

Reference 2026-074

Thank you for your communication in which you requested information under the Freedom of Information Act 2000 (“**FOIA**”) in respect of the settlement of civil proceedings with references CL-2017-000583 and CL-2019-000644 including associated appeals (together the “**ENRC litigation**”). Specifically, you requested the following:

1. *The terms of the executed settlement agreement, including any financial considerations, warranties or undertakings. [“Request 1”]*
2. *If the information requested above cannot be disclosed in full, please disclose the documents with exempt material redacted [“Request 1A”] and separately provide any recorded information showing:*
 - a. *the total amount that the SFO is required to pay or receive under the settlement;*
 - b. *any contribution toward another party’s legal costs payable by the SFO;*
 - c. *how any financial liability or payment was allocated between the SFO, Dechert LLP and David Neil Gerrard;*
 - d. *whether the settlement contains an admission or denial of liability, an apology, a release or waiver of claims, confidentiality obligations, or agreed wording for public statements; and*
 - e. *the date and nature of any approval required from HM Treasury, the Attorney General’s Office or another public authority.*

[“Request 2”].

[The request excludes] correspondence concerning the negotiations or legal advice about settlement strategy, except where such material itself records the final agreed terms.

Response to Request 1 and Request 1A

Request 1 is a request for all the terms of the final, signed settlement agreement (the “**Agreement**”) which ended the various claims encompassed by the ENRC litigation. The Agreement is confidential (save for the information within it which is in the public domain), but subject to compliance with legal disclosure obligations including obligations imposed by FOIA where no exemption under that Act applies.

A court order dated 2 September 2026 (the “**Tomlin Order**”), which is a public document, explains that the parties to the ENRC litigation “*agreed to a settlement on the confidential terms set out in [the Agreement] dated 1 September 2026*”.

The SFO therefore confirms the existence of the Agreement, which includes the terms (the information) encompassed by Request 1, which the SFO holds.

But the SFO does not provide the information requested for the reasons given below, relying on qualified and absolute exemptions in FOIA, principally the former.

Relevant Qualified Exemptions

The following two qualified exemptions under FOIA are engaged for confidential information in the Agreement, subject to the outcome of the FOIA public interest test:

- Section 36(2)(c) - prejudice of the effective conduct of public affairs; and
- Section 43(2) - prejudice to commercial interests.

In this response we explain, first, why those two exemptions are engaged and, secondly, why the outcome in each case of the public interest test is that confidentiality over the Agreement should be maintained in whole (s. 36(2)(c)) or in part (s. 43(2)).

In summary, section 36(2)(c) of FOIA applies and the greater public interest under this exemption is in non-disclosure of all the requested information; and section 43(2) of FOIA applies to much, if not all, of the requested information and the greater public interest under this exemption is in non-disclosure of that information.

Section 36(2)(c) – the exemption

This exemption applies because in the reasonable opinion of the SFO's Director (the "qualified person" for this provision: the "**Director**"), complying with Request 1 would be likely to prejudice the effective conduct of public affairs.

The exemption applies to protect the Agreement as a whole, to the extent that information within it is confidential.

For information within the Agreement which is not confidential because it is in the public domain (within the Tomlin Order and/or public statements made by the parties about the settlement) section 21(1) of FOIA provides the relevant exemption. Such public information is reasonably accessible otherwise than by a request under section 1 of FOIA, so it does not need to be provided in response to a FOIA request. Section 21 provides an absolute exemption.

With regard to section 36(2)(c) of FOIA, the Director's position is that, in the context of high-value civil litigation, the SFO must be able, where appropriate, to enter into confidential "without prejudice" negotiations to try to achieve an acceptable litigation outcome which provides value for money. If such an outcome is possible, but one or more of the other parties requires a final agreement to be confidential, the Director's position is that the SFO should also be able to enter into such a final confidential agreement to achieve that acceptable outcome; and in that context, where a confidential agreement is finalised, the SFO will use its best endeavours to maintain confidentiality where lawful to do so.

The Agreement is such a confidential settlement agreement. It is in the Director's view the acceptable resolution of this high-value civil litigation.

The Director is of the view that if the SFO were to disclose the terms of the Agreement in response to a FOIA request, the SFO would find it harder to persuade any future claimant in

similar proceedings that the SFO would be able to preserve confidentiality over the terms of a future settlement agreement that that claimant may be minded to enter into. The SFO would be less able to settle future civil proceedings in circumstances where the claimant (or another party) requires confidentiality.

