

Freedom of Information Act 2000 Sectional Summary

This summary is intended to provide a working version of the Act as it relates to the University of Sheffield. Relevant sections are annotated in plain English for ease of understanding, taking into account the Explanatory Notes issued at the same time as the Act and other guidance; those sections of limited relevance are summarised and annotated where helpful; and those sections which are not relevant are listed but not reproduced or annotated. Please note that responsibility for both the FOIA and the DPA was transferred from the Home Office to the Lord Chancellor's Department on 8 June 2001. Any references to "the Secretary of State", therefore, should now be read as "the Lord Chancellor".

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Notes and abbreviations:

DPA = Data Protection Act 1998.

FOIA = Freedom of Information Act 2000.

N/A = not applicable or relevant to the University of Sheffield.

Whenever the term "public authority" or "authority" is used, this is to be understood as "the University of Sheffield" (unless otherwise indicated in the notes).

Note: Whilst every care has been taken in the preparation of this material, neither the author(s) nor the University of Sheffield can accept liability for any loss or damage caused arising in connection with reliance on its contents.

PART II: EXEMPT INFORMATION
21. Information accessible to applicant by other means.

<p><i>SS(1). Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.</i></p>	<p>Any information reasonably readily available without having to ask for it is exempt information. [This exemption is an absolute one (see S(2)(3)(a)) so there is no need to balance the public interest of publishing or withholding information. It only deprives people of access <i>under the Act</i>, not to access as such. There is no exemption from the duty to confirm or deny (S(1)(1)(a)), but only from the duty to communicate the information (S(1)(1)(b)).]</p>
<p><i>SS(2). For the purposes of subsection (1) - (a) information may be reasonably accessible to the applicant even though it is accessible only on payment, and (b) information is to be taken to be reasonably available to the applicant if it is information which the public authority or any other person is obliged by or under any enactment to communicate (otherwise than by making the information available for inspection) to members of the public on request, whether free of charge or on payment.</i></p>	<p>Refines "reasonably accessible". (a) Information may be deemed to be reasonably accessible or available even if only available on payment of a fee. (b) Information an authority is obliged to make available on request under the terms of other legislation (other than when required to be available for inspection) is deemed to be reasonably available, whether free or on payment of a fee.</p>
<p><i>SS(3). For the purposes of subsection (1), information which is held by a public authority and does not fall within section (2)(b) is not to be regarded as reasonably accessible to the applicant merely because the information is available from the public authority itself on request, unless the information is made available in accordance with the authority's publication scheme and any payment required is specified in, or determined in accordance with, the scheme.</i></p>	<p>Information held (and not covered by other legislation obliging an authority to supply it on request) cannot be regarded as reasonably accessible merely because it is available from an authority on request; it must be made available in accordance with the authority's publication scheme. Any payment required must be specified in (or determined in accordance with) the scheme.</p>
<p>22. Information intended for future publication.</p>	

<p><i>SS(1). Information is exempt information if -</i> <i>(a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),</i> <i>(b) the information was already held with a view to such publication at the time when the request for information was made, and</i> <i>(c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).</i></p>	<p>Information held at the time of the request which an authority intends to publish at a future date is exempt and may be withheld until the date of publication. [Not an absolute exemption, but subject to the need to weigh the public interest of publishing or withholding. Examples might be information relating to research projects which it would be inappropriate to publish until the project is completed or statistics usually published to a timetable (<i>eg</i> quarterly, annually).]</p>
<p><i>SS(2). The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would involve the disclosure of any information (whether or not already recorded) which falls within subsection(1).</i></p>	<p>There is no duty to confirm or deny if to do so would itself disclose information which would otherwise be exempt because it was scheduled for publication in the future and it would be reasonable to withhold publication until then.</p>
<p>23. Information supplied by, or relating to, bodies dealing with security matters.</p>	
<p><i>SS(1). Information held by a public authority is exempt information if it was directly or indirectly supplied to the public authority by, or relates to, any of the bodies specified in subsection (3).</i></p>	<p>There is an absolute class exemption for all information supplied by or relating to any of the bodies listed in SS3.</p>
<p><i>SS(2). A certificate signed by a Minister of the Crown certifying that the information to which it applies was directly or indirectly supplied by, or relates to, any of the bodies specified in subsection (3) shall, subject to section 60, be conclusive evidence of that fact.</i></p>	<p>A certificate signed by a Minister confirming the source or relation of information to any of the bodies listed in SS3 is conclusive proof that the information is of the type in question, subject to the right of appeal to the Information Tribunal under S60.</p>

