

APPROVED

[2021] IEHC 752



THE HIGH COURT

2018 No. 75 MCA

IN THE MATTER OF SECTION 24 OF THE FREEDOM OF INFORMATION
ACT 2014

BETWEEN

THE DIRECTOR OF PUBLIC PROSECUTIONS

APPELLANT

AND

THE INFORMATION COMMISSIONER

RESPONDENT

THE DEPARTMENT OF PUBLIC EXPENDITURE AND REFORM
MARK TIGHE

NOTICE PARTIES

JUDGMENT of Mr. Justice Garrett Simons delivered on 10 December 2021

INTRODUCTION

1. This matter comes before the High Court by way of a statutory appeal against a decision of the Information Commissioner. The decision under appeal was made in respect of a request for access to certain records held by the Department of Public Expenditure and Reform. The records consist of correspondence between

NO REDACTION REQUIRED

the Department and the Director of Public Prosecutions relating to fees payable to counsel.

2. The Freedom of Information Act 2014 is expressed not to apply to a record “*held*” or “*created*” by the Director of Public Prosecutions, other than a record relating to general administration. The principal issue for determination in this appeal is whether the Department is required to release, in part, the relevant correspondence in circumstances where the Director of Public Prosecutions would not be obliged to do so. The resolution of this issue turns on whether a record which is held by the Department must be treated as exempt from disclosure merely because a duplicate is also “*held*” by the DPP.

KEY STATUTORY PROVISIONS

3. The outcome of the appeal turns largely on the correct interpretation of section 42(f) of the Freedom of Information Act 2014 (“*the FOI Act 2014*” or simply “*the Act*”).
4. The section provides as follows:
 - “42. This Act does not apply to—

[...]
 - (f) a record held or created by the Attorney General or the Director of Public Prosecutions or the Office of the Attorney General or the Office of Director of Public Prosecutions, other than a record relating to general administration”.
5. It is agreed between the parties that the relevant records do not relate to general administration. The dispute centres, instead, on whether the records are deemed to be “*held*” by the Director. The term “*held*” is not defined under the Act, but,

as discussed presently, the meaning of the concept has been authoritatively addressed by the Supreme Court.

6. The term “*record*” is defined as follows:

“‘record’ includes—

- (a) a book or other written or printed material in any form (including in any electronic device or in machine readable form),
- (b) a map, plan or drawing,
- (c) a disc, tape or other mechanical or electronic device in which data other than visual images are embodied so as to be capable, with or without the aid of some other mechanical or electronic equipment, of being reproduced from the disc, tape or other device,
- (d) a film, disc, tape or other mechanical or electronic device in which visual images are embodied so as to be capable, with or without the aid of some other mechanical or electronic equipment, of being reproduced from the film, disc, tape or other device, and
- (e) a copy or part of any thing which falls within paragraph (a), (b), (c) or (d),

and a copy, in any form, of a record shall be deemed, for the purposes of this Act, to have been created at the same time as the record”.

7. The parties are in disagreement as to the legal effect of the deeming provision at the end of the foregoing definition. In particular, there is a dispute as to whether, in the context of an exchange of correspondence between two FOI bodies, a duplicate of a letter retained by the sender should be deemed to be the same record as the original.

8. Finally, it should be noted that the Act uses the omnibus term “*exempt record*” to refer both to records to which the legislation does not apply at all (such as those described by section 42(f)), and to records subject to the Act but exempt from disclosure in certain circumstances.

INFORMATION COMMISSIONER'S DECISION

9. The decision under appeal was made in respect of a request for access to certain records held by the Department of Public Expenditure and Reform (“*the Department*”). The request had been made by a journalist with the *Sunday Times* newspaper, and sought access to correspondence wherein various public bodies including, relevantly, the Director of Public Prosecutions (“*DPP*”), had sought to increase the normal rates of fees paid to barristers or solicitors in court cases, and the response of the Department in each instance.
10. The matter came before the Information Commissioner by way of an appeal by the requester against the Department’s decision to refuse access. The principal issue for determination by the Information Commissioner had been whether the release of the records is precluded by section 42(f) of the Act.
11. In brief, the Information Commissioner concluded that the letters sent by the DPP to the Department were not subject to disclosure on the basis that same constituted records which had been “*created*” by the DPP. However, the letters going the other way, i.e. the letters sent by the Department to the DPP, were found not to benefit from the statutory exclusion. The Information Commissioner determined that this half of the correspondence was neither held by nor created by the DPP.
12. The stated rationale for the Information Commissioner’s decision is as follows:

