

# Decision Notice

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## **Decision 211/2014: Mr Tom Taylor and Strathclyde Partnership for Transport**

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**Correspondence regarding the provision of a car park at Patterton Railway Station**

Reference No: 201401414

Decision Date: 1 October 2014



Scottish Information  
Commissioner

## Summary

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On 14 April 2014, Mr Taylor asked Strathclyde Partnership for Transport (SPT) for all correspondence regarding the provision of a car park opposite Patterton Railway Station, East Renfrewshire.

SPT notified Mr Taylor that it held two documents of relevance to his request but it did not provide him with these documents. Following a review, Mr Taylor remained dissatisfied and applied to the Commissioner for a decision.

The Commissioner found that SPT had partially failed to respond to Mr Taylor's request for information in accordance with Part 1 of FOISA. While it had correctly withheld information in terms of sections 30(b)(ii) and 38(1)(b) of FOISA, it had initially failed to identify all information covered by Mr Taylor's request. This information was identified and provided during the investigation.

## Relevant statutory provisions

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Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (4) and (6) (General entitlement); 2(1) and (2)(e)(ii) (Effect of exemptions); 30(b)(ii) (Prejudice to effective conduct of public affairs); 38(1)(b), (2)(a)(i), (2)(b) and (5) (definitions of "the data protection principles", "data subject" and "personal data") (Personal information)

Data Protection Act 1998 (the DPA) sections 1(1) (Basic interpretative provisions) (definition of "personal data"); Schedules 1 (The data protection principles, Part I: the principles) (the first data protection principle) and 2 (Conditions relevant for purposes of the first principle: processing of any personal data) (condition 6)

The full text of each of the statutory provisions cited above is reproduced in Appendix 1 to this decision. The Appendix forms part of this decision.

## Background

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1. On 14 April 2014, Mr Taylor made a request for information to Strathclyde Partnership for Transport (SPT). He asked for copies of any and all correspondence between SPT departments, staff and /or other outside bodies, such as correspondence with East Renfrewshire Council and elected members; correspondence between members of the public and SPT; or between companies and land owners and SPT, where the correspondence related to the provision by SPT of a car park opposite Patterton Railway Station, East Renfrewshire.
2. The SPT sought clarification of Mr Taylor's request on 30 April 2014, noting that there were two car parks at Patterton Railway Station, one on the east side and one of the west side of Stewarton Road. The SPT also asked if there was a specific time frame he was interested in.
3. Mr Taylor wrote to the SPT on 1 May 2014 and clarified that the car park he required information on was that on the west side of Stewarton Road. Mr Taylor also confirmed that he wanted all relevant papers up to and including the completion of the car park in September 2010.

4. The SPT responded on 27 May 2014. In its response, the SPT confirmed that it held two documents that fell within the scope of his request, and gave a brief description of them. The SPT advised Mr Taylor that FOISA provides a right of access to information and not a right of access to documents. The SPT did not provide Mr Taylor with copies of the two documents.
5. On 1 June 2014, Mr Taylor wrote to the SPT requesting a review of its decision. He argued that, although FOISA provides a right of access to information rather than copies of documents, a request for a copy of a document will generally be a valid request for all of the information contained within that document. Mr Taylor submitted that he was entitled to be provided with the contents of the two documents identified by SPT. Mr Taylor also queried why there wasn't further information held by the SPT, indicating that he expected a more extensive audit trail to exist.
6. The SPT notified Mr Taylor of the outcome of its review on 26 June 2014. The SPT provided Mr Taylor with copies of the two documents it had previously identified and withheld, along with copies of 27 additional documents it had located as a result of further searches. The SPT noted that it had redacted certain personal information from these documents in line with section 38(1)(b) of FOISA and that other information had been redacted as it related to other projects (and therefore was not covered by the terms of his request). The SPT also advised Mr Taylor that it was withholding one document from him in its entirety under the exemption contained in section 30(b)(ii) of FOISA.
7. On 1 July 2014, Mr Taylor wrote to the Commissioner stating that he was dissatisfied with the outcome of the SPT's review and applying to the Commissioner for a decision in terms of section 47(1).

