

FOI Case 354: Use of Section 36 – Qualified Person's Consideration.

The report to Tate's Ethics Committee for discussion at the meeting held on 27 June 2011.

The minutes of the meeting of Tate's Ethics Committee held on 1 November 2010.

Certain papers provided to Tate's Ethics Committee.

On the basis of information provided, please set out whether you consider that disclosure of certain parts of the information contained within the above mentioned documents would, or would be likely to, inhibit the free and frank exchange of views for the purposes of deliberation.

As set out in the Information Commissioner's Guidance, Section 36(2)(b)(ii) of the Freedom of Information Act 2000 ("FOIA") allows "for the exemption of information if its disclosure would, or would be likely to, inhibit the ability of public authority staff and others, when deliberating, to express themselves openly, honestly and completely, or to explore extreme options ..." subject to the public interest test.

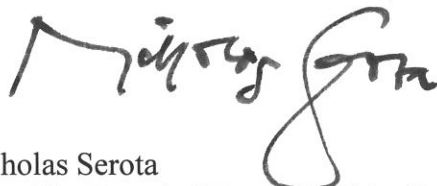
As these discussions are both relatively recent and their implications ongoing, I consider that the release of this information would inhibit Tate's ability to have free and frank exchange of views for the purposes of deliberation (Subsection (2)(b)(ii)).

Should you be of this opinion, please further set out whether you consider it is in the public interest to disclose or redact certain parts of the information provided.

Having taken into account the "public interest test", I consider that it is in the greater public interest to allow the free and frank exchange of views to continue within Tate and its Ethics Committee, allowing for any agreed outcomes to be released at the appropriate time. This allows for the implications of potential recommendations and decisions to be explored thoroughly.

I consider, therefore, that it is in the greater public interest to ensure that Tate and its Ethics Committee are able to continue to hold these free and frank discussions in order to make appropriate recommendations and decisions which ensure optimum outcomes for the public in future years. Release may lead to less candid and robust discussions, resulting ultimately in the quality of decision making being undermined. This would not be in the public interest.

Signed



Sir Nicholas Serota
Director, The Board of Trustees of the Tate Gallery

Dated

