

## **Annex B**

- **Section 40 (Personal Information)**

To the extent that the information that we hold contains personal data about individuals, section 40(2)(b) of FOIA provides that *"any information to which a request for information relates is also exempt information if the first, second or third condition listed below is satisfied."*

We have applied this exemption because the first condition (as stated in section 40(3A) of FOIA) is satisfied. Some of the information you have requested comprises the personal data of individuals other than yourself which, if disclosed, would contravene any of the data protection principles.

In particular, it would be a breach of the first data protection Principle as set out in Article 5 of the UK GDPR, to disclose such information, as it would not be lawful, fair or transparent to the individuals concerned to do so. This is because, they would not have had the expectation that this information would be disclosed under these circumstances; plus, the nature of the information is such that individuals would expect this to remain confidential within the FCA. As such, the interests of the data subject override the legitimate interest in the FOIA request. For these reasons, disclosure of this data would not be consistent with the data protection principles.

In addition, as set out in Article 5(1)(a) of the GDPR, it would be a breach of the first data protection principle to disclose any information which would directly or indirectly reveal special category information in the absence of any of the conditions set out in Article 9 of the GDPR. Processing of special category personal data such as information relating to personal health, a natural person's sex life or sexual orientation is prohibited, unless a relevant exemption applies. This would apply in relation to some of the information redacted.

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