<p><i>SS(3). The bodies referred to in subsections (1) and (2) are -</i></p> <ul style="list-style-type: none"> <i>(a) the Security Service,</i> <i>(b) the Secret Intelligence Service,</i> <i>(c) the Government Communications Headquarters,</i> <i>(d) the special forces,</i> <i>(e) the Tribunal established under section 65 of the Regulation of Investigatory Powers Act 2000,</i> <i>(f) the Tribunal established under section 7 of the Interception of Communications Act 1985,</i> <i>(g) the Tribunal established under section 5 of the Security Service Act 1989,</i> <i>(h) the Tribunal established under section 9 of the Intelligence Services Act 1994,</i> <i>(i) the Security Vetting Appeals Panel,</i> <i>(j) the Security Commission,</i> <i>(k) the National Criminal Intelligence Service, and</i> <i>(l) the Service Authority for the National Criminal Intelligence Service.</i> 	<p>Lists the bodies concerned.</p>
<p>[SS(4) includes any army unit assisting GCHQ under SS(3)(c) above.]</p>	
<p><i>SS(5). The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would involve the disclosure of any information (whether or not already recorded) which was directly or indirectly supplied to the public authority by, or relates to, any of the bodies specified in subsection (3).</i></p>	<p>The duty to confirm or deny does not arise if to comply would itself disclose information exempt under SS1.</p>
<p>24. National Security.</p>	

[SS(1) - (4)]	Exempts information not covered by S23 where this is required to safeguard national security; there is a similar certification process (which also provides for information acquired later than the date of certification).
25. Certificates under sections 23 and 24: supplementary provisions.	
[SS(1) - (3)]	Makes supplementary provision to certification for evidential purposes and restricts the power to sign to Cabinet Ministers and the Attorney General.
26. Defence.	
[SS(1) - (3)]	Exempts information the disclosure of which would (or would be likely to) prejudice the defence of the British Isles or any colony, or the capability, effectiveness or security of the armed forces. There is no duty to confirm or deny where to do so would be likely to result in any such prejudice. Not an absolute exemption.
27. International relations.	

<p><i>SS(1). Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice -</i></p> <p><i>(a) relations between the United Kingdom and any other State,</i></p> <p><i>(b) relations between the United Kingdom and any international organisation or international court,</i></p> <p><i>(c) the interests of the United Kingdom abroad, or</i></p> <p><i>(d) the promotion or protection by the United Kingdom of its interests abroad.</i></p>	<p>Exempts information the disclosure of which would (or would be likely to) prejudice relations between the UK and any other State, international organisation or court; or the interests of the UK abroad or their promotion or protection. Not an absolute exemption.</p>
<p><i>SS(2). Information is also exempt information if it is confidential information obtained from a State other than the United Kingdom or from an international organisation or international court.</i></p>	<p>Exempts confidential information obtained from a State, international organisation or court. Not an absolute exemption</p>
<p><i>SS(3). For the purposes of this section, any information obtained from a State, organisation or court is confidential at any time while the terms on which it was obtained require it to be held in confidence or while the circumstances in which it was obtained make it reasonable for the State, organisation or court to expect that it will be so held.</i></p>	<p>Defines "confidential" in this context, <i>ie</i> that the information is held on terms requiring it to be in confidence or circumstances make it a reasonable expectation on the part of the provider that it will be held in confidence.</p>
<p><i>SS(4). The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) -</i></p> <p><i>(a) would, or would be likely to, prejudice any of the matters mentioned in subsection (1), or</i></p> <p><i>(b) would involve the disclosure of any information (whether or not already recorded) which is confidential information obtained from a State other than the United Kingdom or from an international organisation or international court.</i></p>	<p>There is no duty to confirm or deny if to comply would (or would be likely to) result in prejudicing relations or interests of the UK abroad or would itself involve the disclosure of confidential information obtained from abroad.</p>

