



Home Office

Information Access Team
Shared Services Directorate

2 Marsham Street, London SW1P 4DF
Switchboard 020 7035 4848

E-mail: Info.Access@homeoffice.gsi.gov.uk Website: www.homeoffice.gov.uk

Mr P. John
request-25167-933b0ce9@whatdotheyknow.com

1 March 2010

Dear Mr John,

Freedom of Information Request (our ref. 13651): Internal Review

I am writing further to our letter of 3 February 2010, about your request for an internal review of our response to your Freedom of Information (Fol) request.

I have now completed the review. I have considered whether the correct procedures were followed and assessed the reasons why the Home Office did not comply with your request. I confirm that I was not involved in the initial handling of your request.

My findings are set out in the attached report. My main conclusion is that section 14(1) was applied correctly in deeming this request as vexatious, when considered with the previous requests you have submitted on Phorm, 121 Media, BT, Virgin Media and Deep Packet Inspection. Section 14(1) of the Act provides that the Department does not need to comply with a Freedom of Information request if it is considered as vexatious. As stated in our original response, if we consider any future requests on this topic to be vexatious, we will not respond to them.

This completes the internal review process by the Home Office. If you remain dissatisfied with the response to your Fol request, you have the right of complaint to the Information Commissioner at the following address:

The Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

Yours sincerely,

A handwritten signature in black ink, appearing to read 'L Fisher', written in a cursive style.

L Fisher
Information Access Team

Internal review of response to request under the Freedom of Information (Fol) Act 2000 by Mr P. John (reference 13651)

Responding Unit: Information Management Service

Chronology

Original Fol request:	30 December 2009
Unit response to Fol request:	28 January 2010
Internal review request received:	28 January 2010
Internal review acknowledgement letter sent:	3 February 2010

Subject of request and Unit response

1. Mr John asked for information relating to the second phase of the European Commission Infringement case 64/08/INSO. The request is set out at **Annex A**, followed by the Information Management Service (IMS) response and Mr John's comments.
2. This internal review considers whether IMS responded within the terms of the Freedom of Information Act to Mr John's request.

Procedural issues

3. A response was sent to Mr John's original request on 28 January 2010, 20 days following receipt of the request. This complies with the statutory 20-day deadline set out in section 10(1) of the Act.

Mr John's request for internal review

4. Mr John asked for an internal review of the IMS response in an email of 28th January 2010. He put forward his own public interest test arguments in favour of disclosure for this request, which are listed at **Annex A**. He did not refer to the fact that the request was refused under section 14(1) (vexatious requests).
5. The Cabinet Office has received an almost identical Freedom of Information request from Mr John. The Cabinet Office sent their reply to him on 27th January 2010 deeming it as vexatious under section 14(1). They are also dealing with a subsequent internal review request on this decision. The Department for Business, Innovation and Skills has received the same request from Mr John and it is currently under consideration.

Consideration of the response

6. I have reviewed the original IMS response to Mr John and the refusal of the request under section 14(1) of the Act. Section 14 can be invoked to protect public authorities from those that may abuse the right to request information. The Act states:

14. (1) *Section (1)(1) does not oblige a public authority to comply with a request for information if the request is vexatious.*

(2) *Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.*

7. A public authority is not obliged to comply with a request for information under section 1(1) of the Act if the request is deemed vexatious. Section 14 is similar to an absolute exemption in that we do not have to consider the public interest test.

8. According to guidance from the Information Commissioner's Office (ICO) a key question in deeming a request vexatious, is whether the request is 'likely to cause distress, disruption or irritation, without any proper or justified cause'. To help public authorities make this decision they advise us to evaluate the following factors when deciding whether a request should be treated as vexatious.

- Could the request fairly be seen as obsessive?
- Is the request harassing the authority or causing distress to staff?
- Would complying with the request impose a significant burden?
- Is the request designed to cause disruption or annoyance?
- Does the request lack any serious purpose or value?

9. Using the questions above, I will determine whether section 14(1) was applied appropriately for this Freedom of Information request. The ICO state that 'to judge a request vexatious, you should usually be able to make relatively strong arguments under more than one of these headings.' We can also consider other case-specific factors in addition to the questions above. I will first look at the context and history of the requests from Mr John.

Context and history

10. Mr John has submitted a number of Freedom of Information requests to the Home Office and across the public sector since 2008, the majority relating to Phorm, 121 Media, BT, Virgin Media and Deep Packet Inspection. Mr John describes himself as a 'technologist' and is the owner and author of the campaigning website called [Dephormation](#). He is a frequent contributor to the forums on the 'No DPI' website and is a moderator on the '[BadPhorm](#)' website. Mr John submits most of his Freedom of Information requests via the [What Do They Know?](#) website. A record of his requests can be found at the following link: http://www.whatdotheyknow.com/user/p_john.