The Director believes that the SFO must be able, where appropriate, to enter into confidential agreements to settle on sound terms high-value litigation because such litigation adversely affects the SFO's public functions and therefore the effective conduct of public affairs, by drawing valuable resources away from the SFO's core functions of fighting serious or complex fraud.

The Information Commissioner's Office notes that "*prejudice to the effective conduct of public affairs could refer to an adverse effect on [the government department's] ability to offer an effective public service or to meet [its] wider objectives or purpose*".¹

Section 36(2)(c) of FOIA is therefore an exemption the SFO relies on to maintain the confidentiality of the entire Agreement and all information therein, save for the publicly available information referred to above.

Section 36(2)(c) – the public interest test

As noted above, section 36(2)(c) is a qualified exemption. This means that when a decision is taken that the exemption applies, the relevant public body, in this case the SFO, must apply the FOIA "public interest" test. In short, this requires the SFO to weigh the public interest in disclosing the information requested against the public interest in maintaining the exemption and refusing disclosure, always bearing in mind that the broad principle underpinning FOIA is to release information unless there is a good reason for withholding it.

To justify withholding the information sought by your Request 1, the SFO must therefore be satisfied that the public interest in maintaining the exemption in section 36(2)(c) across all confidential information in the Agreement outweighs the public interest in disclosing that information.

The SFO has attached appropriate weight to the Director's opinion when balancing the public interest test, in accordance with ICO guidance.²

As a publicly funded government department, the public interest arguments **for** disclosure of the information sought in Request 1 are that there is a need for:

- the SFO to be transparent about its use of public funds (especially where substantial amounts of money are involved), whether in relation to its criminal investigations or related civil proceedings;
- objective public scrutiny of the SFO's work, particularly in the light of judicial findings against the SFO in the ENRC litigation.

¹ [Section 36 - Prejudice to the effective conduct of public affairs | ICO](#)

² See footnote 1.

The public interest arguments **against** disclosure are that:

- it is the reasonable view of the SFO's Director that the terms of the Agreement following high-profile litigation should be withheld on the basis that disclosure would be likely to prejudice the effective conduct of public affairs, as explained above, and appropriate weight must be given to that opinion;
- it would not be in the public interest to undermine the SFO's ability to enter into confidential settlement agreements with parties in respect of high-value civil litigation, where the SFO considers a settlement agreement requiring confidentiality to be the most appropriate course of action in all the circumstances consistent with its legal obligations, including its obligation to obtain value for money;
- that increased difficulty would be likely to act as a brake on the SFO's discretion to act in the public interest, and would have a significant and detrimental impact on the SFO's conduct of its public affairs, and indeed the public affairs of other government departments engaged in similar adversarial civil litigation because they would share the SFO's increased difficulty in reaching a settlement requiring confidential terms;
- not having the option of being able to settle future cases on confidential terms would mean that the SFO could in a given future case be compelled to accept ongoing exposure to litigation risks and the deployment of public funds (with adverse public cost implications for the SFO and taxpayers) in cases where the SFO denies all allegations but accepts that there are nevertheless risks because of the very nature of adversarial litigation; and the SFO could therefore find itself unable to enter into a very favourable settlement involving the payment of money to the SFO (i.e., towards the SFO's costs) if the claimant insisted on confidentiality in negotiations but felt confidentiality would not in fact be preserved;
- there is general public interest in promoting the settlement of civil proceedings, which underpins the existence of "without prejudice" privilege and is also enshrined in the overriding objective of the Civil Procedure Rules (CPR 1.1 and 1.4); and promoting the settlement of proceedings in turn requires a willingness on the part of the courts and other authorities to uphold the bargain negotiated between the parties and reflected in a settlement agreement such as the Agreement, including any provisions on confidentiality;
- disclosure of the Agreement following the high-profile ENRC litigation would likely damage third-party trust in the SFO in relation to its willingness and/or ability to maintain confidentiality obligations more generally, and would therefore likely deter third parties from being willing, or as willing, to accept that the SFO would respect confidentiality obligations and try to keep relevant information confidential (in appropriate cases);
- some information relating to the basis for settling the relevant ENRC litigation and the Agreement is already in the public domain; and the parties' respective positions for Phase 2 of the ENRC litigation covering the period March 2013 to August 2023 were

fully aired in public, in written and oral submissions, during the Commercial Court trial in April and May 2026;

- much of the confidential information within the Agreement in any event relates solely to matters about which there can be little if any legitimate public interest because it relates only to the other parties to the ENRC litigation, and they are not public bodies;
- the total sum paid by the SFO under the Agreement will be published in the SFO's Annual Report and Accounts for the financial year 2026-2027, ensuring transparency and public accountability in respect of the SFO's use of public money.