<p><i>SS(5). In this section -</i> <i>"international court" means any international court which is not an international organisation and which is established -</i> <i>(a) by a resolution of an international organisation of which the United Kingdom is a member, or</i> <i>(b) by an international agreement to which the United Kingdom is a party;</i></p> <p><i>"international organisation" means any international organisation whose members include any two or more States, or any organ of such an organisation;</i></p> <p><i>"State" includes the government of any State and any organ of its government, and references to a State other than the United Kingdom include references to any territory outside the United Kingdom.</i></p>	<p>Defines "international court", "international organisation" and "State" for the purposes of this Act.</p>
<p>28. Relations within the United Kingdom.</p>	
<p><i>SS(1). Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice relations between any administration in the United Kingdom and any other such administration.</i></p>	<p>Exempts information likely to prejudice relations between the various UK administrations. Not an absolute exemption.</p>
<p>[SS(2) - (3)]</p>	<p>SS2 defines the administrations of the UK, Scotland, Northern Ireland and Wales; SS3 relates to the duty to confirm or deny.</p>
<p>29. The economy.</p>	

<p><i>SS(1). Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice -</i> <i>(a) the economic interests of the United Kingdom or of any part of the United Kingdom, or</i> <i>(b) the financial interests of any administration in the United Kingdom, as defined by section 28(2).</i></p>	<p>Exempts information likely to prejudice the UK economy. Not an absolute exemption.</p>
<p>[SS(2)]</p>	<p>Relates to the duty to confirm or deny.</p>
<p>30. Investigations and proceedings conducted by public authorities.</p>	
<p>N/A</p>	<p>Relates only to those authorities which are themselves investigating or prosecuting authorities.</p>
<p>31. Law enforcement.</p>	

SS(1). Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice -

- (a) the prevention or detection of crime,*
- (b) the apprehension or prosecution of offenders,*
- (c) the administration of justice,*
- (d) the assessment or collection of any tax or duty or of any imposition of a similar nature,*
- (e) the operation of the immigration controls,*
- (f) the maintenance of security and good order in prisons or in other institutions where persons are lawfully detained,*
- (g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2),*
- (h) any civil proceedings which are brought by or on behalf of a public authority and arise out of an investigation conducted, for any of the purposes specified in subsection (2), by or on behalf of the authority by virtue of Her Majesty's prerogative or by virtue of powers conferred by or under an enactment, or*
- (i) any inquiry held under the Fatal Accidents and Sudden Deaths Inquiries (Scotland) Act 1976 to the extent that the inquiry arises out of an investigation conducted, for any of the purposes specified in subsection (2), by or on behalf of the authority by virtue of Her Majesty's prerogative or by virtue of powers conferred by or under an enactment.*

SS1. Exempts information the disclosure of which would (or would be likely to) prejudice:

- (a) the prevention or detection of crime;
- (b) the apprehension or prosecution of offenders;
- (c) the administration of justice;
- (d) the assessment or collection of any tax or duty (or similar imposition);
- (e) the operation of immigration controls;
- (f) the maintenance of security and good order in prisons, *etc*;
- (g) the exercise by an authority of its functions for any purposes specified in SS2;
- (h) civil proceedings arising out of investigations for the purposes in SS2; or
- (i) any inquiry under the FA&SDI (Scotland) Act so far as the inquiry arises out of investigations conducted for the purposes in SS2.

None of these is an absolute exemption.