11. On the 19th February there were eight internal reviews in progress across the public sector for Mr John according to the What Do They Know? website, six of these reviews relate to the subject of Phorm 121 Media, BT, Virgin Media and Deep Packet Inspection.
12. Mr John submitted the same request which is under consideration for this internal review to the Cabinet Office and DBIS in December 2009. This was refused under section 14(1) by the Home Office and Cabinet Office. The Cabinet Office are also now considering the internal review for their refusal under section 14(1). The Department for Business and Innovation and Skills are yet to respond to the initial request from Mr John.

Can this request fairly be seen as **obsessive**?

13. ICO guidance states that obsessive requests are a very strong indication of vexatiousness. One of the factors that can qualify a request as vexatious is the volume and frequency of requests on a particular subject. The volume of requests made by Mr John on this subject does not in itself mean that they should be considered as obsessive, but it is certainly unusual. This is considered in more detail in paragraphs 15-19.

Is the request **harassing** the authority or **causing distress** to staff?

14. A case might be made that the request could be seen as harassing the Home Office, when put in the wider context of comments made on some of the Phorm-related websites, but in this review I consider it sufficient to base the conclusions on the questions of whether the request, when considered with others, imposes a burden and creates disruption.

Would complying with the request impose a **significant burden**?

15. The series of requests on the subject has created a significant burden in terms of costs and diverting staff away from their core functions. This is another contributory factor to assessing whether a request is vexatious and is supported by the Tribunal's assessment in the Welsh v the Information Commissioner (EA/2007/0088) case. The outcome from this case states that whether a request represents a significant burden on the public authority is "not just a question of financial resources but also includes issues of diversion and distraction from other work."
16. The policy unit dealing with the request has confirmed that members of staff have spent a significant amount of time dealing with FoI requests from Mr John, diverting them away from their core policy duties.
17. The Freedom of Information requests submitted by Mr John from May 2008 to December 2009 are listed at **Annex B**. During this twenty-month period Mr John submitted 26 pieces of correspondence to the Home Office, 19 of which were related to the subject we treated as vexatious. The last piece of correspondence

on the subject from Mr John was received on 30th December 2009 and was refused under section 14(1).

18. In total, Mr John has made 78 Freedom of Information requests across the public sector using the WhatDoTheyKnow.com website from February 2009 to February 2010, 67 of these relating to the subject we have treated as vexatious. The requests made by Mr John via this website can be viewed at the following link: http://www.whatdotheyknow.com/user/p_john. The website does not include other requests submitted by Mr John using other means, such as correspondence sent via his MP and other correspondence emailed directly to Departments. A full list of Home Office correspondence received from Mr John is at **Annex B** received from both WhatDoTheyKnow.com and other routes.

19. The sheer volume of requests received from Mr John both in the Home Office and across the public sector should certainly be considered as a factor in the conclusion that the current request is vexatious. ICO decision notice [FS50099755 \(Cabinet Office\)](#) states that when requests are aggregated across the public sector then the effects of complying with the request can place 'a very substantial burden on the public authorities concerned'. When this is considered with the wider context of this case and the likelihood of Mr John submitting an internal review request following a response, then the burden that is being placed on the Home Office and across the public sector is significant.

Is the request designed to cause **disruption or annoyance**?

20. The requestor is a moderator and contributor on the BadPhorm website forums. There is evidence here which suggests that the large number of FoI requests submitted to the public sector on this subject could be due to a campaign by users of this site. A brief search enabled me to come across the following two examples of campaigning activity:

Author	Post
[name redacted]	Tue Jun 10 2008, 06:41AM
<p>[name redacted]</p> <p>Registered Member #143 Joined: Sun Mar 09 2008, 08:35PM Posts: 637</p>	<p>- ICO "We will deal informally..." Blah, Blah, Blah...</p> <p>- HO "DPA = ICO; RIPA = MET..." PFFFFT</p> <p>- BT "We took Legal Advice..." New Legal Team needed BT?</p> <p>- Phorm "We are Legal..." ROFLMFAO</p> <p>- K*nt "2 dead in Iraq..." How low can you get?</p> <p>- E**a "Um... eh... um..." C'mon on girl, spit it out!</p> <p>Ok, I have a new strategy... I am going to bombard every MP, Councillor, MEP, MSP, Lord, the ISPs, and the above.</p> <p>I hope you will all join me in rasing the issues.</p> <p>My target is Friday this week, and I am looking to send a letter, with your views aswell.</p> <p>ENOUGH IS ENOUGH</p> <p>OUR PRIVACY IS OUR PROPERTY:-</p> <p>NO GOVERNMENT</p> <p>NO COMMERCIAL ENTERPRISE</p> <p>NO ISP</p> <p>NO CEO</p> <p>NO SPYWARE GURU</p> <p>NO INFORMATION COMMISIONER</p> <p>NO ONE CALLED EMMA</p>

	<p>NO ONE WILL GET AWAY WITH STEALING THIS FROM ME; VIOLATING MY TRUST; INVADING MY HOME AND MY LIFE.</p> <p>THIS IS WAR!!!!!!</p>
--	--