“Section 42(f) provides that the Act does not apply to a record held or created by the DPP, other than a record relating to general administration. The Department argued that the relevant records are captured by section 42(f) of the FOI Act as (i) they comprise either records that were created by the DPP or were sent to, and are now held by, the DPP, and (ii) they do not relate to the general administration of the Office but rather they refer to individual specific prosecution

cases. The Department also argued that while the records relate to fees to be paid, in many cases the correspondence also touches on wider substantive issues relating to the cases such as possible prosecution strategies and issues which might be raised by the defence.

I am satisfied that those records or parts of records comprising the Department's responses to requests from the DPP to pay increased fees are not captured by section 42(f). Those records were not created by the DPP and are clearly held by the Department, not by the DPP. The fact that the DPP may also hold exact copies of those responses does not mean that the copies held by the Department are deemed to be held by the DPP."

13. For completeness, it should be noted that the Information Commissioner was satisfied that the records did not relate to "*general administration*", and thus were not subject to the proviso under section 42(f). This finding is not challenged before this court.

HIGH COURT'S APPELLATE JURISDICTION

14. The matter now comes before the High Court by way of an appeal against the Information Commissioner's decision. Section 24 of the FOI Act 2014 provides for an appeal on a point of law.
15. The parties are agreed that the point of law which arises on this appeal is the correct interpretation of section 42(f) of the Act. It is further agreed that questions of statutory interpretation are a matter for the court alone and that curial deference does not apply. This is consistent with the approach endorsed by the Supreme Court in *Minister for Communications Energy and Natural Resources v. Information Commissioner* [2020] IESC 57; [2021] 2 I.L.R.M. 81 (at paragraph 114).

ARGUMENTS IN SUPPORT OF APPEAL

16. The grounds of appeal have narrowed from those set out in the originating notice of motion. The appeal is now confined to the section 42(f) issue alone. The parties are agreed that it is not necessary for the court to rule upon either the “*presumption*” issue or the “*fair procedures*” issue.
17. The appeal is advanced on the premise that the Act does not apply to records created by the DPP, nor to records created by another FOI body but now held by the DPP. It is argued that all such records are “*totally excluded*” from the ambit of the legislation. It is further argued that insofar as section 42(f) covers a record, it also covers copies thereof.
18. On this argument, the chain of correspondence between the DPP and the Department falls to be analysed as follows. The letters received by the DPP from the Department are characterised as “*original*” records, with the duplicate letters retained by the Department being characterised as “*copies*”. It is submitted, by reference to the statutory definition of “*record*”, that where the DPP holds the original record, i.e. in the form of the Department’s replies to her correspondence, the DPP is deemed as a matter of law to also hold the copy.
19. The other side of the correspondence, i.e. letters sent by the DPP to the Department, is said to be exempt because those letters were “*created*” by the DPP.
20. The DPP contends that the Information Commissioner’s interpretation involves rewriting the exclusion under section 42(f), and is akin to inserting into the section the words “*save insofar as the record is held by another department*”.
21. The DPP argues for a purposive approach to interpretation. It is submitted that the first limb of section 42(f) (“*record ... held ... by the Director*”) has an

especial importance in circumstances where most of the case specific records of the DPP are not “*created*” by the DPP’s Office, but comprise investigation files created by An Garda Síochána and other investigation agencies which are then submitted to the DPP. The implication being, seemingly, that a narrow reading of the first limb of section 42(f) might expose such files to disclosure.

DISCUSSION AND DECISION

22. The FOI Act 2014 is expressed not to apply, *inter alia*, to a record held by the Director of Public Prosecutions. The operation of this statutory exclusion presents no difficulties where the document—to use a neutral term—constituting the record is held exclusively by the DPP. The conundrum presented in this appeal is as to what is to happen in circumstances where a duplicate document is also in the lawful possession of another FOI body.
23. For the reasons which follow, I have come to the conclusion that such a scenario is properly analysed as each FOI body holding a separate record for the purposes of the Act. In consequence, the second FOI body cannot refuse to disclose the record in its lawful possession by reference to the statutory exclusion in favour of the DPP. The disclosure of the document can only be refused by the second FOI body if some other exclusion or exemption is applicable.
24. The principal objective of the Act is to confer a statutory right of access to any record held by an FOI body (section 11). The term “*held*” is not defined under the Act, but the meaning of the concept has been authoritatively addressed by the Supreme Court in *Minister for Health v. Information Commissioner* [2019] IESC 40. This judgment had been delivered by reference to the previous version of the legislation, i.e. the Freedom of Information Act 1997, but given

the similarity of the concepts is equally applicable to the Act of 2014. The Supreme Court decided that for a record to be “*held*” within the meaning of the legislation the public body must be in lawful possession of the record in connection with or for the purpose of its business or functions, and must also be entitled to access to the information in the record.