<p><i>SS(2). The purposes referred to in subsection (1)(g) to (i) are -</i></p> <p><i>(a) the purpose of ascertaining whether any person has failed to comply with the law,</i></p> <p><i>(b) the purpose of ascertaining whether any person is responsible for any conduct which is improper,</i></p> <p><i>(c) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise,</i></p> <p><i>(d) the purpose of ascertaining a person's fitness or competence in relation to the management of bodies corporate or in relation to any profession or other activity which he is, or seeks to become, authorised to carry on,</i></p> <p><i>(e) the purpose of ascertaining the cause of an accident,</i></p> <p><i>(f) the purpose of protecting charities against misconduct or mismanagement (whether by trustees or other persons) in their administration,</i></p> <p><i>(g) the purpose of protecting the property of charities from loss or misapplication,</i></p> <p><i>(h) the purpose of recovering the property of charities,</i></p> <p><i>(i) the purpose of securing the health, safety and welfare of persons at work, and</i></p> <p><i>(j) the purpose of protecting persons other than persons at work against risk to health or safety arising out of or in connection with the actions of persons at work.</i></p>	<p>SS2. The purposes referred to in SS1(g) - (i) are the purpose of ascertaining:</p> <p>(a) whether any person has failed to comply with the law;</p> <p>(b) whether any person is responsible for any improper conduct;</p> <p>(c) whether circumstances exist which would justify regulatory action in pursuance of an enactment;</p> <p>(d) the fitness or competence of a person in relation to management of a body corporate, or in relation to any regulated profession (or activity which requires a licence) in which he is (or seeks to become) engaged;</p> <p>(e) the cause of an accident;</p> <p>or the purpose of:</p> <p>(f) protecting charities in their administration against misconduct or mismanagement;</p> <p>(g) protecting the property of charities from loss or misapplication;</p> <p>(h) recovering the property of charities;</p> <p>(i) securing the health, safety and welfare of persons at work;</p> <p>(j) protecting persons not at work against risks to health and safety posed by the actions of those at work.</p>
<p><i>SS(3). The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice any of the matters mentioned in subsection (1).</i></p>	<p>The duty to confirm or deny does not arise if the information is exempt and to do so would (or would be likely to) prejudice any of the law enforcement matters in this section.</p>

32. Court records, etc.

SS(1). Information held by a public authority is exempt information if it is held only by virtue of being contained in -

- (a) any document filed with, or otherwise placed in the custody of, a court for the purpose of proceedings in a particular cause or matter,*
- (b) any document served upon, or by, a public authority for the purposes of proceedings in a particular cause or matter, or*
- (c) any document created by -*
 - (i) a court, or*
 - (ii) a member of the administrative staff of a court,**for the purposes of proceedings in a particular cause or matter.*

Exempts information held by an authority solely by virtue of the fact that it is contained in documents:

- (a) filed with (or placed in the custody of) a court;
- or,
- (b) served upon, or by, the authority for the purposes of such proceedings;
- or,
- (c) created by the court (or its officials) for the purpose of such proceedings.

Absolute exemption.

SS(2). Information held by a public authority is exempt information if it is held only by virtue of being contained in -

- (a) any document placed in the custody of a person conducting an enquiry or arbitration, for the purposes of the inquiry or arbitration, or*
- (b) any document created by a person conducting an inquiry or arbitration, for the purposes of the inquiry or arbitration.*

Information is also exempt if held by an authority solely because it is contained in:

- (a) a document in the custody of someone conducting an enquiry or arbitration, or
- (b) contained in a document created by the conductor of an inquiry or arbitration.

Absolute exemption.

SS(3). The duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of this section.

There is no duty to confirm or deny exempt information held under the conditions described in this section.

<p><i>SS(4). In this section -</i></p> <p><i>(a) "court" includes any tribunal or body exercising the judicial power of the State,</i></p> <p><i>(b) "proceedings in a particular cause or matter" includes any inquest or post-mortem examination,</i></p> <p><i>(c) inquiry" means any inquiry or hearing held under any provision contained in, or made under, an enactment, and</i></p> <p><i>(d) except in relation to Scotland, "arbitration" means any arbitration to which Part I of the Arbitration Act 1996 applies.</i></p>	<p>Defines:</p> <p>(a) "court" to include any tribunal or inquiry exercising judicial power;</p> <p>(b) "proceedings..." to include inquests and post-mortems;</p> <p>(c) "inquiry" includes any inquiry or hearing held under provisions of any Act;</p> <p>(d) "arbitration" includes any to which Part I of the Arbitration Act 1996 applies.</p>
<p>33. Audit functions.</p>	
<p>N/A.</p>	<p>Applies only to those authorities which audit the accounts of other public authorities.</p>
<p>34. Parliamentary privilege.</p>	
<p>N/A.</p>	<p>Exempts information (if required) in order to avoid infringement of the privileges of either House of Parliament.</p>
<p>35. Formulation of government policy, etc.</p>	
<p>N/A.</p>	<p>Exempts information held by a government department (or National Assembly for Wales) regarding the formulation of government policy, Ministerial communications, advice by a Law Officer or the operation of a Ministerial private office.</p>