On balance, weighing the above public interest factors for and against disclosure, we have concluded that despite some public interest factors favouring disclosure, the greater public interest lies in maintaining the exemption and withholding the Agreement in full.

The outcome of the section 36(2)(c) test and the public interest exercise is not fixed as a blanket policy such that the outcome of a request for information within a confidential settlement agreement will always or necessarily favour non-disclosure. Each request under FOIA must be assessed on its own facts against all relevant circumstances. But the SFO takes the view, for the reasons set out above, that there must be a very strong presumption that confidentiality over a confidential settlement agreement in respect of high-value and/or high-profile civil proceedings should be maintained, particularly in circumstances where the SFO will disclose any payment made under the settlement at a later date.

The entire Agreement is withheld from disclosure under section 36(2)(c) of FOIA to the extent that information within it is confidential (i.e., not in the public domain and in that way reasonably accessible for the purposes of section 21 of FOIA). Section 21(1) of FOIA, an absolute exemption, provides that information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information. The SFO confirms the existence of information in the Agreement on the names of the parties, the date, confidentiality and public statements about the Agreement. That information is in the public domain (within the Tomlin Order and public statements made by the parties about the settlement) and so, by section 21(1), is exempt from your request under FOIA.

It follows, that the Agreement is withheld from disclosure (Request 1). It also follows that it is not possible to provide a redacted copy of the Agreement (Request 1A).

Section 43(2) – the exemption

Section 43(2) of FOIA provides that public bodies are not required to comply with a FOIA request where to do so would, or would be likely to, prejudice the commercial interests of any person.

Although the SFO does not have commercial interests of its own for this exemption, it was necessary to consider the commercial interests of two other parties to the Agreement. The SFO has therefore consulted ENRC and Dechert LLP to determine what, if any, of their

commercial interests would be prejudiced by the disclosure of the Agreement in response to Request 1.

ENRC has confirmed to the SFO that its commercial interests would be prejudiced if the terms of the Agreement were to be made publicly available in response to a FOIA request. ENRC has understandably provided much of its explanation in confidence, but the SFO has carefully considered all points made and believes that they are reasonable on their face. One point that ENRC makes, which we have permission to cite, is as follows:

“In circumstances where the sums claimed by ENRC in the proceedings are public knowledge, disclosure of the terms that ENRC agreed to settle on would provide an indication to parties in other current or future proceedings that ENRC is or may be engaged with, as to the terms ENRC (and the ENRC group of companies) would be willing to settle on within a given legal dispute. This would be likely to place ENRC or an ENRC group company at a commercial disadvantage, as (a) it would be likely to harm its negotiating position leading to the conclusion of settlement on less favourable terms, and (b) may impede the ability to reach a compromise resolution of other proceedings where it may otherwise have been commercially advantageous to do so.”

Dechert LLP has also confirmed to the SFO that its commercial interests engage the exemption in section 43(2) of FOIA and, again, the SFO has carefully considered and accepted its position.

The SFO has concluded that disclosure of information encompassed by Request 1 would be likely to harm the commercial interests of both ENRC and Dechert LLP. The SFO considers that section 43(2) is engaged.

This qualified exemption does not necessarily apply to protect the Agreement as a whole, as an entire document, from disclosure; but the first point to make is that it patently applies to protect obviously commercial or financial terms within the Agreement from disclosure, where the SFO is satisfied that the disclosure of such terms would be likely to prejudice one or both of the other parties' commercial interests. Further, it bears repeating that the whole Agreement is confidential, so terms which do not obviously contain the other parties' commercially sensitive information (i.e., which do not appear at face value to be commercial or financial terms) are nevertheless confidential for a reason; and it is reasonable to infer that ENRC and Dechert LLP required confidentiality over the Agreement because of a potential impact on their respective commercial interests. After all, speaking generally, where in any settlement negotiations between businesses one party has made a concession which is incorporated into a final settlement agreement as a provision which is not obviously related to commercial interests, that party will wish to keep that concession confidential so that in future negotiations with other persons in extraneous circumstances it is not forced to make the same concession again. The commercial interests of that party may therefore be prejudiced by disclosure of a term which is not obviously about a financial payment.