Author	Post
[Name redacted 1]	Mon Nov 16 2009, 02:17PM
[Name redacted 1] Registered Member #95 Joined: Wed Mar 05 2008, 12:06AM Posts: 2382	<p>Now the people in the Home Office are worried about Elf and Safety, <i>"The information requested must be considered under the exemptions contained within sections 31 (Law Enforcement) and 38 (Health & Safety)"</i></p> <p>What a load of old [redacted].</p> <p>Its getting more and more like asking naughty children for information.</p>
[Name redacted 2]	Mon Nov 16 2009, 02:24PM
Registered Member #372 Joined: Wed Apr 23 2008, 03:12PM Posts: 483	<p>With it being a campaign, there are so many FOI requests that the building might fall in. Due to weight of paper.</p> <p>[name redacted 2]</p>

21. There is a section on the Bad Phorm website called 'Fight Back' under which there is a forum thread called 'Complaints about Phorm – Have you complained? Did you get an answer? Let everyone know who's listening (or not!) to our complaints.' Most of the forum threads under this section are about Freedom of Information requests. The thread below was posted in this section of the Bad Phorm website by Mr John under his 'felixcatuk' alias on his most recent requests to several Government Departments and Agencies.

BadPhorm - When good ISPs go bad! :: Forums :: Fight Back :: Complaints about Phorm		<< Previous thread Next thread >>
Busy few foi days ahead		
Moderators: [name redacted 1], [name redacted 2], felixcatuk, [name redacted 3]		
Author	Post	
felixcatuk	Tue Jan 26 2010, 11:54PM	
felixcatuk Registered Member #95 Joined: Wed Mar 05 2008, 12:04AM Posts: 2382	<p style="color: red;">28 January</p> <p>CPS Accountability & Transparency: BT/Phorm Prosecution</p> <p>Why has it taken 500 days to consider the Phorm complaint?</p> <p>HoC Compatibility of Email Encryption with MP's Email Systems (and Impact of DPI)</p> <p>The House of Commons request is *very* over due a reply, the ICO have told the HoC to respond by 28 Jan or suffer a merciless horse whipping in Parliament Square. Seems tragic that an institution, supposedly the mother of Parliamentary democracy, should find it so very very hard to answer a FoI request.</p> <p>Home Office: Phorm/Second Phase of European Commission Infringement Case 64/08/INSO</p>	

	<p>Cabinet Office: Phorm/Second Phase of European Commission Infringement Case 64/08/INSO</p> <p>BIS: Phorm/Second Phase of European Commission Infringement Case 64/08/INSO</p> <p>One of them must know what the heck is going on, surely? 2 February</p> <p>MOJ: RIPA Part I Offences: Statistics for 2008</p> <p>Supposedly the UK has strict laws preventing unauthorised surveillance. Okie dokie... that would mean Phorm and BT Directors were arrested and prosecuted in 2008 when it became apparent that they had covertly spied on the private and confidential communications of 200,000 people and the businesses that served them. Wouldn't it? 3 February</p> <p>CH: Striking Off: Companies that fail to deliver accounts for 3 years on the trot</p> <p>If you don't file accounts with Companies House you can expect the weight of the UK's most rigid bureaucracy to descend on your head. At least, that's what happens to most other UK small business directors that can't be bothered to file their accounts/annual returns.</p> <p>And a foreign company run by crooks would get even less sympathy</p> <p>[Edited Wed Jan 27 2010, 12:03AM]</p>
[name redacted 4]	Wed Jan 27 2010, 09:59AM
Registered Member #657 Joined: Fri May 01 2009, 05:32PM Posts: 434	I do hope you haven't been 'vexatious'. P. I am not employed by any company with interests in the outcome of this campaign. " <i>Phorm, like mud, sticks</i> "

22. The examples shown provide sufficient evidence to suggest that the Phorm requests could be considered as part of a campaign and is another contributory factor in the decision to treat the latest request as vexatious under section 14(1) of the Act.

Does the request lack any **serious purpose or value**?

23. ICO guidance states that 'if a request does have a serious purpose or value then this may be enough to prevent it being vexatious, even if it imposes a significant burden and is harassing or distressing staff.' I consider that the series of Phorm-related Fols to have a serious purpose and Mr John makes arguments for the release of information in his internal review request.

24. Section 14(1) is similar to an absolute exemption in that a public authority does not have to consider the public interest test in applying it. Although we recognise the value of the arguments put forward by Mr John in favour of disclosure, on balance, the request should still be treated as vexatious when taken in conjunction with the total volume of requests received on the vexatious subject by the Home Office and across the public sector.

Conclusions

25. The IMS response of 28th January 2010 was provided to Mr John 20-working days following receipt of his original request and complied with section 10(1) of the Fol Act.

