



Foreign &
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Office

Mr Matt Kane

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8 November 2010

Dear Mr Kane,

FREEDOM OF INFORMATION REQUEST 0641-10

Thank you for your e-mail of 2 November, following my letter of 4 October. You have queried our decision to withhold historical material under Section 23 on the basis that that "ICO guidance clearly states that for documents over 30 years old the section 23 exemption is no longer absolute, and a public interest test must be performed."

Page 3 of the ICO guidance in question ¹ makes it clear that the public interest test does not apply to all historical records. It only applies where the record is over 30 years old and has also transferred to The National Archives, the Public Record Office of Northern Ireland or a recognised place of deposit. Records that the FCO retains have not transferred to a place of deposit and therefore the exemption remains absolute.

In response to your point about a Ministerial certificate I can confirm that because of our referral processes across government such a certificate is not necessary.

I hope that this answers your questions.

¹http://www.ico.gov.uk/~media/documents/library/freedom_of_information/detailed_specialist_guides/s23_security_bodies_v1_fop097.ashx

Yours sincerely,

M R Tucker

Martin Tucker

Head of Corporate Records



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