It must also be borne in mind that a confidential agreement between ENRC and Dechert LLP would not ordinarily fall within the scope of FOIA. It is only because they are parties to an agreement to which the SFO, a public body, is also a party and because the SFO as a party holds the Agreement in its own records, that their own confidential information is in principle encompassed by FOIA.

In short, the terms of the Agreement are either (i) patently commercially sensitive terms in the sense of being about payments or other financial matters or (ii) commercially sensitive terms for another reason; or (iii) they are terms which are inextricably linked to commercially sensitive terms on account of having been incorporated through consensus into the Agreement to supplement categories (i) and (ii). The SFO accepts that disclosure of category (iii) terms will not necessarily cause the other parties to suffer commercial prejudice, because some such terms seen in isolation are likely to have no such adverse impact.

It is not for the SFO to determine for itself which confidential terms in the Agreement fall within which category for each other party with commercial interests. Nor is it reasonable in all the circumstances to expect the SFO to seek from the other parties a view on the extent to which each specific term in the Agreement should be assessed with reference to their respective commercial interests. It is not a reasonable exercise because the SFO has already concluded that all confidential terms in the Agreement should be withheld from disclosure under section 36(2)(c) of FOIA.

In any event, the fact remains, that section 43(2) of FOIA is engaged for all “terms of the executed settlement agreement” which ENRC and/or Dechert LLP consider, or would consider if specifically asked, would be likely to prejudice their respective commercial interests if disclosed to the world at large under FOIA.

Section 43(2) – the public interest test

The SFO takes the view that **there is very little, if any, legitimate public interest** in favour of disclosing terms in the Agreement other than terms which directly or indirectly relate to public expenditure or the work of the SFO. As noted already, a confidential agreement between ENRC and Dechert LLP to make or receive payments as between themselves or agree other contractual terms on a confidential basis would not ordinarily fall within the scope of FOIA.

There are, however, public interest arguments **in favour of** disclosing information comprising terms in the Agreement which refer to payments from or to the public purse. These arguments have been set out above for section 36(2)(c) and are not repeated here.

The public interest arguments **against** disclosure generally of the terms of the Agreement, or specifically **against** disclosure of terms which relate to public money, are as follows:

- the point made above that entities which are not public bodies should not have their confidential information disclosed just because it is held by the SFO as a public body,

where such information does not have any relevance to expenditure from the public purse;

- although the SFO is a public body and publicly funded, it is legally entitled to enter into legal obligations of confidence on which other parties (such as ENRC and Dechert LLP) are entitled to rely and there are strong public interest arguments why public bodies must be able to continue to rely upon, offer, and provide legally binding obligations of confidence;
- the SFO and other public bodies are able, notwithstanding FOIA, to obtain and provide the benefit of legally binding obligations of confidence which enable such public bodies to obtain and make use of protected (e.g., commercially sensitive) information in confidence, which they would not otherwise be able to obtain or use, and which facilitates decision making and actions which would not otherwise be available (including reaching and documenting the settlement of civil proceedings on confidential terms); and any disclosure putting such options, information sharing and resultant outcomes at risk is not in the public interest;
- for obligations of confidentiality to have any meaning and value, and to ensure ongoing trust in the SFO (and indeed other public bodies) when agreeing to keep information confidential (including discussing, negotiating, and concluding settlement agreements for civil proceedings in reliance on a legal obligation of confidence from the public body), there is a very strong presumption that such an obligation must remain valid and binding (notwithstanding FOIA) for otherwise:
 - providers of confidential information will be less trusting of public bodies and so be less likely to provide confidential information to them;
 - the reputation of public bodies and confidence in them will be diminished if they disclose confidential information against the wishes of the provider;
 - there will be less cooperation and collaboration with public bodies, if it is thought that public bodies will fail to protect confidential information despite legal obligations of confidence borne by them;
- there is a general and important public interest in promoting the settlement of civil proceedings, which underpins the existence of "without prejudice" privilege and is also enshrined in the overriding objective of the Civil Procedure Rules (CPR 1.1 and 1.4); and promoting the settlement of civil proceedings in turn requires a willingness on the part of the Courts to uphold the bargain negotiated between the parties and reflected in the settlement agreement, including any provisions in relation to confidentiality -- it is therefore well established that the public interest favours the protection of commercial interests linked to the confidentiality of settlement agreements, including therefore the Agreement;
- disclosure of the terms that ENRC and/or Dechert LLP agreed to settle on would provide an indication to parties in other current or future proceedings that ENRC or Dechert LLP is or may be engaged with, as to the terms they or their wider groups would be willing to settle on within a given legal dispute, which would be likely to place