26. The large volume of requests received on this subject from Mr John provides strong justification for the decision to refuse this request under section 14(1). The number of requests received across the public sector on Phorm and the

aggregated costs involved provide additional justification. There is also evidence to show that this could be part of a deliberate campaign by users of the Phorm-related websites, which is another contributing factor. Responding to the requests from Mr John has placed a significant burden on the Home Office in dealing with both the initial requests and the subsequent internal review stage. I conclude that section 14(1) was applied correctly in treating this request as vexatious.

Information Access Team, Home Office
1 March 2010

Annex A Original request, IMS response and Mr John's comments

Mr John's original Freedom of Information request:

"Concerning the second phase of the European Commission Infringement case 64/08/INSO, arising from the covert mass surveillance/industrial espionage trials by BT/Phorm in 2006, 2007 and 2008... Please could you disclose for me,

- the date on which the response to the second stage of infringement proceedings was submitted to the EC (the deadline being 29 December 2009)
- the department that lead the preparation of that response
- the full response that was submitted to the EC
- any correspondence between the Home Office and the EC concerning the case since 1 October 2009
- the dates/agenda/minutes of meetings between the Home Office and the EC to discuss the case since 1 October 2009
- any correspondence between the Home Office, and Cabinet Office/Prime Minister's Office/BERR/BIS/MoJ/Foreign Office concerning the case since 1 October 2009
- the dates/agenda/minutes of meetings between the Home Office and Cabinet Office/Prime Minister's Office/BERR/BIS/MoJ/Foreign Office concerning the case since 1 October 2009

ICO Fol guidance states "There will often be a private interest in withholding information which would reveal incompetence on the part of or corruption within the public authority or which would simply cause embarrassment to the authority. However, the public interest will favour accountability and good administration and it is this interest that must be weighed against the public interest in not disclosing the information". In the interest of public accountability and good administration, I would also be grateful if you would now disclose to me the two earlier responses to the EC concerning the same matter, on or about 15 September 2008, and the second on or about 13 June 2009, which were rejected by the European Commission. I believe you are withholding information in those responses which would reveal incompetence, corruption, or embarrassment (grounds which are specifically excluded by ICO Fol guidance)."

IMS response:

Dear Mr. John,

I write in response to your Freedom of Information Act request submitted to the Home Office on the 30th December 2009 in which you asked for information concerning the second phase of the European Commission Infringement case 64/08/INSO.

We have considered your request and we deem it to be vexatious when considered in conjunction with the previous requests you have submitted regarding Phorm, 121 Media, BT, Virgin Media and Deep Packet Inspection. Section 14(1) of the Act provides that the Home Office is not obliged to comply with a request for information of this nature. We have decided that this request is vexatious because it meets with the criteria laid out by the Information Commissioner's Office. A copy of this guidance can be viewed here –

http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/awareness_guidance_22_vexatious_and_repeated_requests_final.pdf

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to the address below, quoting the case reference number above.

*Information Access Team
Home Office
Ground Floor, Seacole Building
2 Marsham Street
London
SW1P 4DF*

Alternatively, you can email: info.access@homeoffice.gsi.gov.uk

As part of any internal review the Department's handling of your information request will be reassessed by staff who were not involved in providing you with this response. If you remain dissatisfied after this internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information Act.

Please also note that, should we consider that any future requests on this topic to also be vexatious, we will not respond to them.

Yours sincerely,

**Ian Lister
Information Access Consultant
Information Access Team**

Mr John's comments on the response:

“Please pass this on to the person who conducts Freedom of Information reviews. I am writing to request an internal review of Home Office's handling of my FOI request 'Phorm/Second Phase of European Commission Infringement Case 64/08/INSO'. The disclosure of this information is in the public interest, for the following reasons;

- It may reveal evidence of incompetence, or corruption on the part of the Home Office
- The information requested will allow the Home Office to be held to account, both for the failure to respond to public concerns about criminal misconduct, and the concerns of the European Commission about failure to implement European Directives
- If the matter proceeds to a European Court of Justice action, as seems likely, the public have every right to know why they are expected to bear the burden of the costs, fines, and penalties that may result from the failures of the Home Office

A full history of my FOI request and all correspondence is available on the Internet at this address:

http://www.whatdotheyknow.com/request/phormsecond_phase_of_european_co_2”

Annex B Home Office Freedom of Information and general correspondence requests from Mr P. John – May 2008 to December 2009

Requests relating to Phorm, 121 Media, BT, Virgin Media and Deep Packet Inspection are highlighted in the table below. Mr John has also asked questions regarding the leaks to Damian Green MP and on Home Office Freedom of Information statistics, which are also included.