25. Importantly for present purposes, the Supreme Court emphasised that two distinct questions arise when access to a record alleged to be held by a public body is requested; first, whether it is a record “*held*” by the public body; and secondly, and separately, whether the requester has a right of access to it. The statutory criteria according to which each question is to be answered are distinct.
26. It follows that the starting point for the analysis in this case must be to consider whether the FOI body, against whom the right to access has been asserted, holds the relevant record. The request here had been made to the Department of Public Expenditure and Reform. There is no doubt but that the Department is in lawful possession of the records in connection with or for the purpose of its business or functions. The records were generated—to use a neutral term—in the context of correspondence between the Department and the DPP seeking sanction for legal fees. The records are, therefore, held by the Department for the purposes of section 11 of the Act.
27. It must next be considered whether disclosure of the records is precluded by section 42(f). The DPP and the Department are each in lawful possession of one counterpart or duplicate of the requested documents. Put otherwise, both the sender and recipient have the full set of correspondence in their possession. This factual state of affairs has led the DPP to argue that the records which have been requested from the Department are, as a matter of law, held by the DPP.

28. With respect, this argument is incorrect. The two FOI bodies do not hold the self-same “*records*” within the meaning of section 42(f). This is so notwithstanding that the information contained within the records is identical. For the purposes of the Act, the focus is on whether a particular FOI body has lawful possession of a record and an entitlement to access to the information in the record. The Department satisfies these criteria only in respect of the duplicate in its possession (whether on a paper file or on a computer server). The Department has no access to the duplicate in the possession of the DPP. It cannot be said, therefore, that the Department would be disclosing a “*record held ... by ... the Director*”. The Department is merely disclosing a record separately held by it. (The position in respect of records “*created*” by the DPP is different).
29. This analysis is entirely consistent with the definition of “*record*” under section 2 of the Act. The definition has been set out in full earlier; and, as appears, it indicates that a copy of a thing, which is itself a record, is also a record. Thus, for example, a photocopy of a document, or a forwarded email, would both come within the definition of a “*record*” (indefinite article). However, it is incorrect to say, as the DPP does, that it must follow as a corollary that a copy represents the *same* record as the original for the purposes of the Act.
30. The duplicates may well be held by different FOI bodies, and might even be held in a different format. For example, one FOI body might retain on its computer servers a duplicate of a letter which it has sent by post to a second FOI body. The second FOI body, on receipt of the letter, might simply have placed the letter on a paper file. The information contained in the duplicate records is the same, i.e. the content of the letter, but in one instance it is held in electronic format only, and in the other, in paper format only. For the purpose of the statutory

right of access, each of the FOI bodies holds a record but it cannot be said to be the self-same record.

31. The legislative intent in including a copy of a thing within the statutory definition is to make it clear that access to a record cannot be refused simply on the basis that it is said to be merely a copy of a record held elsewhere. The right to access is not confined to the original. Thus, on the scenario posited above, each of the two FOI bodies could properly be subject to an access request.
32. The foregoing interpretation of section 42(f) reflects the ordinary and natural meaning of the statutory language. This interpretation also accords with the High Court's interpretation of the equivalent provision under the Freedom of Information Act 1997 in *Minister for Justice v. Information Commissioner* [2001] IEHC 35; [2001] 3 I.R. 43. That judgment had been delivered in respect of an appeal against a decision to grant access to records comprising, *inter alia*, witness statements in earlier criminal proceedings. The High Court (Finnegan J.) ruled that the 1997 Act did not apply to records under the control of the DPP. See page 51 of the reported judgment as follows:

“Insofar as the Director of Public Prosecutions or his office has control of the original statements and other documents which were the source of documents compiled in the book of evidence then clearly these are documents held by the Director of Public Prosecutions having regard to the definition of ‘hold’ in s. 2(5) of the Act of 1997 and are likewise affected by the provisions of s. 46(1)(b). Such documents if also held by another public body subject to other provisions of the Act of 1997, may be accessible on application to that body.”