## **Investigation**

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8. The application was accepted as valid. The Commissioner confirmed that Mr Taylor made a request for information to a Scottish public authority and asked the authority to review its response to that request before applying to her for a decision.
9. On 11 July 2014, the SPT was notified in writing that Mr Taylor had made a valid application. The SPT was asked to send the Commissioner the information withheld from him. The SPT provided the information and the case was allocated to an investigating officer.
10. Section 49(3)(a) of FOISA requires the Commissioner to give public authorities an opportunity to provide comments on an application. The SPT was invited to comment on this application and answer specific questions including justifying its reliance on any provisions of FOISA it considered applicable to the information requested.

## **Commissioner's analysis and findings**

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11. In coming to a decision on this matter, the Commissioner considered all of the withheld information and the relevant submissions, or parts of submissions, made to her by both Mr Taylor and the SPT. She is satisfied that no matter of relevance has been overlooked.

### **Withheld Information**

12. In its review outcome, the SPT disclosed 27 documents to Mr Taylor. Certain information within these 27 documents had been redacted by the SPT on the basis that it was either

outwith the scope of his request or it fell under the exemption contained in section 38(1)(b) of FOISA. The SPT also withheld one document under section 30(b)(ii) of FOISA.

13. During the investigation, the SPT identified further information that fell under the scope of Mr Taylor's request. The SPT also indicated that, while it had previously identified one document as being withheld under section 30(b)(ii) of FOISA, the document actually comprised two emails. On reflection, the SPT submitted that only one of the emails was exempt in terms of section 30(b)(ii) of FOISA, while the remaining email could be disclosed to Mr Taylor with personal information redacted under section 38(1)(b) of FOISA.
14. The SPT subsequently disclosed a further eight documents to Mr Taylor during the investigation. As with the other documents disclosed to Mr Taylor, certain information was redacted on the basis that it was either personal data or that it was outwith the scope of his request. The SPT continued to withhold one email in its entirety under section 30(b)(ii) of FOISA.
15. In total, the withheld information comprises one email withheld in its entirety under section 30(b)(ii) of FOISA, and redactions made to 35 documents under section 38(1)(b) of FOISA.

#### *Out of scope redactions*

16. As indicated above, some of the information redacted from the documents disclosed to Mr Taylor was not personal data but was information that related to other SPT projects. The SPT considered it fell outwith the scope of Mr Taylor's request. The Commissioner has reviewed all of the non-personal data redactions and is satisfied that none of it falls within the scope of Mr Taylor's request. She will not consider this information further.

#### **Section 30(b)(ii) – Prejudice to effective conduct of public affairs**

17. The SPT has relied upon the exemption contained in section 30(b)(ii) of FOISA to withhold the contents of one email from Mr Taylor.
18. In order for the SPT to rely on this exemption, it must show that disclosure of the information would (or would be likely to) inhibit substantially the free and frank provision of views for the purposes of deliberation. The exemption is subject to the public interest test in section 2(1)(b) of FOISA.
19. In applying the exemption, the chief consideration is not whether the information constitutes opinion, but whether the disclosure of that information would, or would be likely to, inhibit substantially the exchange of views. The Commissioner expects authorities to be able to demonstrate a real risk or likelihood that actual harm will occur at some time in the near (certainly the foreseeable) future, not simply that harm is a remote possibility. Also, the harm in question should take the form of substantial inhibition from expressing views in as free and frank a manner as would be the case if disclosure could not be expected to follow. The word "substantial" is important here: the degree to which a person will be, or is likely to be, inhibited in expressing themselves has to be of some real and demonstrable significance.
20. Each request should be considered on a case-by-case basis, taking into account the effects on the future exchange of views anticipated from disclosure of the particular information involved.
21. The SPT explained that its role involves planning and delivering transport solutions for all modes of transport across the region, in conjunction with its member councils and partners.

The SPT argued that the withheld email contains a free and frank personal view which is most likely to have been communicated with an expectation of confidentiality.