Ref.	Received	Request
1	9419 06/05/2008	<p>Dear Mr Knight/Mr Watkin,</p> <p>Further to your previous answers (for which thanks). I have additional queries for you to address as Freedom of Information requests. Please now</p> <ul style="list-style-type: none"> • Reveal the full PDF opinion document sent to ISPs after 4 February 2008 (as opposed to extracts already published)* • Reveal the full correspondence, request for opinion and reply, associated with the publication of that document • Reveal which organisations – specifically 80/20 Thinking, Phorm, BT, and/or other parties - asked for your opinion on RIPA with respect to Phorm prior to 4 February 2008 • Dates of contacts between the Home Office and each of Phorm, BT, 80/20 Thinking concerning Phorm's Webwise product since the start of 2008. • Dates of contacts between the Home Office and independent IT experts, if any, concerning Phorm's Webwise product since the start of 2008. <p>If I don't receive a response within 24 hours, I will commence a formal Freedom of Information action. Copy your response to Chris Williams at "The Register", my MP Dan Norris, and the administrator of the BadPhorm site Jim Murray.</p>
2	M1024 7/8 T1543 6/8	20/06/2008 Asks whether there is a link between crytome.org and Home Office
3	9813 T1543 6/9	06/07/2008 <p>Dear Sirs, On Friday I received a pack of documentation, for which thanks. However the documentation, now considerably overdue, and acknowledged in the covering letter to be incomplete subject to yet further unspecified delay, is far from satisfactory. On 18 April 2008 I first asked you to tell me 'When you first started advising BT and Phorm (and other ISPs)'. On May 5 2008, I again asked you to disclose "the full correspondence, request for opinion and reply, associated with the publication of the advice document" (see below). In the covering letter received from you, Andy James states "you have been supplied with all disclosable information that the Home Office holds". I believe this <i>cannot</i> be correct. The first item of correspondence in the pack ('Home Office Official to Phorm's legal representative') was clearly preceded by one or more enquiries from "various interested parties seeking [HO] view on the compatibility of the Phorm service with Part 1 or RIPA". To repeat, I asked you on May 5 to disclose the full correspondence, and request for opinion and reply. Within the next 24 hours (because this query has been unanswered since May 5) please now disclose, as you were originally requested, the enquiries from the various interested parties that preceded the August 16 email, and the replies... redacted or otherwise (even if doing so simply reveals the date of the correspondence). Otherwise I consider a Formal Internal Review, and/or complaint to the Information Commissioner is clearly warranted. Regard Pete. PS. May I also draw your attention to an email sent to you June 11 (Phorm: Third Request for Immediate Disclosure) due for reply July 11.</p> <p>Subject: Phorm: Second Request for Immediate Disclosure</p> <p>Further to your previous answers (for which thanks). I have additional queries for you to address as Freedom of Information requests. Please now</p> <ul style="list-style-type: none"> • Reveal the <u>full</u> PDF opinion document sent to ISPs after 4 February 2008 (as opposed to extracts already published) • Reveal the full correspondence, request for opinion and reply, associated with the publication of that document • Reveal which organisations – specifically 80/20 Thinking, Phorm, BT, and/or other parties - asked for your opinion on RIPA with respect to Phorm prior to 4 February 2008 • Dates of contacts between the Home Office and each of Phorm, BT, 80/20 Thinking concerning Phorm's Webwise product since the start of 2008. • Dates of contacts between the Home Office and independent IT experts, if any, concerning Phorm's Webwise product since the start of 2008. <p>If I don't receive a response within 24 hours, I will commence a formal Freedom of Information action.</p>
4	T2306 5/8	24/11/2008 The Governments proposals for the Communications Data Bill and the costs associated with it.
5	10714	02/12/2008 Series of questions regarding arrest of Damian Green
6	11508	23/03/2009 Dear Sir or Madam, Please could you disclose for me the number of Freedom of Information Requests received by the Home Office, by month, for the last 5 years. In other words, a total count of FoI requests received for each of the last 60 calendar months. If figures exist, please could you also indicate the number of in-progress FoI requests in each month? A table of figures would be ideal; Year / Month / Total FoI Requests/ Total In-Progress, Yours faithfully, P. John
7	T5641/ 9	30/03/2009 Dear Sir or Madam, on 27 April 1981, Mr. John Gorst MP asked the Secretary of State for the Home Department to "list the statutory provisions which relate to offences for the unauthorised interception of telephone calls or mail, distinguishing any which apply only to employees of British Telecom or the Post Office; and if, for each offence, he will indicate the maximum penalty provided". The reply listed various acts including Telegraph Act 1863, Telegraph Act

