

## 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 V: APPEALS**

#### **57. Appeal against notices served under Part IV.**

*SS(1). Where a decision notice has been served, the complainant or the public authority may appeal to the Tribunal against the notice.*

Where the Commissioner has served a decision notice (see S50), both the complainant and the authority may appeal to the Information Tribunal against the notice.

<p><i>SS(2). A public authority on which an information notice or an enforcement notice has been served by the Commissioner may appeal to the Tribunal against the notice.</i></p>	<p>Where the Commissioner has served either an information notice or an enforcement notice on an authority, the authority may appeal to the Information Tribunal.</p>
<p>[SS(3). N/A. Relates to certain records transferred to public record offices.]</p>	
<p><b>58. Determination of appeals.</b></p>	
<p><i>SS(1). If on an appeal under section 57 the Tribunal considers - (a) that the notice against which the appeal is brought is not in accordance with the law, or (b) to the extent that the notice involved an exercise of discretion by the Commissioner, that he ought to have exercised his discretion differently, the Tribunal shall allow the appeal or substitute such other notice as could have been served by the Commissioner; and in any other case the Tribunal shall dismiss the appeal.</i></p>	<p>The Tribunal can allow an appeal (or substitute its own decision notice) where the original decision notice was not in accordance with the law or where the Commissioner should have exercised a discretion differently. In all other cases the appeals will be dismissed.</p>
<p><i>SS(2). On such a appeal, the Tribunal may review any finding of fact on which the notice in question was based.</i></p>	<p>The Tribunal has the power to conduct its own review of the facts on which the original decision was based.</p>
<p><b>59. Appeals from decision of the Tribunal.</b></p>	

<p><i>Any party to an appeal to the Tribunal under section 57 may appeal from the decision of the Tribunal on a point of law to the appropriate court; and that court shall be -</i></p> <p><i>(a) the High Court of Justice in England if the address of the public authority is in England or Wales...</i></p> <p><i>[(b) and (c) relate to Scotland and Northern Ireland.]</i></p>	<p>Any party to a Tribunal appeal decision may appeal against that decision on a point of law to the High Court.</p>
<p><b>60. Appeals against national security certificate.</b></p>	
<p><i>SS(1). Where a certificate under section 23(2) or 24(3) has been issued -</i></p> <p><i>(a) the Commissioner, or</i></p> <p><i>(b) any applicant whose request for information is affected by the issue of the certificate,</i></p> <p><i>may appeal to the Tribunal against the certificate.</i></p>	<p>Permits an appeal against a national security certificate issued by a Minister of the Crown.</p>
<p><i>SS(2). If on an appeal under subsection (1) relating to a certificate under section 23(2), the Tribunal finds that the information referred to in the certificate was not exempt information by virtue of section 23(1), the Tribunal may allow the appeal and quash the certificate.</i></p>	<p>If the Tribunal finds that the information on which the S23(2) [concerning the intelligence services] exemption certificate was based was not after all exempt, the appeal will be allowed and the certificate quashed.</p>
<p><i>SS(3). If on an appeal under subsection (1) relating to a certificate under section 24(3), the Tribunal finds that, applying the principles applied by the court on an application for judicial review, the Minister did not have reasonable grounds for issuing the certificate, the Tribunal may allow the appeal and quash the certificate.</i></p>	<p>Similarly, if after review the Tribunal decides that the grounds for the S24(3) [concerning national security] certificate were baseless, the appeal will be allowed and the certificate quashed.</p>

<p><i>SS(4). Where in any proceedings under this Act it is claimed by a public authority that a certificate under section 24(3) which identifies the information to which it applies by means of a general description applies to particular information, any other party to the proceedings may appeal to the Tribunal on the ground that the certificate does not apply to the information in question and, subject to any determination under subsection (5), the certificate shall be conclusively presumed so to apply.</i></p>	<p>If an authority claims under a S24 national security certificate that a specific piece of information is exempt by virtue of a general description in the exemption certificate, any other party to the proceedings may appeal to the Tribunal on the grounds that the general description does not apply to the specific description in question. Unless the Tribunal determines under SS(5) that the certificate does not apply, the presumption is that the certificate does apply.</p>
<p><i>SS(5). On any appeal under subsection (4), the Tribunal may determine that the certificate does not so apply.</i></p>	<p>Enables the Tribunal to determine whether or not the certificate under appeal in SS(4) applies.</p>
<p><b>61. Appeal proceedings.</b></p>	
<p><i>SS(1). Schedule 4 (which contains amendments of Schedule 6 to the Data Protection Act 1998 relating to appeal proceedings) has effect.</i></p>	<p>Gives effect to Schedule 4 which amends Schedule 6 of the DPA.</p>
<p><i>SS(2). Accordingly, the provisions of Schedule 6 to the Data Protection Act 1998 have effect (so far as applicable) in relation to appeals under this Part.</i></p>	<p>Brings appeals made to the Information Tribunal under FOIA into accordance with the procedures in the amended Schedule 6 of the DPA. [The effect is that the Information Tribunal will operate in the same way for Appeals brought under both DPA and FOIA.]</p>
<p style="text-align: center;"><b>End of Part V</b></p>	