36. Prejudice to effective conduct of public affairs.	
<p><i>SS(1). This section applies to -</i> (a) [N/A: government departments only] (b) <i>information which is held by any other public authority.</i></p>	<p>Exempts information held by government departments not exempted in S35 and information held by other public authorities. In the main, not an absolute exemption.</p>
<p><i>SS(2). Information to which this section applies is exempt information if, in the reasonable opinion of a qualified person, disclosure of the information under this Act -</i> (a) <i>would, or would be likely to, prejudice -</i> (i) <i>the maintenance of the convention of the collective responsibility of Ministers of the Crown, or</i> (ii) <i>the work of the Executive Committee of the Northern Ireland Assembly, or</i> (iii) <i>the work of the executive committee of the National Assembly for Wales,</i> (b) <i>would, or would be likely to, inhibit -</i> (i) <i>the free and frank provision of advice, or</i> (ii) <i>the free and frank exchange of views for the purposes of deliberation, or</i> (c) <i>would otherwise prejudice, or would be likely to prejudice, the effective conduct of public affairs.</i></p>	<p>Provides for information to be exempt if declared so by a "qualified person" (see SS5 below).</p> <p>(a) Protects information prejudicial to the convention of collective responsibility of Ministers and the work of the executive committees of the Northern Ireland and Welsh Assemblies.</p> <p>(b) Protects information the disclosure of which would inhibit the free provision of advice or exchange of views for the purpose of deliberation.</p> <p>(c) A 'catch-all' clause to protect any other information, the disclosure of which would prejudice the effective conduct of public affairs.</p>
<p><i>SS(3). The duty to confirm or deny does not arise in relation to information to which this section applies (or would apply if held by the public authority) if, or to the extent that, in the reasonable opinion of a qualified person, compliance with section 1(1)(a) would, or would be likely to, have any of the effects mentioned in subsection (2).</i></p>	<p>The duty to confirm or deny does not apply where the qualified person considers publication of information to have any of the prejudicial effects listed in SS2.</p>

<p><i>SS(4). In relation to statistical information, subsections (2) and (3) shall have effect with the omission of the words "in the reasonable opinion of a qualified person".</i></p>	<p>Provides that in the case of statistical information, the test applied in SSs2 and 3 applies but is a simple prejudice test without the need for consideration by a qualified person.</p>
<p><i>SS(5). In subsections (2) and (3) "qualified person" - [(a) - (n) relate to government departments, etc] (o) in relation to information held by any public authority not falling within any of the paragraphs (a) to (n), means -</i></p> <ul style="list-style-type: none"> <i>(i) a Minister of the Crown,</i> <i>(ii) the public authority, if authorised for the purposes of this section by a Minister of the Crown, or</i> <i>(iii) any officer or employee of the public authority who is authorised for the purposes of this section by a Minister of the Crown.</i> 	<p>Defines a "qualified person" (so far as the University is concerned) as a Minister of the Crown, the authority itself (if so authorised for the purpose of this section by a Minister) or any officer or employee of the authority who has been so authorised by a Minister.</p>
<p><i>SS(6). Any authorisation for the purposes of this section -</i></p> <ul style="list-style-type: none"> <i>(a) may relate to a specified person or to persons falling within a specified class,</i> <i>(b) may be general or limited to particular classes of case, and</i> <i>(c) may be granted subject to conditions.</i> 	<p>Refines the areas in which authorisation may be given and provides for it to be given subject to conditions.</p>
<p>[SS(7). N/A. Relates only to information held by either House of Parliament.]</p>	
<p>37. Communications with Her Majesty, etc., and honours.</p>	
<p><i>SS(1). Information is exempt information if it relates to -</i></p> <ul style="list-style-type: none"> <i>(a) communications with Her Majesty, with other members of the Royal Family or with the Royal Household, or</i> <i>(b) the conferring by the Crown of any honour or dignity.</i> 	<p>Exempts information relating to communications with the Queen, Royal Family or Royal Household, or concerning the granting of honours. Not an absolute exemption.</p>

