

## **Annex A**

- **Section 40 (Personal Information)**

To the extent that the information that we hold contains personal data about an individual, section 40(2)(b) of the Act provides that "[a]ny information to which a request for information relates is also exempt information (section 40(1) also contains a definition of exempt information) if ... either the first or second condition below (see sections 40(3) and 40(4) of the Act) is satisfied".

We have applied this exemption because the first condition (as stated in section 40(3) of the Act) is satisfied. Some of the information requested comprises the personal data of an individual other than yourself, which if disclosed would breach the Principles in the DPA. It would be a breach of Principle 1 to disclose such information, as it would not be lawful or fair to process the information, particularly since none of the conditions in schedule 2 of the DPA have been met. The individual concerned has not given their consent for this personal information to be made public and the release of such information may be detrimental to the individual concerned.

In reaching this decision, we have also taken into consideration that if we were to disclose the information, it could be matched with information that may already be in the public domain and hence lead to the identification of the individual concerned.

Section 40 is an "absolute" exemption, and so it is not necessary to balance the public interest for and against disclosing the information.

- **Section 43 (Commercial Interests)**

Section 43(2) of the Act provides that information is exempt if its disclosure would, or would be likely to; prejudice the commercial interests of any person (including the public authority holding it).

Disclosure would be likely to prejudice the FCA's commercial interests as to disclose the fees and basis of remuneration in this instance would impact our negotiating position when engaging such advisors in the future.

The commercial interests of the advisory firm involved would also be likely to be prejudiced by disclosing details of the terms under which it has been remunerated. Remuneration conditions comprise a fundamental component of such firms' commercial operating model and, as such, the disclosure of this information could damage their commercial interests and might prejudice future engagements. Disclosure may also affect their reputation and competitive position in the market for such services.

Disclosure could also harm the FCA's ability to negotiate fees in future with such advisory firms.

The exemption in Section 43 (Commercial Interests) is qualified and we have balanced the public interest for and against disclosure as required by the Act.

*For disclosure*

- There is a strong public interest in the public being able to see how the FCA is spending its resources.

*Against disclosure*

- Disclosure would harm the FCA's ability to negotiate fees with other advisory firms that we engage now or in the future.
- Disclosure of the advisory firm's remuneration terms would be a disclosure to the public at large of a fundamental component of their commercial operating model, which could prejudice any such future engagements.

On this occasion we have concluded that the balance of the public interest is in favour of not disclosing the information, for the reasons set out above.