			1868, Post Office (Protection) Act 1884, Wireless Telegraphy Act 1949, Theft Act 1968. It is my understanding many of these acts have been repealed by Statutory Instrument by 2001/1149. Please could you list the statutory provisions which relate to offences for the unauthorised interception of telecommunications, distinguishing any which apply only to employees of British Telecom; and for each offence, please indicate the maximum penalty provided. Yours faithfully, P. John
8	T6653/9	16/04/2009	Dear Sir or Madam, In a recent CPS decision, concerning information leaked by a Civil Servant to Damian Green MP, DPP Keir Starmer stated; "It did not relate to military, policing or intelligence matters. It did not expose anyone to a risk of injury or death. Nor, in many respects, was it highly confidential. Much of it was known to others outside the civil service, for example, in the security industry or the Labour Party or Parliament. Moreover, some of the information leaked undoubtedly touched on matters of legitimate public interest, which were reported in the press." Given the material was available to people in the security industry, the Labour Party, and Parliament, and touched on matters of legitimate public interest reported in the press; please will you disclose all of the documentation that was leaked to Damian Green? Yours faithfully, P. John
9	11875	17/04/2009	In a recent CPS decision, concerning information leaked by a Civil Servant to Damian Green MP, DPP Keir Starmer stated; "It did not relate to military, policing or intelligence matters. It did not expose anyone to a risk of injury or death. Nor, in many respects, was it highly confidential. Much of it was known to others outside the civil service, for example, in the security industry or the Labour Party or Parliament. Moreover, some of the information leaked undoubtedly touched on matters of legitimate public interest, which were reported in the press." Given the material was available to people in the security industry, the Labour Party, and Parliament, and touched on matters of legitimate public interest reported in the press; please will you disclose all of the documentation that was leaked to Damian Green?
10	11876	20/04/2009	The Telegraph recently reported that "the leak inquiry was started over the summer after a complaint by Sir David Normington, the top civil servant at the Home Office" The CPS have dismissed the case, stating "It did not relate to military, policing or intelligence matters. It did not expose anyone to a risk of injury or death. Nor, in many respects, was it highly confidential. Much of it was known to others outside the civil service, for example, in the security industry or the Labour Party or Parliament. Moreover, some of the information leaked undoubtedly touched on matters of legitimate public interest, which were reported in the press." Please therefore disclose the letter of complaint concerning Damian Green MP that was drafted by Sir David Normington, and the response received from the Police.
11	11203	15/06/2009	Dear Sir or Madam, On 14 April 2009, the UK were given two months to respond to infringement proceedings initiated by the European Commission (64/08/INSO).The proceedings arise following the covert trials of Phorm/121Media interception and surveillance systems by BT Internet on hundreds of thousands of its customers, and the web sites they used. The last working day for the UK Government to submit a response was Friday 12 June 2009. Please will you confirm or deny that a response has been submitted; indicate which Department of Government was responsible for submitting the response; disclose the content of that response in full; disclose the content of correspondence between the Home Office and the European Commission concerning the same matter; disclose correspondence between the Home Office and other UK government departments contributing to the response concerning the same matter. Yours faithfully, P. John
12	T1189 6/9	10/07/2009	Dear Sir or Madam, On the 28 April 2009, the Home Office, BERR, and Cabinet Office met to discuss and agree the UK Government response to the European Commission infraction proceedings arising from the failure to prosecute BT over the Phorm scandal. Please will you disclose to me; <ul style="list-style-type: none"> • The topic and agenda of that meeting • The names of those who attending the meeting • Any third parties who were present, including BT, Virgin Media, Carphone Warehouse, or Phorm • The minutes, particularly concerning agreements that were reached at that meeting. Yours faithfully, P. John
13	T1189 7/9	10/07/2009	Dear Sir or Madam, please disclose to me all guidance given by OSCT Intelligence and Security Liaison Unit (ISLU) (or any other Unit in the Home Office) to Police forces or the Crown Prosecution Service, concerning the application of RIPA to the secret trials of 121Media (Phorm) communications surveillance systems. In recent correspondence disclosed by BERR, there is reference made to an assumption by an official in BERR that guidance has been given to the Police and CPS by OSCT ISLU. Please confirm or deny that such guidance has ever been given to Police or CPs. Yours faithfully, P. John
14	T1286 6/9 M1495 6/9	14/07/2009	Reference to the recent debate concerning the News of the World and illegal interception and your concerns made in relation to the British Telecom and their use of Phorm.
15	T1386 0/9	31/07/2009	Dear Sir or Madam, The Interception Commissioners Report for 2008 recently published states that "During 2008 the Tribunal made two determinations in favour of two separate complainants. These are the second and third occasions that the Tribunal has upheld a complaint, the first being recorded in the final Annual Report of my predecessor, Lord Brown, for 2005-2006." Please will you disclose for me for each of the years 2008 and 2009; <ul style="list-style-type: none"> • How many people were arrested under suspicion of offences under RIPA? • How many people were charged with offences under RIPA? • How many people were cautioned for offences under RIPA? • How many people were convicted of offences under RIPA? • How many people were fined for offences under RIPA? • How many people were gaoled for offences under RIPA? Yours faithfully, P. John
16	12551	03/08/2009	Please could you list for me all Home Office contracts with Corporation Service Company, 2711 Centerville Road Suite 400, Wilmington, DE 19808, Delaware United States. Please could you list for me all Home Office contracts with Corporation Service Company (formerly Register.com) of One London Wall, London, EC2Y 5AB Please could you list for me all Home Office contracts with Register.com of One London Wall, London, EC2Y 5AB I would be grateful if you could include the company, value, date, and purpose of each contract. Corporation Service Company of Delaware are

