

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 VIII: MISCELLANEOUS AND SUPPLEMENTAL
74. Power to make provision relating to environmental information.

<p>SS(1) - (5).</p>	<p>Enables regulations to be made to implement the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters concluded under the United National Economic Commission for Europe (UNECE), known as the Aarhus Convention. The regulations made under S74 are intended to provide freedom of access to information on environmental matters which it is expected will generally provide exemption from the need to comply with section 1(1) of the Act. It is also expected, however, that they will be drafted along similar lines to the Act itself and that the Commissioner and Tribunal will be given similar powers to compel the production of information under the regulations as they have under the Act itself.</p> <p>A period of consultation organised by the Department of Environment, Food and Rural Affairs (DEFRA) on the draft new Environmental Information Regulations concluded on 4 October 2002. DEFRA planned to have a final draft of the new Regulations ready for approval by Parliament by the end of 2002 to facilitate ratification of the Aarhus Convention. No indication has yet (March 2004) been given that the new Regulations have been published. Further details are available at the DEFRA website: www.defra.gov.uk/environment/consult/envinfo/index.htm.</p>
<p>75. Power to amend or repeal enactments prohibiting disclosure of information.</p>	
<p>SS(1) - (3). N/A.</p>	<p>Empowers the Secretary of State to make orders repealing or amending existing legislation which has the effect of prohibiting disclosure of information under the Act.</p>
<p>76. Disclosure of information between Commissioner and ombudsmen.</p>	

<p>SS(1) - (2). N/A</p>	<p>Allows the Commissioner to pass information to ombudsmen where he suspects maladministration has occurred.</p>
<p>77. Offence of altering <i>etc</i> records with intent to prevent disclosure.</p>	
<p><i>SS(1). Where -</i> <i>(a) a request for information has been made to a public authority, and</i> <i>(b) under section 1 of this Act or section 7 of the Data Protection Act 1998, the applicant would have been entitled (subject to payment of any fee) to communication of any information in accordance with that section, any person to whom this subsection applies is guilty of an offence if he alters, defaces, blocks, erases, destroys or conceals any record held by the public authority, with the intention of preventing the disclosure by that authority of all, or any part, of the information to the communication of which the applicant would have been entitled.</i></p>	<p>Where a request for information has been made to an authority and the applicant would have been entitled to receive the information, it is an offence to alter, deface, block, erase, destroy or conceal any record held by the authority with the intention of preventing disclosure of all or part of the information to which the applicant would have been entitled.</p>
<p><i>SS(2). Subsection (1) applies to the public authority and to any person who is employed by, is an officer of, or is subject to the direction of, the public authority.</i></p>	<p>SS1 applies to both the public authority and to any employee or person subject to the direction of the authority.</p>
<p><i>SS(3). A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.</i></p>	<p>On conviction, anyone found guilty under this section is liable to a fine not exceeding level 5.</p> <p>[Level 5 currently stands at £5000. It would appear that although an authority can be guilty of the offence only an employee can be prosecuted.]</p>

<p><i>SS(4). No proceedings for an offence under this section shall be instituted</i></p> <p>-</p> <p><i>(a) in England and Wales, except by the Commissioner or by or with the consent of the Director of Public Prosecutions;</i></p> <p><i>(b) N/A [applies only to Northern Ireland].</i></p>	<p>Only the Commissioner or the Director of Public Prosecutions (or someone acting with his consent) can institute proceedings under this section.</p>
<p>78. Saving for existing powers.</p>	
<p><i>Nothing in this Act is to be taken to limit the powers of a public authority to disclose information held by it.</i></p>	<p>Ensures that nothing in FOIA limits existing powers of authorities to disclose information, <i>ie</i> they may release more information than is allowed for in FOIA (but must not release less).</p>
<p>79. Defamation.</p>	
<p><i>Where any information communicated by a public authority to a person ("the applicant") under section 1 was supplied to the public authority by a third person, the publication to the applicant of any defamatory matter contained in the information shall be privileged unless the publication is shown to have been made with malice.</i></p>	<p>Provides that a disclosure by an authority under the Act is covered by qualified privilege in cases where the information has been supplied by a third party unless "published" with malice.</p> <p>[In effect, any defamatory information passed on which an authority is unaware is false will be covered by qualified privilege; but if an authority is already aware the information is false it will not (unless supplied merely to inform an applicant of what false allegations have been made about them by a third party). Note that the defence only applies to information supplied under S1 of FOIA; if an authority released defamatory information which it was not bound under the Act to do, the defence would not apply.]</p>
<p>80. Scotland.</p>	

SS(1) - (2). N/A.	Only applies to Scotland.
81. Application to government departments, etc.	
SS(1) - (4). N/A.	Only applies to government departments.
82. Orders and regulations.	
SS(1) - (5). N/A.	Deals only with procedures for making regulations and orders under the Act.
83. Meaning of "Welsh public authority".	
SS(1) - (3). N/A.	Only applies to Wales.
84. Interpretation.	