them at a commercial disadvantage as it would be likely to harm the party's negotiating position leading to the conclusion of settlement on less favourable terms and may impede the ability to reach a compromise resolution of other proceedings where it may otherwise have been commercially advantageous to do so.

On balance, weighing the above public interest factors for and against disclosure, the SFO takes the view that the greater public interest lies in maintaining the exemption and withholding the information comprising the "terms of the executed settlement agreement" which ENRC and Dechert LLP consider (or would consider if specifically asked) would be likely to prejudice their respective commercial interests if disclosed under FOIA.

Given the decision under section 36(2)(c) in this response, as mentioned above it is not reasonable to ask the other parties to address each provision in isolation and report back to the SFO with a view to the SFO making a redacted version of the Agreement for disclosure under FOIA which would provide only the terms which would not be likely to cause the other parties to suffer commercial prejudice. The decision under section 36(2)(c) is that it is not possible to provide a redacted copy of the Agreement under FOIA.

Relevant Absolute Exemptions

In addition to the qualified exemptions referred to above, two absolute exemptions within FOIA are engaged by Request 1: section 41 (information provided in confidence) and, in relation to one party, section 40(2) (personal information). These exemptions do not require assessment of the statutory public interest test within FOIA.

Section 41 – Information provided to the SFO in confidence

Where complying with a FOIA request would necessarily involve an actionable breach of confidence, in cases where there is no common law public interest defence, section 41(1) of FOIA applies. This is an absolute exemption.

The fact of the Agreement is public knowledge, as is the fact that it is confidential. Any confidential information within the Agreement came from the parties in the context of confidential "without prejudice" discussions aimed at settling the ENRC litigation.

To disclose confidential information within the Agreement which has been provided by another party to the Agreement would necessarily involve an actionable breach of confidence because there is no overriding public interest which would justify the disclosure of such information under FOIA (after all, the other parties are not public bodies). In that respect we repeat the points made above when considering the public interest test for the two qualified exemptions, to the extent applicable to information provided to the SFO in confidence by others.

In summary, any confidential information provided by the other parties to the SFO, and recorded in the Agreement, is subject to legally binding confidentiality obligations and, by section 41(1) of FOIA, the SFO is not required to comply with your Request 1.

Given the decision under section 36(2)(c) above, it is not reasonable to ask the other parties to address each provision in isolation and report back to the SFO on their confidential

information with a view to the SFO making a redacted version of the Agreement for disclosure under FOIA. The decision under section 36(2)(c) is that it is not possible to provide a redacted copy of the Agreement.

Section 40(2) and (3A) – personal data

The details of the Agreement relate to legal proceedings involving four different parties, including one individual, Mr David Neil Gerrard. Necessarily, the information requested in Request 1 involves Mr Gerrard's personal data, which data are not in the public domain (apart from the limited extent referred to above); and Mr Gerrard, as a party to the Agreement, which is confidential, had a reasonable expectation that information including his personal data within the Agreement would not be disclosed.

To the extent that your Request 1 requires disclosure of Mr Gerrard's personal data, the SFO relies on the absolute exemption provided by section 40(2) of FOIA, read with section 40(3A)(a) (the first condition). Section 40(2) read with section 40(3A)(a) provide an absolute exemption in relation to personal data where disclosure by the SFO would contravene any of the data protection principles within Article 5 of the UK GDPR. In reaching that decision, the SFO considered the following factors:

- the reasonable expectations of Mr Gerrard;
- whether Mr Gerrard would be concerned by the disclosure; and
- the potential harm or distress disclosure may cause to Mr Gerrard;

The SFO takes the view that complying with Request 1 would not be legitimate, necessary or fair and would place the SFO in breach of the data protection principles. If the SFO were to comply with Request 1, to the extent that it encompasses Mr Gerrard's personal information, the SFO would be in breach of Article 5 of the UK GDPR and acting unlawfully.

