

Freedom of Information Act 2000 (Section 50)

Decision Notice

14 June 2011

Public Authority: University of the Arts London
Address: 272 High Holborn
London
WC1V 7EY

Summary

The complainant requested full details of the leaving packages and pension enhancements paid to senior staff not covered by the framework agreement at the University of the Arts London (the University) since 2004. The University withheld the information under sections 40(2) and 41 of the Freedom of Information Act 2000 (the Act) on the grounds that disclosure would be unfair and in breach of confidence. The Commissioner finds that section 40(2) is engaged in this case as the disclosure of the individuals' personal data would be unfair. He also finds that the University breached a number of procedural requirements under the Act but does not require any steps to be taken.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

Background

2. The University has a formal 'framework agreement' which defines the terms and conditions of employment for all staff that are not on 'individual contracts'. (Staff on individual contracts are senior managers, consultants etc.). Full details are available at;
<http://www.myucu.net/page35.html>.

The Request

3. On 22 October 2009 the complainant requested:

'Full details of the leaving packages that have been awarded to all employees that have left employment within the University of the Arts or London Institute (if appropriate) since June 2004 that were not covered by the agreements for staff under the framework agreement and the previous general staff agreements.

Details of any enhancements to pensions or other rewards that have been awarded to the same group of employees over the same timescale'.

4. On 18 November 2009 the University responded in the following terms. In respect of the leaving packages, it said it was unable to provide this as it comprised sensitive personal data. However, it added that any leaving packages paid would be calculated in accordance with the individual's contract in terms of notice periods and payments in lieu of notice and leave. In respect of any pension enhancements or other rewards the University stated that these would be calculated in accordance with the Pension Scheme Rules that existed at the time.
5. On 3 December 2009 the complainant requested an internal review of the council's response.
6. On 12 March and 7 May 2010 the complainant sent further communications to the University reminding it to respond to his request for an internal review.
7. On 17 May 2010 the University wrote to the complainant stating that it had completed its internal review and was upholding its original decision by applying section 41 of the Act to the information requested, with particular reference to any severance payment made.

The Investigation

Scope of the case

8. On 13 May 2010 the complainant contacted the Commissioner to complain about the way his request for information had been handled. In particular, he expressed his concern at the University's delay in carrying out an internal review.

Chronology

9. On 5 July 2010 the Commissioner wrote to the University and requested the withheld information within 20 working days. On 15 July he also requested any references to any leaving packages or severance payments in the University's accounts or in the public domain.
10. The University responded on 12 August with details of its annual accounts and said that the withheld information would follow in due course.
11. On 23 August 2010 the University provided the Commissioner with details of the leaving packages and pension enhancements paid to its staff since 2004. It confirmed that it still wished to rely on section 41 of the Act and at the same time said that it would apply section 40(2) on the basis that disclosure of the individual's personal data would be unfair.
12. On 24 August 2010 the Commissioner asked the University to clarify which individual members of staff disclosed on 23 August fell within the scope of the complainant's request which was limited to the period between 2004 and the date of the request. The Commissioner also asked some additional questions regarding the identity of the individuals concerned, the leaving packages and pension enhancements paid and any distress that might be caused to them by disclosure.
13. On 12 October 2010 the University responded by confirming the identity and number of individuals falling within the complainant's request. This information is set out in a confidential annex.
14. The Commissioner contacted the University again on 14 October 2010 and requested some further information regarding the leaving packages and pension enhancements paid.
15. On 25 November 2010 the University replied and stated that while any notice payments would not appear in its annual Financial Statements as they were essentially contractual, pension enhancements for staff taking early retirement on the other hand would and for the individuals falling within the scope of the complainant's request the relevant details were set out in the annual Financial Statement under the heading 'pensions' for the relevant period. The University also confirmed that any pension entitlements paid would be covered by the terms of the Teachers' Pension Scheme (TPS). It also advised that the comments of the individuals concerned would follow in due course. The University accepted that the redundancy terms for members of its staff covered by the framework agreement were in the public domain. However, it pointed out that redundancy terms for senior staff not covered by the framework agreement were calculated on an individual basis.