<p><i>SS(2). The duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1).</i></p>	<p>There is no duty to confirm or deny information exempt by virtue of SS1.</p>
<p>38. Health and safety.</p>	
<p><i>SS(1). Information is exempt information if its disclosure under this Act would, or would be likely to -</i> <i>(a) endanger the physical or mental health of any individual, or</i> <i>(b) endanger the safety of any individual.</i></p>	<p>Exempts information the disclosure of which would (or would be likely to) endanger the physical or mental health or safety of any individual. Not an absolute exemption.</p>
<p><i>SS(2). The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, have either of the effects mentioned in subsection (1).</i></p>	<p>There is no duty to confirm or deny information exempt under SS1 where to comply would (or would be likely to) result in harm to the health or safety of an individual.</p>
<p>39. Environmental information.</p>	
<p><i>SS(1). Information is exempt information if the public authority holding it -</i> <i>(a) is obliged by regulations under section 74 to make the information available to the public in accordance with the regulations, or</i> <i>(b) would be so obliged but for any exemption contained in the regulations.</i></p>	<p>Exempts environmental information which is to be made available under S74 of the Act (see below). Not an absolute exemption. [A technical exemption designed to avoid or reduce any overlap between regulations made under S74 intended to implement the Aarhus Convention. The object is to make all environmental information available under those regulations, if at all.]</p>
<p><i>SS(2). The duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1).</i></p>	<p>There is no duty to confirm or deny information exempt under SS1, ie information published under the Aarhus Convention.</p>

<p><i>SS(3). Subsection (1)(a) does not limit the generality of section 21(1).</i></p>	<p>Clarifies that exemption under SS1(a) does not limit the general provision under S21(1) which exempts on the grounds that the information is readily available to applicants elsewhere.</p>
<p>40. Personal information.</p>	
<p><i>SS(1). Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.</i></p>	<p>Exempts personal information relating to the applicant for the information. Absolute exemption. [Access to personal information by the applicant is covered by the DPA.]</p>
<p><i>SS(2). Any information to which a request for information relates is also exempt information if - (a) it constitutes personal data which do not fall within subsection (1), and (b) either the first or the second condition below is satisfied.</i></p>	<p>Exempts personal information which is not related to the applicant, providing it satisfies one of the conditions given in SS3 or SS4.</p>

<p><i>SS(3). The first condition is -</i></p> <p><i>(a) in a case where the information falls within any of the paragraphs (a) to (d) of the definition of "data" in section 1(1) of the Data Protection Act 1998,</i></p> <p><i>that the disclosure of the information to a member of the public otherwise than under this Act would contravene -</i></p> <p><i>(i) any of the data protection principles, or</i></p> <p><i>(ii) section 10 of that Act (right to prevent processing likely to cause damage or distress),</i></p> <p><i>and</i></p> <p><i>(b) in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.</i></p>	<p>The first condition is:</p> <p>(a) where the information falls into any of the categories listed [see Note below],</p> <p>that disclosure to the public other than under the FOIA would contravene</p> <p>(i) any of the data protection principles or</p> <p>(ii) the right of an individual to prevent processing likely to cause unwarranted substantial damage or distress;</p> <p>and</p> <p>(b) in any other case, that disclosure other than under the FOIA would contravene any of the data protection principles if the exemptions regarding manual data held by public authorities were disregarded.</p> <p>(a)(i) and (b) are absolute exemptions; (a)(ii) is not.</p> <p>[Note: S1(1) of DPA defines "data" as information: (a) being [effectively] computer processed; (b) recorded with the intention of being computer processed; (c) recorded as part of (or with that intention) a relevant filing system; (d) which forms part of an accessible record under DPA S68 [N/A to the University]. S33A to DPA is S70(1) of FOIA.]</p>
<p><i>SS(4). The second condition is that by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1)(c) of that Act (data subject's right of access to personal data).</i></p>	<p>The second condition is that by virtue of any of the exemptions listed in Part IV of the DPA the information is exempt from the right of a data subject to have access to personal data of which he is the subject and information as to the source of that data. Not an absolute exemption.</p>

