

## 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 III: GENERAL FUNCTIONS OF SECRETARY OF STATE, LORD CHANCELLOR AND INFORMATION COMMISSIONER**

#### **45. Issue of code of practice by Secretary of State.**

*SS(1). The Secretary of State shall issue, and may from time to time revise, a code of practice providing guidance to public authorities as to the practice which it would, in his opinion, be desirable for them to follow in connection with the discharge of the authorities' functions in Part I.*

Since the Act was passed, the responsibility here given to the Secretary of State has been transferred to the Lord Chancellor (as with S46) who presented the code to Parliament in November 2002. The corresponding sections of the code are shown against the relevant paragraph below.

<p><i>SS(2). The code of practice must, in particular, include provision relating to -</i></p> <p><i>(a) the provision of advice and assistance by public authorities to persons who propose to make, or have made, requests for information to them,</i></p> <p><i>(b) the transfer of requests by one public authority to another public authority by which the information requested is or may be held,</i></p> <p><i>(c) consultation with persons to whom the information requested relates or persons whose interests are likely to be affected by the disclosure of information,</i></p> <p><i>(d) the inclusion in contracts entered into by public authorities of terms relating to the disclosure of information, and</i></p> <p><i>(e) the provision by public authorities of procedures for dealing with complaints about the handling by them of requests for information.</i></p>	<p>[S.I of the code is an introduction.]</p> <p>S.II: The provision of advice and assistance to persons making requests for information.</p> <p>S.VI: Transferring requests for information.</p> <p>S.VII: Consultation with third parties.</p> <p>S.VIII: Freedom of information and public sector contracts.</p> <p>S.XII: Complaints procedure.</p> <p>[In addition to the directly correlated sections of the code, there are additional sections as follows:</p> <p>S.III: Handling requests for information which appear to be part of an organised campaign.</p> <p>S.IV: Timeliness in dealing with requests for information.</p> <p>S.V: Charging fees.</p> <p>S.IX: Accepting information in confidence from third parties.</p> <p>S.X: Consultation with devolved administrations.</p> <p>S.XI: Refusal of request.]</p>
<p><i>SS(3). The code may make different provision for different public authorities.</i></p>	<p>The code may be varied to suit different authorities.</p>
<p>[SS(4) - (5). N/A. Require the Lord Chancellor to consult the Information Commissioner before issuing or revising the code and lay it (or revisions) before Parliament.]</p>	

**46. Issue of code of practice by Lord Chancellor.**

*SS(1). The Lord Chancellor shall issue, and may from time to time revise, a code of practice providing guidance to relevant authorities as to the practice which it would, in his opinion, be desirable for them to follow in connection with the keeping, management and destruction of their records.*

Requires the Lord Chancellor to issue a code of practice regarding the keeping, management and destruction of the records of public authorities.

[SS(2). N/A. Relates only to records in Public Record Offices.]

*SS(3). In exercising his functions under this section, the Lord Chancellor shall have regard to the public interest in allowing public access to information held by the relevant authorities.*

Requires the Lord Chancellor to have regard to the public interest in allowing public access to information.

*SS(4). The code may make different provision for different relevant authorities.*

The code may be varied to suit different authorities.

[SS(5) - (6). N/A. Require the Lord Chancellor to consult the Information Commissioner before issuing or revising the code and lay it (or revisions) before Parliament.]

*SS(7). In this section "relevant authority" means -  
(a) any public authority, and  
(b) [N/A].*

Defines "relevant authority" to include any public authority, which includes universities for the purpose of this Act.

**47. General functions of Commissioner.**

<p><i>SS(1). It shall be the duty of the Commissioner to promote the following of good practice by public authorities and, in particular, so to perform his functions under this Act as to promote the observance by public authorities of -</i></p> <p><i>(a) the requirements of this Act, and</i></p> <p><i>(b) the provisions of the codes of practice under sections 45 and 46.</i></p>	<p>Requires the Commissioner to promote good practice in general and the fulfilment of the provisions of both the Act and the S45 and S46 codes of practice.</p>
<p><i>SS(2). The Commissioner shall arrange for the dissemination in such form and manner as he considers appropriate of such information as it may appear to him expedient to give to the public -</i></p> <p><i>(a) about the operation of this Act,</i></p> <p><i>(b) about good practice, and</i></p> <p><i>(c) about other matters within the scope of his functions under this Act, and may give advice to any person as to any of those matters.</i></p>	<p>Requires the Commissioner to advise and inform the public about the operation of the Act, good practice in relation to it and any other matter relating to the Act he thinks fit.</p>
<p><i>SS(3). The Commissioner may, with the consent of any public authority, assess whether that authority is following good practice.</i></p>	<p>Allows the Commissioner to assess whether an authority is following good practice, but only with the consent of that authority.</p>
<p><i>SS(4). The Commissioner may charge such sums as he may with the Secretary of State determine for any services provided by the Commissioner under this section.</i></p>	<p>Allows the Commissioner to charge a fee (subject to the consent of the Lord Chancellor) for any services beyond his statutory duties.</p>
<p>[SS(5). N/A. Relates to Public Records only.]</p>	

<p><i>SS(6). In this section "good practice", in relation to a public authority, means such practice in the discharge of its functions under this Act as appears to the Commissioner to be desirable, and includes (but is not limited to) compliance with the requirements of this Act and the provisions of the codes of practice under sections 45 and 46.</i></p>	<p>Defines "good practice" to include anything the Commissioner thinks desirable, including compliance with the provisions of the Act and the S45 and S46 codes of practice.</p>
<p><b>48. Recommendations as to good practice.</b></p>	
<p><i>SS(1). If it appears to the Commissioner that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with that proposed in the codes of practice under sections 45 and 46, he may give to the authority a recommendation (in this section referred to as a "practice recommendation") specifying the steps which ought in his opinion to be taken for promoting such conformity.</i></p>	<p>Provides for the Commissioner to issue a practice recommendation to an authority which fails to comply with the provisions of the S45 and S46 codes of practice. This will specify what the authority needs to do in order to comply.</p>
<p><i>SS(2). A practice recommendation must be given in writing and must refer to the particular provisions of the code of practice with which, in the Commissioner's opinion, the public authority's practice does not conform.</i></p>	<p>The practice recommendation must be given in writing and must specify exactly which provisions of the code of practice the authority is failing to meet.</p>
<p>[SS(3) - (4). N/A. Relate to Public Records only.]</p>	
<p><b>49. Reports to be laid before Parliament.</b></p>	
<p>[SS(1) - (2). N/A. Require the Commissioner to make an annual report to Parliament and allow him to file other reports as he thinks fit.]</p>	
<p style="text-align: center;"><b>End of Part III</b></p>	