			presently providing the Home Office with Internet domain name resolution services (DNS). Please could you disclose to me the full contract for provision of the Home Office Internet Domain Name Services? (nb; which may or may not be with CSC or Register.com). Yours faithfully, P. John.
17	12563	03/08/2009	In the response to an earlier FOI request I was directed to a note published by the CPS which lists a number of documents acknowledged to have been leaked to Mr. Damian Green MP. Please will you disclose to me the documents identified in that memo which were leaked to Mr. Damian Green MP; Leak One: "Asylum and Immigration High Level Monthly Performance Report July 2007" (found in Mr. Green's possession, marked 'Galley'). Leak Two: "high level submissions to Home Office Ministers in August 2007, updating them about various issues relating to Security Industry Authority (SIA) licences" (Mr Galley admitted sending this document to Mr Green) Leak Three: "a report to Home Office Ministers dated 31 January 2008 about an investigation into an allegedly illegal worker at the Houses of Parliament" (Mr Galley admitted posting this document to Mr Green) Leak Four A: "Briefing on the Counter-Terrorism Bill" prepared for the Home Secretary Leak Four B: "a Whips' list of the names of MPs who were undecided about their votes in respect of the Counter-Terrorism Bill" (Mr Galley told the Police that he had access to this document which was kept in a safe belonging to the Special Advisers: he admitted photocopying the list and handing it to Mr Green) Leak Five: "a "Draft letter to No 10" dated August 2008, predicting that the credit crunch would lead to a rise in crime. It was not marked "Restricted" " (Mr Galley admitted passing this document to Mr Green) Leak Six: "a Briefing Pack for incoming Ministers at the Home Office" (Mr Galley denied leaking this document, Mr Green made no comment in interview) To recap, Mr. Starmer's report states [extract of paragraphs 32 & 33 from the report]. Given those documents pose little risk of damage, touch on matters of legitimate public interest, hold the Government to account, have been extensively reported in the national press, were not secret, did not affect national security, did not relate to military/policing/intelligence matters, did not expose anyone to risk of injury or death, nor were highly confidential... please disclose the listed documents without further delay.
18	12742	03/08/2009	The Interception Commissioners Report for 2008 recently published states that "During 2008 the Tribunal made two determinations in favour of two separate complainants. These are the second and third occasions that the Tribunal has upheld a complaint, the first being recorded in the final Annual Report of my predecessor, Lord Brown, for 2005-2006." Please will you disclose for me for each of the years 2008 and 2009; <ul style="list-style-type: none"> • How many people were arrested under suspicion of offences under RIPA? • How many people were charged with offences under RIPA? • How many people were cautioned for offences under RIPA? • How many people were convicted of offences under RIPA? • How many people were fined for offences under RIPA? How many people were gaoled for offences under RIPA?
19	T1236 6/9	14/08/2009	Letter to Lord West re 'British Telecom and Phorm scandal'
20	T1575 9/9	06/10/2009	Asked for an explanation why his correspondence sent to the CPS was 'interrupted' via the Government Mail screening facility. Mr John states that this is a 'criminal offence under the Postal Services Act 2000...a criminal offence contrary to RIPA...and contravenes the European Convention on Human Rights Article 8...'
21	13061	16/10/2009	Further to Baroness Miller's recent written question, please could you disclose to me, either as a Freedom of Information Request, or a Subject Access Request, as appropriate; <ul style="list-style-type: none"> • All information the Home Office presently hold about me (DPA) • All correspondence between the Home office and British Telecom concerning the protest at the BT AGM on 16 July 2008 (FOI) • All correspondence between the Home Office and Phorm concerning the protest at the BT AGM on 16 July 2008 (FOI) • Any information provided by the Home Office to BT and/or Phorm about me (DPA) • Any information provided by BT and/or Phorm about me (DPA) • Any correspondence from the Home Office to British Telecom and/or Phorm about me (DPA) • Any correspondence from BT and/or Phorm to the Home Office about me (DPA)
22	13139 T1863 1/9	22/10/2009	Dear Sir or Madam, please could you disclose to me... What legislation presently protects confidential communications between UK organisations and their clients from unauthorised industrial espionage by UK telecommunications companies? Is presently the policy of the Home Office that commercial use of unencrypted methods of communication in the UK indicates 'implied consent' to industrial espionage? What advice have the Home Office received from the UK Intellectual Property Office concerning the application of Copyright and Trademark law to telecommunications data? What advice have the Home Office given BT/Phorm concerning the confidentiality of commercial telecommunications in the UK, and 'implied consent' for interception of unencrypted commercial telecommunications? Yours faithfully, P John
23	T2092 2/9	21/11/2009	Dear Mr Fanshaw, many thanks for your reply. It being that case that section 1 of the Regulation of Investigatory Powers Act 2000 does makes it a criminal offence to intercept unencrypted commercial communications without authorisation, please could you explain for me; Why none of the directors of Phorm/BT have been charged with offences under section 1 of RIPA for intercepting the confidential communications of thousands of businesses (and their customers) during the course of 2006, 2007, and 2008? What assessment has the Home Office made of the similar Experian Hitwise system? (which uses commercial communication data sampled from ISPs to derive 'competitive intelligence' reports) Experian Hitwise is operated without with the explicit informed consent of either party to the communications intercepted. See here for more information; http://www.hitwise.com/uk/products-and-services/competitive-intelligence/features/clickstream/ I would like to make a complaint to the Police concerning Experian Hitwise. Yet my local Police force (Avon and

