

GREATER LONDON AUTHORITY

Mr Harding
(By email)

Our Ref: **MGLA101019-4503**

20 November 2019

Dear Mr Harding

Thank you for your request for information which the Greater London Authority (GLA) received on 10 October 2019. Your request has been dealt with under the Freedom of Information Act 2000 (the Act).

You asked for:

Earlier this week, Boris Johnson submitted a response to the allegations regarding his relationship with Mrs Arcuri and suspected misuse of public funds for his own ends.

This investigation is very much in the public interest. A sitting Prime Minister, who holds the greatest office of state, should not be allowed to use public funds to further a relationship and there can be no justification for suppressing this evidence from public gaze.

Please release all evidence submitted by Alexander Boris Johnson, the former Mayor of London, to the oversight committee.

Please accept my apologies for the short delay in providing you with our response to your request.

After careful consideration, we have decided the information you have requested is exempt from disclosure under the following provision of Act:

- Section 41(1) – information provided in confidence

In relation to the application of section 41 in respect of the submission from Boris Johnson to the London Assembly, you state that:

... there can be no justification for suppressing this evidence from public gaze

Section 41(1) of the Act provides:

Information is exempt information if- (a) it was obtained by the public authority from any other person (including another public authority), and (b) the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person

The letter was submitted to the GLA under explicit conditions of confidentiality. For the purpose Section 41 is designed to give those who provide confidential information to public authorities a degree of assurance their confidences will continue to be respected. There is no doubt that the information in question from another 'person' and that it was done so under an explicit expression of confidentiality.

For the exemption to apply, it must also be demonstrated that disclosure would constitute an actionable breach of confidence. The information Commissioners Office (ICO) have long advised¹ public authorities to be mindful of the test of confidence set out by Judge Megarry at the *High Court of Justice in Coco v A N Clark (Engineers) Limited [1968] FSR 415* as a framework for assessing whether a disclosure would constitute a breach of confidence:

...that three elements were usually required to bring an action for a breach of confidence:

- *the information must have the necessary quality of confidence,*
- *it must have been imparted in circumstances importing an obligation of confidence, and*
- *there must have been an unauthorised use of the information to the detriment of the confider.*

The information within the letter is not trivial in nature, nor is it otherwise accessible. It does relate in part to a matter affecting one individual and that individual / the confider obviously attaches some importance to the information. Further legal advice has also confirmed that the submission does indeed import an obligation of confidence and therefore legally enforceable.

I am also therefore satisfied that Section 41 (1) applies to the requested information. This is an absolute exemption and not subject to a public interest test.

In closing, please can I direct you to this statement from the London Assembly in relation to the IOPC's work on this matter:

<https://www.london.gov.uk/press-releases/assembly/statement-from-oversight-committee-chair-on-arcuri>

If you have any further questions relating to this matter, please contact me, quoting the reference at the top of this letter.

Yours sincerely

Paul Robinson
Information Governance Officer

If you are unhappy with the way the GLA has handled your request, you may complain using the GLA's FOI complaints and internal review procedure, available at:

<https://www.london.gov.uk/about-us/governance-and-spending/sharing-our-information/freedom-information>

¹ <https://ico.org.uk/media/for-organisations/documents/1432163/information-provided-in-confidence-section-41.pdf>