial" is to activities carried on for the purpose of generating income or profits. Thus an adverse effect under s.45(1)(c) will almost invariably be pecuniary in nature, whether directly or indirectly (see p.520, paragraphs 81-82, of *Re Cannon*). At p.521, paragraph 84, of *Re Cannon*, I stated:

84. *In most instances, the question of whether disclosure of information could reasonably be expected to have an adverse effect will turn on whether the information is capable of causing competitive harm to the relevant agency, corporation or person. Since the effects of disclosure of information under the FOI Act are, with few exceptions, to be evaluated as if disclosure were being made to any person, it is convenient to adopt the yardstick of evaluating the effects of disclosure to a competitor of the agency which, or person whom, the information in issue concerns. (This yardstick is also appropriate when considering the application of s.45(1)(b).) A relevant factor in this regard would be whether the agency or other person enjoys a monopoly position for the supply of particular goods or services in the relevant market (in which case it may be difficult to show that an adverse effect on the relevant business, commercial or financial affairs could reasonably be expected), or whether it operates in a commercially competitive environment in the relevant market.*
42. The applicant has claimed on a number of occasions throughout this external review that GND would misuse and misrepresent the information in issue so as to severely affect the applicant's business. However, it would not be proper for me to assess the application of exemption provisions in the FOI Act by taking into account speculation as to the possibilities of misrepresentation of matter obtained under the FOI Act. There is always the possibility that any piece of information could be misrepresented: that lies could be told. The potential for misinformation does not usually lie in the nature of the information in issue, but in the minds of those persons who it is suggested would be the source of the misrepresentation. The exemption provisions in the FOI Act require me to assess the consequences of disclosure under the FOI Act of the particular matter in issue.
43. Over five years have passed since Mr Griffiths completed the questionnaires. During that time, he has no doubt amassed considerable further experience in the building industry, and has been granted unrestricted licences as a house builder and general builder. I consider that there must come a time after which information, which might be considered to have a less than positive reflection on a person's skills or expertise in a particular trade or business, loses its relevance. Skills and knowledge are developed over time. Even people who fail examinations at one sitting can, through additional work, pass, and indeed excel, at a future sitting. Certainly, since he completed the questionnaires, the Authority has been confident enough of Mr Griffiths' skills and expertise to grant him unrestricted building licences. I am not satisfied that it could reasonably be expected that disclosure of the assessment in folio 34, (or the information in issue in folio 10), would, after this length of time, have an adverse effect on Mr Griffiths' business.
44. I am not satisfied that the matter in issue in folios 10 and 34 satisfies either of the tests for *prima facie* exemption under s.45(1)(c) of the FOI Act, and hence I find that it is not exempt matter under s.45(1)(c).

## **DECISION**

45. For the foregoing reasons, I decide to vary the decision under review (being the decision of Mr M Miller dated 4 April 1996) by finding that Mr Griffiths' answers to the questionnaires, contained in folios 12-27 and 28-33, comprise exempt matter under s.44(1) of the FOI Act.
  
46. With respect to the other matter remaining in issue in folios 10 and 34, I affirm the decision under review, i.e., that it is not exempt matter under the FOI Act.