			<p>Somerset) simply refuse to investigate any and all complaints about RIPA offence (despite the criminal offence you highlight).</p> <p>You may be aware, the CPS have also been considering a private prosecution against BT/Phorm (after City of London Police refused to investigate complaints about RIPA offences). The CPS have made no public statement for over a year.</p> <p>So one last query; please could you explain to me how RIPA is enforced if the Police and CPS fail to uphold the law you claim protects confidential unencrypted commercial (and personal) telecommunications in the UK? Yours faithfully, P. John</p>
24	13439	27/11/2009	<p>Dear Sir or Madam, please disclose to me,</p> <ol style="list-style-type: none"> 1) any assessment by the Home Office of the legality of the proposed use of the Detica Cview system to examine the content of private/confidential unencrypted communications 2) any advice, or words of 'comfort', provided by the Home Office to Virgin Media/Detica concerning the legality of the proposed trial of Cview 3) confirm or deny: the proposed interception and examination of Internet communications by Virgin Media using the Detica Cview system has been granted an authorisation under RIPA by the Secretary of State <p>In early FoI responses you told me; "Unlawful interception under section 1 of the Regulation of Investigatory Powers Act 2000 attracts a penalty, on conviction on indictment, of imprisonment for a term not exceeding two years or to a fine, or to both. In the case of a summary conviction a person found guilty of an offence will be liable to a fine not exceeding the statutory maximum." That being the case, and assuming no trial has been authorised by the Secretary of State, and bearing in mind the EC Infraction Proceedings currently facing the UK Government, where can the public report concerns about criminal offences by Internet Service Providers who intercept and monitor the content of communications traffic without the consent of sender or recipient? Yours faithfully, P John</p>
25	T2316 1/9	22/12/2009	<p>Dear Home Office, I understand that Cleveland Police in Middlesborough have recently declined to investigate complaint concerning the illegal and unauthorised interception of private / confidential telecommunications by criminals using a covert 'fibre tap' without consent of sender or recipient. Please could you provide a memo that can be handed to Cleveland Police stating;</p> <p>Home Office consider RIPA s1 offences are not a 'civil matter' but a serious criminal offence attracting a custodial sentence</p> <p>Confirm RIPA s1 applies to any method of communication, including confidential and private internet communications</p> <p>It is the responsibility of Cleveland Police in Middlesborough to investigate complaints by residents of Middlesborough concerning allegations of criminal misconduct under RIPA s1, including the unauthorised use of a covert fibre tap to intercept and monitor the content of private and confidential internet communications</p> <p>Many thanks, Yours faithfully, P. John</p>
26	13651	30/12/2009	<p>Concerning the second phase of the European Commission Infringement case 64/08/INSO, arising from the covert mass surveillance/industrial espionage trials by BT/Phorm in 2006, 2007 and 2008... Please could you disclose for me,</p> <ul style="list-style-type: none"> • the date on which the response to the second stage of infringement proceedings was submitted to the EC (the deadline being 29 December 2009) • the department that lead the preparation of that response • the full response that was submitted to the EC • any correspondence between the Home Office and the EC concerning the case since 1 October 2009 • the dates/agenda/minutes of meetings between the Home Office and the EC to discuss the case since 1 October 2009 • any correspondence between the Home Office, and Cabinet Office/Prime Minister's Office/BERR/BIS/MoJ/Foreign Office concerning the case since 1 October 2009 • the dates/agenda/minutes of meetings between the Home Office and Cabinet Office/Prime Minister's Office/BERR/BIS/MoJ/Foreign Office concerning the case since 1 October 2009 <p>ICO FoI guidance states "There will often be a private interest in withholding information which would reveal incompetence on the part of or corruption within the public authority or which would simply cause embarrassment to the authority. However, the public interest will favour accountability and good administration and it is this interest that must be weighed against the public interest in not disclosing the information". In the interest of public accountability and good administration, I would also be grateful if you would now disclose to me the two earlier responses to the EC concerning the same matter, on or about 15 September 2008, and the second on or about 13 June 2009, which were rejected by the European Commission. I believe you are withholding information in those responses which would reveal incompetence, corruption, or embarrassment (grounds which are specifically excluded by ICO FoI guidance).</p>