In this Act, unless the context otherwise requires -
"applicant", in relation to a request for information, means the person who made the request; ...
"body" includes an unincorporated association;
"the Commissioner" means the Information Commissioner;
"decision notice" has the meaning given by section 50;
"the duty to confirm or deny" has the meaning given by section 1(6); ...
"enforcement notice" has the meaning given by section 52; ...
"exempt information" means information which is exempt information by virtue of any provision of Part II;
"fees notice" has the meaning given by section 9(1);
"government department" includes...any... body or authority exercising statutory functions on behalf of the Crown [with exceptions for the Secret Services, GCHQ, and bodies of the Scottish Parliament or Welsh Assembly];
"information" (subject to sections 51(8) and 75(2) means information recorded in any form;
"information notice" has the meaning given by section 51;
"Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975; ...
"prescribed" means prescribed by regulations made by the Secretary of State;
"public authority" has the meaning given by section 3(1);
"public record" means a public record within the meaning of the Public Record Act 1958...;
"publication scheme" has the meaning given by section 19;
"request for information" has the meaning given by section 8; ...
"the Tribunal" means the Information Tribunal...

Provides definitions of terms used in the Act. Ellipsis marks (...) indicate N/A to the University, eg only apply in Wales or in Northern Ireland.

85. Expenses.

N/A.	Authorises any increase attributable to the Act in expenditure payable out of money provided by Parliament. [Applies only to Ministers and government departments.]
86. Repeals.	
<i>Schedule 8 (repeals) has effect.</i>	Gives effect to the list of repeals in schedule 8. [Nothing of significance to the University other than re-titling of the Data Protection Commissioner to Information Commissioner.]
87. Commencement.	

<p>SS(1) - (5)</p>	<p>S87 provides for the Act to come into force in stages with lists of sections allocated to specific times. In summary, these are as follows: SS(1) at Royal Assent (30 November 2000): the basic "defining" and "framework" sections such as the definition of public authorities and various minor amendments to existing legislation, together with the powers to make regulations, orders and codes of practices; SS(2) two months later (20 January 2001): the provisions relating to the re-naming of the Commissioner and the Tribunal and the consequent changes in related legislation; SS(3) and (4) provide that all other provisions must come into force within five years of Royal Assent (in fact, 1 January 2005), and permits the Secretary of State to make orders containing transitional provisions and savings and different compliance dates for different public sectors; SS(5) requires the Secretary of State to make an annual report to Parliament until such time as the Act is fully implemented.</p> <p>[Since original publication, the Secretary of State's responsibilities have been transferred to the Lord Chancellor.]</p>
<p>88. Short title and extent.</p>	
<p>SS(1). This Act may be cited as the Freedom of Information Act 2000.</p>	<p>Allows citation as "The Freedom of Information Act 2000".</p>
<p>SS(2). [Extends the Act to Northern Ireland].</p>	
<p>SS(3). The amendment or repeal of any enactment by this Act has the same extent as that enactment.</p>	<p>Any amendments and repeals of another act by this Act have the same effect as if they were part of the original enactment.</p>

End of Part VIII

List of Schedules

1. Public authorities	Part I: General
	Part II: Local government
	Part III: The National Health Service
	Part IV: Maintained schools and other educational institutions
	Part V: Police
	Part VI: Other public bodies and offices: general
	Part VII: Other public bodies and offices: Northern Ireland
2. The Commissioner and the Tribunal	Part I: Provision consequential on S18(1) and (2)
	Part II: Amendments relating to extension of functions of Commissioner and Tribunal
3. Powers of entry and inspection	

4. Appeal proceedings: amendments of Schedule 6 to Data Protection Act 1998	
5. Amendments of Public records legislation	Part I: Amendments of Public Records Act 1958
	Part II Amendment of Public Records Act (Northern Ireland) 1923
6. Further amendments of Data Protection Act 1998	
7. Disclosure of information by ombudsmen	
8. Repeals	Part I: Repeal coming into force on passing of Act
	Part II: Repeals coming into force in accordance with section 87(2)
	Part III: Repeals coming into force in accordance with section 87(3)
End of List of Schedules	