22. The SPT submitted that it considers it necessary for officers of the SPT and the Council to be able to exchange free and frank views on sensitive issues in a private space in order to reach a shared understanding and to be able to resolve any issues arising. The SPT submitted that there is a significant difference in being able to express such views in a private forum and in circumstances where they are likely to be made public.
23. The SPT argued that disclosure of this information makes it inevitable that officers of SPT and local authorities will conclude that other similar communications will be disclosed and that this, in turn, will inhibit the way in which views are expressed and information communicated in future. The SPT argued that this inhibition would be to the detriment of future project delivery.
24. The SPT argued that it would be much less likely that those involved would, in future, make their views known freely and frankly, and that they would be less willing to communicate and record their views. The SPT noted that if it was not made aware of information relating to a project, it would be unable to resolve any issues arising, and the quality of decision making would be diminished. The SPT also argued that disclosure would harm relationships among stakeholders and result in a loss of confidence in the decision-making process.
25. Mr Taylor argued that even if this exemption was relevant in this case, then the public interest test would require to be applied.
26. Having considered the withheld information, together with the SPT's submissions, the Commissioner accepts that disclosure would be likely to result in substantial inhibition to the free and frank exchange of views for the purposes of deliberation, as argued by the SPT. As a result, she is satisfied that the information is exempt from disclosure in terms of section 30(b)(ii) of FOISA. She must now go on to consider the application of the public interest test in section 2(1)(b) of FOISA.

### **Public Interest Test**

27. The exemption in section 30(b)(ii) is subject to the public interest test required by section 2(1)(b) of FOISA. Where this exemption is correctly applied, the Commissioner must consider whether, in all the circumstances of the case, the public interest in disclosing the information is outweighed by the public interest in maintaining the exemption.
28. As stated in previous decisions, the "public interest" is not defined in FOISA, but has been described as "something which is of serious concern and benefit to the public", not merely something of individual interest. It has also been held that the public interest does not mean "of interest to the public" but "in the interest of the public", i.e. disclosure must serve the interests of the public.

### *Submissions by the SPT*

29. When considering the arguments in favour of disclosure, in the public interest, the SPT acknowledged that Mr Taylor has a general right to information. The SPT also noted that there is a requirement for transparency and accountability on the part of the SPT. The SPT considered whether it would benefit the general public to know the content of the withheld email and whether disclosure would offer the public a more informed understanding of the matter.

30. The SPT also considered the public interest arguments in favour of maintaining the exemption. The SPT contended that there is a strong public interest in ensuring that there is a space where public officials can exchange views and information on matters of a sensitive nature in a free and frank manner, with an expectation of confidentiality. The SPT maintained that this public interest extends to ensuring that public officials are not deterred from exchanging such views and recording information, and that there is a public interest in ensuring effective decision making and conduct of affairs.
31. On balance, having given due consideration to the public interest arguments for and against disclosure, the SPT concluded that the public interest in disclosing the withheld information was outweighed by the public interest in maintaining the exemption.

#### *Submissions by Mr Taylor*

32. Mr Taylor submitted that FOISA was not introduced to conceal discussions between two authorities (East Renfrewshire Council and the SPT) who were embarking on a project to spend a million pounds of public money. Mr Taylor also argued that, since a considerable amount of time has passed since the decision to build the car park was made, any alleged damage caused by disclosure would not be significant. Mr Taylor concluded that the public interest favoured disclosure and that this outweighed the application of the exemption.

#### *The Commissioner's view*

33. The Commissioner has considered all of these arguments carefully, in the context of the specific information withheld. She acknowledges that there is a public interest in transparency in relation to the SPT's decision-making processes, including any contribution to that process by both SPT and non-SPT employees. The development of the car park involved the expenditure of a significant amount of public money, and the decision-making processes relating to such expenditure are clearly of considerable public interest. The Commissioner acknowledges that, while the withheld information contains a free and frank personal view, it also gives a brief glimpse into the narrative that formed part of the decision making process.
34. On the other hand, the Commissioner does not consider that disclosure of the email would significantly increase the public knowledge or understanding of how the car park came into existence, or add significantly to public understanding of the expenditure on this project. The Commissioner notes that the SPT has given Mr Taylor 35 documents regarding this project, and she considers that the public interest in understanding decision-making and accountability has, to a great extent, been met by this disclosure, and that little would be added to public debate or understanding if the information contained in the withheld email were to be disclosed.
35. The Commissioner has considered all submissions very carefully, in relation to the content of the withheld information, in balancing the potential benefits of disclosure against the potential harm. In all the circumstances of this case, she is not satisfied that the public interest in disclosure of this particular information is strong enough to outweigh the public interest in maintaining the exemption claimed.
36. On balance, therefore, the Commissioner finds that the public interest in disclosing the withheld information is outweighed by that in maintaining the exemption in section 30(b)(ii) of FOISA. Consequently, she is satisfied that the SPT correctly withheld information under this exemption.