33. As appears, the statutory exclusion was interpreted as being confined to the documents held by the DPP. Crucially, the judgment expressly envisaged that duplicate documents held by another FOI body would be accessible on application to that body.

34. Counsel for the DPP in the present proceedings submits that the final sentence in the passage cited above is *obiter* only, in circumstances where, on the facts of that case, it had not been sought to obtain the records from another FOI body. (Certain documents had been sought from the Courts Service, but were found not to be disclosable).
35. It may well be that the observation in the judgment is *obiter*; certainly, it does not appear from the reported judgment that there had been any detailed argument on this particular point. It is nevertheless telling that Finnegan J. clearly understood the section as being confined to the documents held by the DPP. This tends to confirm that this is the natural and ordinary meaning of the identical provision under the current legislation, i.e. section 42(f).

Purposive interpretation

36. Of course, the literal interpretation of a statutory provision may have to yield to a construction that reflects the plain intention of the Oireachtas where that intention can be ascertained from the Act as a whole (section 5 of the Interpretation Act 2005). Counsel for the DPP has submitted that the Information Commissioner's interpretation, if upheld, would fail to respect the legislative intent, and would subvert section 42(f) by permitting the release of records by the back door.
37. In response, counsel for the Information Commissioner submits that the court ought not favour an interpretation which is unnecessarily restrictive of the purpose of the FOI Act 2014. It is further submitted that the literal interpretation of section 42(f) is consistent with the purpose of the legislation when considered in its entirety. The class of records which fall outside section 42(f), on the Information Commissioner's interpretation, is confined to records which have

been created, and are held by, an FOI body *other than* the DPP, and in respect of which the DPP holds a duplicate. It is submitted that there are a panoply of exclusions and exemptions under the FOI Act 2014 which operate to ensure that such records will not have to be disclosed if the content of same is sensitive. Reference is made, in particular, to sections 31, 32, 33, 35 and 36.

Findings of court on purposive interpretation

38. Insofar as relevant to the issues in these proceedings, the purpose of the legislation is readily apparent. The Oireachtas has sought to balance the right of access to information, against the need to ensure that the prosecution of offences (and law enforcement more generally) is not impeded by a requirement to disclose sensitive information. This is apparent, in the first instance, from a consideration of section 42 in its entirety. The public authorities to whom the freedom of information legislation is to apply in a restrictive form only include the Director of Public Prosecutions, the Attorney General, An Garda Síochána and the Criminal Assets Bureau. These are all public bodies which will be in possession of sensitive information in respect of the detection, investigation and prosecution of criminal offences.
39. Moving beyond section 42, the legislative intent to restrict access to similar sensitive information is apparent from the nature of the exemptions provided for under Part 4 of the Act. An exemption is available, under section 31, where a record is subject to legal professional privilege. Records may also be exempt from disclosure under section 32 where access to the record concerned could reasonably be expected to prejudice or impair (i) the prevention, detection or investigation of offences; the apprehension or prosecution of offenders; or the effectiveness of lawful methods, systems, plans or procedures employed for the

purposes of the matters aforesaid; or (ii) the enforcement of, compliance with or administration of any law.

40. The combined effect of these various provisions is to ensure that the type of sensitive information which is likely to be held by the DPP will not have to be disclosed.
41. There is nothing in the legislation which supports the broader exclusion now contended for on behalf of the DPP. It is apparent from the range of exclusions under section 42 and the exemptions under Part 4, that restrictions on the right of access have been carefully calibrated. It would be inconsistent with this detailed legislative scheme to read section 42(f) as intended to confer a blanket immunity on all FOI bodies whenever a duplicate document, which has not been created by the DPP, happens to be held by the DPP.
42. The literal interpretation of section 42(f) does not open a metaphorical back door, whereby sensitive records will be subject to disclosure. Rather, the majority of records held by the DPP will be covered by an exclusion or exemption. The legislation does not apply to records “*created*” by the DPP, irrespective of whether they are held by another FOI body. (This is subject to the proviso for records relating to general administration). Documents exchanged between the DPP’s office and its external lawyers will benefit from the exemption for legal professional privilege. Documents exchanged between the DPP and An Garda Síochána and the Criminal Assets Bureau will be exempt from disclosure by reference to the relevant subsections of section 32 and section 42.
43. The rival interpretation contended for on behalf of the DPP would have resulted in a radical reduction in the right of access. This is because the same

