

Comments from Senior Fellow Alan Morrison on Public Availability of Agency Settlement Agreements
December 1, 2022

My principal question relates to whether settlement agreements can ever be confidential - see line 75. I would like to discuss this at the plenary.

I am not sure (line 87) that “sensitive” information can be protected as there is no FOIA exemption for that. Also, since the parties are in control of what goes in the settlement agreement - other than the legal terms which should be public - I am not clear why there should be any sensitive information in such agreements at all. But if there is, then I would add “posted” at the end of line 88.

Line 96: I would insert after “homepage,” the phrase “and includes” and delete the comma after “map” to make clear that the desired access is from the home page and not from the site map or site index.

Line 98: I do not understand the meaning of “case summaries,” especially the plural since the subsection refers to an individual proceeding.