

FREEDOM OF INFORMATION ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part VI: Historical records and records in Public Record Office or Public Record Office of Northern Ireland

Section 66: Decisions relating to certain transferred public records

207. This section applies to information in a transferred public record which has not been designated by the responsible authority as open information for the purposes of this section. Section 66 provides that, before deciding whether any exemption applies in respect of the duty to confirm or deny, or the duty to disclose, the appropriate records authority (for example, the Public Record Office) must consult the responsible authority (which will generally be the authority who transferred the record to it).
208. *Subsections (3) and (4)* provide that if the duty to confirm or deny, or the duty to disclose, does not arise, as a result of an exemption not specified in section 2 as conferring absolute exemption, then it will be for the responsible authority, not the public records authority, to make the public interest decisions regarding the duty to confirm or deny and disclosure. This is because it is the responsible authority which has the knowledge and expertise to enable them to make such decisions.
209. *Subsection (5)* provides that the responsible authority must consult with the Lord Chancellor before determining that the public interest does not require disclosure. In the case of public records to which the Public Records Act (Northern Ireland) 1923 applies, consultation must be with the appropriate Northern Ireland Minister.
210. *Subsection (6)* provides that if the responsible authority is not a public authority within the scope of the Act, then it will be treated as a public authority for the purposes of Parts III, IV and V of the Act, so far as relating to the duty in section 15(3) and the imposition of any requirement to provide information to which this section applies.