## **Section 38(1)(b) – Personal Information**

37. Section 38(1)(b) of FOISA, read in conjunction with section 38(2)(a)(i) or (2)(b) (as appropriate) exempts personal data if its disclosure to a member of the public, otherwise than under FOISA, would contravene any of the data protection principles.
38. The SPT has submitted that the information it has redacted and is withholding from Mr Taylor is personal data for the purposes of the DPA, and that its disclosure would contravene the first data protection principle. Therefore, it argued that the information was exempt under section 38(1)(b) of FOISA.
39. In considering the application of this exemption, the Commissioner will first consider whether the information in question is personal data as defined in section 1(1) of the DPA. If it is, she will go on to consider whether disclosure of the information would breach the first data protection principle as claimed.
40. This is an absolute exemption, which means that it is not subject to the public interest test contained in section 2(1)(b) of FOISA.

### *Is the information under consideration personal data?*

41. "Personal data" are defined in section 1(1) of the DPA as "data which relate to a living individual who can be identified from those data, or from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller" (the full definition is set out in the Appendix).
42. The Commissioner has considered the submissions received from the SPT on this point, along with the withheld information. She is satisfied that living individuals could be identified from the information, either by itself or with other information reasonably likely to be accessible to Mr Taylor (and others). Given the nature of the withheld information (signatures, names, email addresses, direct dial telephone numbers), the Commissioner finds that it relates to living individuals. Consequently, the Commissioner accepts that the information is personal data, as defined by section 1(1) of the DPA.

### *The first data protection principle*

43. The first data protection principle states that personal data shall be processed fairly and lawfully. The processing in this case would be disclosure of the information into the public domain in response to Mr Taylor's request. The first principle also states that personal data shall not be processed unless at least one of the conditions in Schedule 2 to the DPA is met and, in the case of sensitive personal data (as defined in section 2 of the DPA), at least one of the conditions in schedule 3 to the DPA is also met. (The Commissioner is satisfied that none of the withheld information constitutes sensitive personal data. Therefore, she is not required to consider whether any of the conditions in Schedule 3 can be met.)
44. The Commissioner will first consider whether there are any conditions in Schedule 2 which would permit the withheld personal data to be disclosed. If any of these conditions can be met, she must then consider whether the disclosure of the personal data would be fair and lawful.
45. There are three separate aspects to the first data protection principle: (i) fairness, (ii) lawfulness and (iii) the conditions in the schedules. These three aspects are interlinked. For example, if there is a specific condition in Schedule 2 which permits the personal data to be disclosed, it is likely that the disclosure will also be fair and lawful.

*Can any of the conditions in Schedule 2 be met?*

46. In the circumstances, it appears to the Commissioner that condition 6 in Schedule 2 is the only one which might permit disclosure to Mr Taylor. In any event, neither Mr Taylor nor the SPT has argued that any other condition would be relevant. Condition 6 allows personal data to be processed if the processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject (the individual(s) to whom the data relate).
47. There are, therefore, a number of different tests which must be satisfied before condition 6 can be met. These are:
- a) Does Mr Taylor have a legitimate interest in obtaining the personal data?
  - b) If so, is the processing involved (in this case, disclosure) necessary for the purposes of those interests? In other words, is disclosure proportionate as a means and fairly balanced as to ends, or could the interests be met by means which interfere less with the privacy of the data subjects?
  - c) Even if disclosure is necessary for Mr Taylor's legitimate interests, would it nevertheless be unwarranted in this case by reason of prejudice to the rights and freedoms or legitimate interests of the data subjects?
48. There is no presumption in favour of the disclosure of personal data under the general obligation laid down by section 1(1) of FOISA. Accordingly, the legitimate interests of Mr Taylor must outweigh the rights and freedoms or legitimate interests of the data subjects before condition 6 will permit the personal data to be disclosed. If the two are evenly balanced, the Commissioner must find that the SPT was correct to refuse to disclose the personal data to Mr Taylor.