There is no public interest test to be applied under this exemption.

Again, given the decision under section 36(2)(c) above, it is not reasonable to ask Mr Gerrard to address Request 1 and report back to the SFO with a view to the SFO making a redacted version of the Agreement for disclosure under FOIA. The decision under section 36(2)(c) is that it is not possible to provide a redacted copy of the Agreement.

Response to Request 2

This request for recorded information is as follows:

separately provide any recorded information showing

- a. the total amount that the SFO is required to pay or receive under the [Agreement];*
- b. any contribution toward another party's legal costs payable by the SFO [under the Agreement];*

c. how any financial liability or payment was allocated [under the Agreement] between the SFO, Dechert LLP and David Neil Gerrard;

d. whether the [Agreement] contains an admission or denial of liability, an apology, a release or waiver of claims, confidentiality obligations, or agreed wording for public statements; and

e. the date and nature of any approval required from HM Treasury, the Attorney General's Office or another public authority.

[The request excludes] correspondence concerning the negotiations or legal advice about settlement strategy, except where such material itself records the final agreed terms.

Preliminary comments

As already explained, the Tomlin Order of 2 September 2026 explains that the parties to the ENRC litigation “*agreed to a settlement on the confidential terms set out in [the Agreement] dated 1 September 2026*”.

Although not something requested in your FOIA requests, the total sum paid by the SFO under the Agreement will in due course be published in the SFO's Annual Report and Accounts for the financial year, ensuring transparency and public accountability. The exemption in section 22(1) of FOIA would be engaged in relation to that figure, if requested.

The terms of the Agreement cannot be disclosed. Nor, for the reasons already given in this response letter, can a redacted version of the Agreement be provided. The Agreement is a confidential document in its entirety and all the information within it is confidential unless it is in the public domain.

The Agreement was finalised on 1 September 2026 following confidential “without prejudice” negotiations involving all parties to the ENRC litigation, and those communications remain confidential. Further, those “without prejudice” communications were informed and underpinned by confidential communications between the parties and their respective external solicitors, which communications were, and remain, protected by the parties' legal professional privilege. Such privilege extends beyond the confidential communications between a party and its solicitors to encompass evidence of the substance of such communications and other material brought into existence for the purpose of that confidential lawyer-client relationship.

Your final comment (“*not requesting correspondence concerning the negotiations or legal advice about settlement strategy, except where such material itself records the final agreed terms*”) is not entirely clear. There were no “*final agreed terms*” until the Agreement was finalised and signed by the parties' representatives on 1 September 2026, so there can be no such terms in any earlier documents concerning the negotiations or legal advice about settlement strategy, only provisional or prospective terms.

We note that you ask for “*any recorded information*” (i.e., within any SFO material) but expressly refrain from asking for privileged information in SFO material “*except where such material itself records the final agreed terms*”. The SFO’s understanding, therefore, is that your Request 2(a)-(c) is for (1) for the (final) terms of the Agreement itself to the extent encompassed by your (a)-(c) and/or (2) information in any other documents (material) held by the SFO, whether or not privileged, which sets out the (final) terms of the Agreement encompassed by your (a)-(c) and engages FOIA.

The Agreement was signed by the parties and thereby created on 1 September 2026. With reference to section 1(4) of FOIA, there are no separate documents held by the SFO which record information encompassed by your Request 2(a)-(c), whether privileged or not, in respect of the Agreement and its (final) terms.³

We now turn to your specific requests.

Request 2(a) and Request 2(b)

The SFO relies on the following FOIA exemptions, for the reasons already given in response to Request 1: section 36(2)(c), section 43(2), and section 41.

Applying the statutory public interest test in respect of sections 36(2)(c) and 43(2), the SFO has concluded in each case that the greater public interest is in non-disclosure of the requested information, for the reasons already given in response to Request 1. It is not necessary to repeat here what has been said above.