<p><i>SS(5). The duty to confirm or deny -</i></p> <p><i>(a) does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1), and</i></p> <p><i>(b) does not arise in relation to other information if or to the extent that either -</i></p> <p><i>(i) the giving to a member of the public of the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) contravene any of the data protection principles or section 10 of the Data Protection Act 1998 or would do so if the exemptions in section 33A(1) of that Act were disregarded, or</i></p> <p><i>(ii) by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1)(a) of that Act (data subject's right to be informed whether personal data being processed).</i></p>	<p>There is no duty to confirm or deny</p> <p>(a) where the information held is personal information about the applicant;</p> <p>(b) other information, the giving of which would</p> <p>(i) contravene any of the data protection principles or the right to prevent processing likely to cause damage or distress (or would do so if S70(1)/S33A of DPA were disregarded); or</p> <p>(ii) where the data subject's right to be informed whether personal data is being processed is exempted by virtue of any exemptions listed in Part IV of the DPA.</p> <p>[<i>General note:</i> even where there is absolute exemption from revealing the information itself, the exemption from the duty to confirm or deny is not absolute. The public interest test must still be applied.]</p>
<p><i>SS6. In determining for the purposes of this section whether anything done before 24th October 2007 would contravene any of the data protection principles, the exemptions in Part III of Schedule 8 to the Data Protection Act 1998 shall be disregarded.</i></p>	<p>Sch 8 of DPA contains various transitional provisions, Pt III of which allows things to be done with manual data until 20 Oct 2007 which would not normally be permitted. This provision is designed to ensure that so far as disclosure is concerned, the transitional arrangements do not apply. The effect is to reduce rights of access by third parties to such data and increase protection given to the data subject.</p>

<p>SS7. <i>In this section -</i> <i>"the data protection principles" means the principles set out in Part I of Schedule 1 to the Data Protection Act 1998, as read subject to Part II of that Schedule and section 27(1) of that Act;</i> <i>"data subject" has the same meaning as in section 1(1) of that Act;</i> <i>"personal data" has the same meaning as in section 1(1) of that Act.</i></p>	<p>Provides definitions.</p>
<p>41. Information provided in confidence.</p>	
<p>S1. <i>Information is exempt information if -</i> <i>(a) it was obtained by the public authority from any other person (including another public authority), and</i> <i>(b) the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.</i></p>	<p>Exempts information obtained from anyone (including another authority) the disclosure of which (other than under this Act) would constitute an actionable breach of confidence by anyone. Absolute exemption.</p>
<p>S2. <i>The duty to confirm or deny does not arise if, or to the extent that, the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) constitute an actionable breach of confidence.</i></p>	<p>There is no duty to confirm or deny where that information itself would (apart from under this Act) constitute an actionable breach of confidence. [<i>Note:</i> where the confirmation or denial would <i>not</i> itself constitute an actionable breach of confidence, the duty to confirm or deny still applies.]</p>
<p>42. Legal professional privilege.</p>	
<p>S1. <i>Information in respect of which a claim to legal professional privilege or, in Scotland, to confidentiality of communications could be maintained in legal proceedings is exempt information.</i></p>	<p>Exempts information regarded as legally professionally privileged between lawyers and their clients. Not an absolute exemption.</p>

<p><i>S2. The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would involve the disclosure of any information (whether or not already recorded) in respect of which such a claim could be maintained in legal proceedings.</i></p>	<p>There is no duty to confirm or deny if to do so would involve the disclosure of any legally professionally privileged information.</p>
<p>43. Commercial interests.</p>	
<p><i>S1. Information is exempt information if it constitutes a trade secret.</i></p>	<p>Exempts information if it constitutes a trade secret. Not an absolute exemption.</p>
<p><i>S2. Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).</i></p>	<p>Exempts information if disclosure would (or would be likely to) prejudice the commercial interests of any person, including the public authority holding it. Not an absolute exemption.</p>
<p><i>S3. The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice the interests mentioned in subsection (2).</i></p>	<p>There is no duty to confirm or deny if to do so would itself prejudice (or would be likely to prejudice) any commercial interests.</p>
<p>44. Prohibitions on disclosure.</p>	
<p><i>S1. Information is exempt information if its disclosure (otherwise than under this Act) by the public authority holding it -</i> <i>(a) is prohibited by or under any enactment,</i> <i>(b) is incompatible with any Community obligation, or</i> <i>(c) would constitute or be punishable as a contempt of court.</i></p>	<p>Exempts information the disclosure of which is prohibited by any other legislation, European Community law and rules of court or court order. Absolute exemption.</p>

S2. The duty to confirm or deny does not arise if the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) fall within any of the paragraphs (a) to (c) of subsection (1).

There is no duty to confirm or deny if to do so would itself be prohibited by the same conditions as listed in SS1.

End of Part II