interpretation of the section would apply equally to records held by the Attorney General. As correctly pointed out by counsel for the Information Commissioner, the Attorney General's Office will be in receipt of a significant volume of documents from Government Departments, not all of which will involve legal advice. Were another FOI body to be obliged to refuse access to a record held by it merely because a duplicate is held by (but not created by) the Attorney General's Office, even if the content of the record was not sensitive and would not be exempt under any other section of the Act, this would be a sweeping exemption which would exclude whole swathes of records containing non-sensitive and unremarkable information.

44. It would also have the consequence that any record could be excluded from the legislation by the simple expedient of sending a duplicate to the Attorney General's Office or to the DPP's Office.

“RECORD ... CREATED BY ... THE DIRECTOR”

45. The statutory exclusion under section 42(f) of the Act applies not only to records “held” by the Director of Public Prosecutions, but also extends to records “created” by her irrespective of by whom they are held. There was some debate at the hearing before me as to what is meant by the creation of a record. In particular, there was discussion as to whether the mere photocopying of a document could constitute the creation of a separate record. Counsel on behalf of the DPP sought to tease out the meaning of the second limb of the exemption under section 42(f), with a view to demonstrating that the Information Commissioner's analysis of the status of an original record and a copy record, respectively, was flawed. More specifically, it was submitted that it was

incongruous to treat a copy of a document in the possession of the Department as a separate record for the purpose of the first limb of the section (“*record held ... by ... the Director*”), while at the same time asserting that a copy of a document held by a second FOI body retains its status as a record “*created*” by the DPP for the purpose of the second limb. Counsel submitted that to treat a duplicate held by the Department as a separate record in and of its own right would result in the benefit of the exemption under the second limb of section 42(f) being unavailable. The separate record would have to be characterised as one which had been “*created*” by the Department, not by the DPP.

46. It should be emphasised that counsel was not advocating for this interpretation. Quite the opposite: the point being made was that the Information Commissioner’s interpretation results, supposedly, in an attenuation of both limbs of section 42(f). The court was urged to reject this interpretation in favour of one which treated a copy letter retained by the Department as being held by the DPP.
47. Counsel drew my attention again to the judgment of the High Court (Finnegan J.) in *Minister for Justice v. Information Commissioner* [2001] IEHC 35; [2001] 3 I.R. 43 (at page 50/51). (A different aspect of the judgment has been discussed earlier). It will be recalled that that judgment had been delivered in respect of an appeal against a decision to grant access to records comprising, *inter alia*, witness statements in earlier criminal proceedings. The witness statements had, seemingly, formed part of the book of evidence which had been served on the accused in the earlier criminal proceedings.

48. One of the issues considered in the judgment had been whether the compilation of the book of evidence constituted the “*creation*” of a record within the meaning of the statutory precursor to what is now section 42(f) of the FOI Act 2014.
49. Finnegan J. stated that he was satisfied that the compilation of a book of evidence is the creation of a record, having regard to the definition of “*record*” contained in the Freedom of Information Act 1997. This is so even if the exercise were to consist solely of the photocopying of documents prepared elsewhere, and putting same into a book. Finnegan J. explained that originality is not a necessary ingredient for the creation of a record: a person who merely makes a copy of a document can be said to have created a record. On this interpretation, the DPP had been able to assert that it had “*created*” the relevant records, and thus successfully resisted disclosure of the witness statements in that case.
50. Of course, the same interpretation might well work against the DPP in another case. If a person who merely photocopies a record is, indeed, to be characterised as the creator of the copy, then the practical benefit of the exemption is lost the moment a document authored by the DPP’s office is photocopied by a person in another FOI body. On this interpretation, the copy cannot be regarded as a record created by the DPP.
51. With respect, it is doubtful whether this aspect of the judgment in *Minister for Justice v. Information Commissioner* continues to represent good law following the amendment of the definition of “*record*”. The following words were added to the definition of “*record*” by the Freedom of Information (Amendment) Act 2003:

“a copy, in any form, of a record shall be deemed, for the purposes of this Act, to have been created at the same time as the record”.