*Does Mr Taylor have a legitimate interest in obtaining the personal data?*

49. Mr Taylor argued that, as a resident of East Renfrewshire and paying in part for the development of the car park, he has a legitimate interest in knowing who was taking these decisions.
50. The SPT did not consider that Mr Taylor had a legitimate interest in obtaining the withheld information.
51. Having considered all relevant submissions she has received on this point, together with the withheld information, the Commissioner accepts that Mr Taylor, as a resident of the local authority area where the car park is situated, has a legitimate interest in knowing which individuals were responsible for authorising and overseeing the development of a car park which cost a significant amount of public money. Given that public money was used to build the car park, and that taxpayers have a right to know how public bodies spend their money, the Commissioner also accepts that there is a wider public interest in disclosure of information which increase understanding of the decision-making process behind this project.



*Is disclosure necessary for the purposes of these interests?*

52. The Commissioner must now consider whether disclosure of the requested information is necessary for achieving the legitimate interests she has identified, and in doing so she must consider whether these interests might reasonably be met by any alternative means.
53. Mr Taylor has submitted that he has no other viable means of meeting his legitimate interests which would interfere less with the privacy of the relevant data subjects than the provision of the withheld personal data. Mr Taylor has argued that, on balance, his legitimate interests outweigh those of the data subjects. Mr Taylor has asserted that the data subjects are senior members of East Renfrewshire Council and the SPT whose identities are already in the public domain. He argued that data held any personal data contained in the documents would pertain to the individuals' professional roles and would have no bearing on their private lives; as such, there is no potential harm or distress that may be caused by disclosure of their names.
54. The SPT argued that the personal data pertains to relatively junior staff who would have no expectation that their personal data would be publicly disclosed. The SPT noted that it had disclosed the names of senior officers, but argued that disclosure of the personal data of more junior employees would serve no purpose and would constitute an unwarranted intrusion. The SPT pointed out that junior staff did not take any executive decisions relating to the project, and argued that their personal data was not relevant.
55. The SPT redacted the signatures of senior officers in order to prevent them from being vulnerable to identity theft, and argued that disclosure of this information would be unfair.
56. The SPT does not consider that any of the conditions in Schedule 2 to the DPA would permit disclosure of the personal information it has redacted.
57. Having considered the redacted documents that have been disclosed to Mr Taylor, along with the personal information that has been withheld, the Commissioner does not consider disclosure of the redacted personal data to be necessary to meet Mr Taylor's legitimate interests. The Commissioner notes that SPT has already disclosed the names of all senior, decision-making officers and, apart from the signatures of senior staff, only the personal data of more junior officers have been withheld. The Commissioner accepts that such junior staff had no role in the decision-making processes relating to the car park development, and finds that disclosure of their names and contact details is not necessary to meet Mr Taylor's legitimate interests. The Commissioner considers that disclosing the signatures of senior staff is not necessary as the names of senior staff have already been released and their signatures will add nothing further to Mr Taylor's understanding of decision making processes.
58. The Commissioner notes that the SPT disclosed the job titles of junior staff to Mr Taylor during the investigation, and considers that this is enough information to give Mr Taylor and the public in general a more informed understanding of how the requested correspondence relates to SPT's decision-making process.
59. In all the circumstances, the Commissioner concludes that disclosure of the withheld personal data would not be necessary to meet the legitimate interests identified above.
60. The Commissioner must therefore conclude that condition 6 cannot be met in this case. In the absence of a condition permitting disclosure, she must also conclude that disclosure would be unlawful. The Commissioner therefore finds that the first data protection principle

would be breached by disclosure, and so the information under consideration was properly withheld by the SPT under section 38(1)(b) of FOISA.

