

Ch 21: Public policy

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A claim of PII is a duty to be observed rather than an exercise of discretion to claim a right to withhold material: *R (Dunn) v Secretary of State for Foreign and Commonwealth Affairs* [2020] EWHC 3010 (Admin) at [10(i)].

Where PII applies, it imposes an exclusionary rule which may operate to the disadvantage of the party claiming it: Per Lord Bingham in *Makanjuola v The Commissioner of Police for the Metropolis* [1992] 3 All E.R. 617, CA, endorsed by Lord Woolf in *R v Chief Constable of the West Midlands Police, ex p Wiley* [1995] 1 AC 274, HL at 295. See also *R (Dunn) v Secretary of State for Foreign and Commonwealth Affairs* [2020] EWHC 3010 (Admin).

The scope of exclusion on grounds of public policy

National security, diplomatic relations, and international comity

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In *R (Dunn) v Secretary of State for Foreign and Commonwealth Affairs* [2020] EWHC 3010 (Admin), the court gave the certificate from the Foreign and Commonwealth Office 'substantial weight' but reached its own view, on the usual balance of competing interests, that the PII claim should succeed.

Procedural issues

Civil cases

Taking the objection

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A certificate may also be issued by a senior official, such as a permanent under-secretary of state, and such a certificate will carry the same force as one issued by a minister: *R (Dunn) v Secretary of State for Foreign and Commonwealth Affairs* [2020] EWHC 3010 (Admin).