52. This amendment had been prompted as a direct result of the judgment in *Minister for Justice v. Information Commissioner*. The amendment sought to ensure that a record which had been created prior to the commencement date—and thus excluded from the legislation—was not inadvertently brought within the scope of the Freedom of Information Act 1997 by virtue of a new record being created by copying. This outcome was avoided by deeming a copy to have been created at the same time as the record. An identical deeming provision is now to be found as part of the definition of “*record*” under section 2 of the FOI Act 2014 (See paragraph 6 above).
53. For present purposes, the relevance of these provisions is that the legislation recognises that a copy of a record retains some of the characteristics of the original record from which it has been made. The copy is deemed to have the same date of creation. Logically, it should also be deemed to have the same creator. It would be entirely artificial—and undermine the purpose of the second limb of the exemption under section 42(f)—to treat a person who merely photocopies a document as its creator. The legislative intent underlying the protection afforded to a record created by the DPP is that such a record may well consist of sensitive information which ought not be disclosed. This characteristic is shared equally with a photocopy of that document.
54. It is not, strictly speaking, necessary for the purpose of resolving the present appeal to rule on the interpretation of the second limb of the exemption under section 42(f). This is because the Information Commissioner, in the decision under appeal, expressly accepted that that half of the correspondence *emanating* from the DPP’s office is captured by section 42(f) on the basis that same was “*created*” by the DPP. This aspect of the decision is not under appeal and it is

not necessary, for the purpose of determining the appeal, for this court to reach a concluded view on the meaning of the term “*created*”.

55. It is sufficient to dispose of the specific argument raised by the DPP in this regard to say that it may be necessary, in an appropriate case where the interpretation of the second limb arises as a live issue, to reconsider the judgment in *Minister for Justice v. Information Commissioner* in light of the subsequent legislative amendments. For present purposes, however, I am not persuaded that the answer to the potential difficulty is to rewrite the first limb of section 42(f) so as to prohibit the disclosure of a record held by another FOI body merely because it is a duplicate of a record held by the DPP.

CONCLUSION AND PROPOSED FORM OF ORDER

56. Section 42(f) of the Freedom of Information Act 2014 provides that the legislation does not apply, *inter alia*, to a record “*held*” by the Director of Public Prosecutions. This specific exemption cannot be asserted by a second FOI body, which holds a duplicate of a record held by the DPP, to refuse to disclose a record in its lawful possession. The DPP and the second FOI body do not hold the self-same “*record*” within the meaning of section 42(f). This is so notwithstanding that the information contained in the records is identical. The position in respect of records “*created*” by the DPP is different: see paragraphs 45 to 55 above.
57. The Information Commissioner properly interpreted and applied the exemption in the decision under appeal. In particular, the following key finding in his decision represents a correct application of the exemption:

“I am satisfied that those records or parts of records comprising the Department’s responses to requests from the DPP to pay increased fees are not captured by section 42(f). Those records were not created by the DPP and are clearly

held by the Department, not by the DPP. The fact that the DPP may also hold exact copies of those responses does not mean that the copies held by the Department are deemed to be held by the DPP.”

58. Accordingly, the decision will be affirmed, and the appeal dismissed. No appeal has been taken against the findings in respect of the second limb of section 42(f), i.e. that applicable to records “*created*” by the Director of Public Prosecutions.
59. It should be emphasised that there are a number of other exemptions under the Act which may, in an appropriate case, be relied upon to refuse the disclosure of sensitive information held by the DPP in respect of the detection, investigation and prosecution of crime. The information at issue in this appeal is not of such a character, consisting merely of correspondence relating to the fees paid to counsel. None of the counsel involved has objected to the disclosure of the records.
60. As to the costs of this appeal, my provisional view is that the Information Commissioner, having been entirely successful in resisting the appeal, is entitled to recover his legal costs as against the Director of Public Prosecutions. This accords with the default position under section 169 of the Legal Services Regulation Act 2015. If the DPP wishes to contend for a different form of order, then short written submissions should be filed within seven days. This matter will be listed, for final orders, on Monday 20 December 2021 at 10.45 AM.

Appearances

Conor Power, SC and Kieran Kelly for the Director of Public Prosecutions instructed by the Chief Prosecution Solicitor
Francis Kieran for the Information Commissioner instructed by Philip Lee Solicitors

Approved
Gemma S.M.A.S