### **Information held by the SPT**

61. Section 1(1) of FOISA provides that a person who requests information from a Scottish public authority which holds it is entitled to be given that information by the authority. The information to be given by the authority is the information it held at the time the request was received.
62. The SPT submitted that, once Mr Taylor clarified which car park he was interested in, it contacted key staff asking them to search for relevant information. At this point it established that it held no paper files and a search of electronic files was undertaken, which located two documents. Following Mr Taylor's request for review, all SPT staff that had some involvement with the project were asked to double check whether they held any information. As a result of these searches, 28 documents were located.
63. During the Commissioner's investigation, the SPT discovered further correspondence that fell within the scope of Mr Taylor's request. The SPT noted that these documents were held in the Legal Services' grant funding archived electronic files. The SPT submitted that these files normally consisted of the grant funding letter and acceptance, but in this case additional correspondence was held in the archived files.
64. The SPT disclosed all of these additional documents to Mr Taylor with certain information redacted.
65. The Commissioner has considered the SPT's submissions and its explanation of the searches that were undertaken. Having done so, she is satisfied that the SPT has conducted proportionate and adequate searches. She is satisfied that all relevant information falling within the scope of Mr Taylor's request has now been identified.
66. However, as the SPT's response to Mr Taylor's request failed to provide him with relevant information which it held and which was not exempt from disclosure, the Commissioner finds that the SPT failed to comply fully with section 1(1) of FOISA in responding to his request. As Mr Taylor has now received the information, the Commissioner does not require the SPT to take any further action in relation to this breach.

### **Decision**

The Commissioner finds that Strathclyde Partnership for Transport (SPT) partially complied with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mr Taylor.

The Commissioner finds that by correctly withholding information under sections 30(b)(ii) and 38(1)(b) the SPT complied with Part 1 of FOISA.

However, by initially failing to identify all of the information that fell within the scope of Mr Taylor's request, the SPT failed to comply completely with section 1(1) of FOISA.

Given that the SPT has since provided Mr Taylor with the information it initially failed to identify, the Commissioner does not require the SPT to take any action in respect of this failure in response to Mr Taylor's application.

## **Appeal**

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Should either Mr Tom Taylor or Strathclyde Partnership for Transport wish to appeal against this decision, they have the right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days after the date of intimation of this decision.

**Margaret Keyse**  
**Head of Enforcement**

**1 October 2014**

### Freedom of Information (Scotland) Act 2002

#### 1 General entitlement

- (1) A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority.

...

- (4) The information to be given by the authority is that held by it at the time the request is received, except that, subject to subsection (5), any amendment or deletion which would have been made, regardless of the receipt of the request, between that time and the time it gives the information may be made before the information is given.

...

- (6) This section is subject to sections 2, 9, 12 and 14.

#### 2 Effect of exemptions

- (1) To information which is exempt information by virtue of any provision of Part 2, section 1 applies only to the extent that –

- (a) the provision does not confer absolute exemption; and
- (b) in all the circumstances of the case, the public interest in disclosing the information is not outweighed by that in maintaining the exemption.

- (2) For the purposes of paragraph (a) of subsection 1, the following provisions of Part 2 (and no others) are to be regarded as conferring absolute exemption –

...

- (e) in subsection (1) of section 38 –

...

- (ii) paragraph (b) where the first condition referred to in that paragraph is satisfied by virtue of subsection (2)(a)(i) or (b) of that section.

#### 30 Prejudice to effective conduct of public affairs

Information is exempt information if its disclosure under this Act-

...

- (b) would, or would be likely to, inhibit substantially-

...

- (ii) the free and frank exchange of views for the purposes of deliberation; or

...

### 38 Personal information

(1) Information is exempt information if it constitutes-

...

(b) personal data and either the condition mentioned in subsection (2) (the "first condition") or that mentioned in subsection (3) (the "second condition") is satisfied;

...

(2) The first condition is-

(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of "data" in section 1(1) of the Data Protection Act 1998 (c.29), that the disclosure of the information to a member of the public otherwise than under this Act would contravene-

(i) any of the data protection principles; or

...

(b) in any other case, that such disclosure would contravene any of the data protection principles if the exemptions in section 33A(1) of that Act (which relate to manual data held) were disregarded.

...

(5) In this section-

"the data protection principles" means the principles set out in Part I of Schedule 1 to that Act, as read subject to Part II of that Schedule and to section 27(1) of that Act; "data subject" and "personal data" have the meanings respectively assigned to those terms by section 1(1) of that Act;

## Data Protection Act 1998

### 1 Basic interpretative provisions

(1) In this Act, unless the context otherwise requires –

...

"personal data" means data which relate to a living individual who can be identified –

(a) from those data, or

(b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller,

and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual;

...

...

## **Schedule 1 – The data protection principles**

### **Part I – The principles**

1. Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless –

(a) at least one of the conditions in Schedule 2 is met, and

...

...

### **Schedule 2 – Conditions relevant for purposes of the first principle: processing of any personal data**

...

6. (1) The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject.

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