With reference to section 41, to the extent that the information requested may properly be regarded as confidential information from another party, there is no overriding public interest which would justify the disclosure of this confidential information under FOIA.

The confidential information encompassed by Request 2(a) and Request 2(b) will not therefore be disclosed in response to this request under FOIA.

Request 2(c)

The SFO confirms that the Agreement was entered into by, and binds, four separate parties: the SFO, ENRC, Dechert LLP and David Neil Gerrard; and the SFO also confirms that it was an agreement to settle the ENRC litigation in which (i) ENRC was seeking damages from the other parties, (ii) there were contribution claims between the Defendants and (iii) liability in principle for ENRC’s relevant losses had been established in earlier judgments of the

³ The SFO does, however, hold within its own material some confidential information from the “without prejudice” negotiations comprising *provisional* terms which the SFO expected would be in the prospective settlement agreement as final terms when signed.

Commercial Court. The terms of the Agreement are confidential. See the Tomlin Order of 2 September 2026.

The SFO relies on the following four FOIA exemptions, for the reasons already given in response to Request 1: section 36(2)(c), section 43(2), section 41, and section 40(2) read with section 40(3A)(a).

Applying the statutory public interest test in respect of sections 36(2)(c) and 43(2), the SFO has concluded in each case that the greater public interest is in non-disclosure of the requested information, for the reasons already given in response to Request 1. There is no need to repeat here what has already been stated.

With reference to section 41, to the extent that the information requested may properly be regarded as confidential information from another party, there is no overriding public interest which would justify the disclosure of this confidential information under FOIA, as explained in the response above to Request 1.

With reference to section 40(2) read with section 40(3A)(a), the SFO has no lawful basis for providing the requested information to the extent that Mr Gerrard's personal data are within the information requested, as explained in response to Request 1.

Request 2(d)

In this request you ask for *“any recorded information showing [...] whether the [Agreement] contains an admission or denial of liability, an apology, a release or waiver of claims, confidentiality obligations, or agreed wording for public statements.”*

As noted above, the Tomlin Order of 2 September 2026 explains that the parties to the ENRC litigation *“agreed to a settlement on the confidential terms set out in [the Agreement] dated 1 September 2026”*. It is evident, therefore, that there are confidentiality obligations on the parties. In all other respects, the terms of the Agreement are confidential.

With regard to the other speculative provisions in your list (the **“speculative provisions”**), the only recorded information on the terms of the Agreement is the information in the Agreement itself. There are no internal SFO documents beyond the Agreement which “show whether” the Agreement contains any of the speculative provisions.

Given the decision under section 36(2)(c) above, including the outcome of the public interest test, which applies to the Agreement in its entirety and to any specific confidential provision within the Agreement, it is not possible to provide a redacted copy of the Agreement.

In accordance with section 36(3) of FOIA, the SFO neither confirms nor denies whether the Agreement contains terms related to the speculative provisions. In the opinion of the Director, compliance with section 1(1)(a) of FOIA (the usual duty to confirm or deny that requested information is held) would be likely to prejudice the effective conduct of public affairs. The Director believes that if the requested information is held within the Agreement, a confirmation that such information is held, or not held, would undermine the confidentiality of the Agreement by, in effect, disclosing the very nature of confidential terms in the Agreement or omissions in

the Agreement. In circumstances where the other parties to the Agreement entered into it on the basis that its terms would be kept confidential, so that concessions or unsuccessful demands would not be revealed, the Director believes compliance with the duty to confirm or deny would be likely to have the same effect in undermining confidence in the SFO's ability and willingness to maintain confidentiality as mentioned above and this would be likely to lead to the outcome previous described (see pages 2-3, above).

The SFO's position is that in all the circumstances, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether the Agreement includes any of the speculative provisions. There can be little, if any, public interest in providing the information sought in Request 2(d), but the public interest in preserving confidentiality in an agreement to settle high-value, high-profile civil litigation is considerable for the reasons already given.

Request 2(e)

With regard to the "*date and nature*" of any approval required, the SFO holds a "Delegated Authority Letter" from HM Treasury dated 2 April 2026 for the financial year 2026/2027 which is generally applicable for that year and, subject to certain conditions being met, provides the SFO with general authority to make payments, including payments to settle civil litigation. Further, HM Treasury confirmed on 16 April 2026 that the SFO had authority to make a payment to settle the ENRC litigation.