16. On 24 January and 15 April 2011, after a number of reminders by both by email and telephone, the University provided the Commissioner with copies of 'private and confidential' letters sent by its Human Resources Department to the individuals falling within the scope of the complainant's request with details of their leaving packages.

Analysis

Exemptions

17. The University has cited both section 40(2) and section 41(1) of the Act in relation to its decision to withhold the requested information.

Section 40(2) of the Act

18. In relation to section 40(2) of the Act the University has argued that disclosure of the requested information would amount to unfair processing of the individuals' personal data.
19. Section 40(2) of the Act (the full wording of which is included in the legal annex, as are all sections referred to in this notice) provides an exemption to the right to access to recorded information where it is the personal data of any third party. In order for a public authority to rely on section 40(2), it would have to be satisfied that:
 - the requested information was the personal data of the individuals falling within the scope of the complainant's request; and
 - disclosure of that information would contravene a data protection principle contained in the Data Protection Act 1998 (DPA)
20. The Commissioner will now address each of these points in turn.

Is the requested information personal data?

21. The Commissioner is satisfied that the requested information directly relates to the financial affairs of clearly identified individuals. The Commissioner therefore accepts that the withheld information would be the personal data of these individuals. However, having considered the nature of the information, the Commissioner has determined that details of the leaving packages and/or pension enhancements would not constitute 'sensitive' personal data as defined by section 2(a)-(h) of the DPA.

Would disclosure contravene a data protection principle?

22. The Commissioner agrees with the University that the relevant data protection principle is the first one. This requires the processing of personal data to be both fair and lawful. The Commissioner's considerations here focus on the general issue of whether disclosure of the individuals' leaving packages/pension enhancements would be fair.

Fairness

23. In establishing whether disclosure would be fair, the Commissioner has looked to balance the consequences of any release of personal data and the reasonable expectation of the data subject with the general principles of accountability and transparency by public authorities. This approach was approved by the First Tier Tribunal – General Regulatory Chamber (Information Rights) in the case of [Pycroft and the Information Commissioner EA/2010/0165](#)¹.
24. To guide him in weighing up these competing interests, the Commissioner has taken into account the following factors:
- The consequences of disclosure
 - The data subjects' reasonable expectations of what would happen to their personal data
 - The existence of a compromise agreement or arrangement suggesting mutual confidentiality
 - Whether the requested information relates to the individuals' personal/private lives or public roles
 - The seniority of the individuals' positions and the importance role of their roles
 - The balance between the rights and freedoms of the data subject and the legitimate interests of the public

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http://www.informationtribunal.gov.uk/DBFiles/Decision/i483/20110211_Pycroft_v_IC_and_SDC_open_decision_EA_20100165.pdf

The consequences of disclosure

25. In this case, the University has pointed out that disclosure of the requested information would cause distress to the individuals concerned and furthermore it has argued that the individuals' personal financial circumstances legitimately and reasonably deserved some protection. The Commissioner recognises that the release of the information would be an intrusion into the financial circumstances of the individuals in question. He therefore believes it more than probable that disclosure would cause some distress to the data-subjects.

Reasonable expectations

26. An individual's reasonable expectation as to whether their personal data will be disclosed is a relevant factor. However, in the absence of other factors disclosure will not be automatically unwarranted or unfair just because the person is unaware of the possibility of disclosure. The Commissioner considers that the individuals concerned would have a reasonable expectation that the requested information, which relates to their personal financial arrangements with the University, would remain private. This view is supported by the fact that the settlements were made on a 'private and confidential' basis. See paragraphs 42 and 43 of the decision of the First-tier Tribunal in the case of [Gibson and the Information Tribunal and Craven District Council EA/2010/0095](#)².

Compromise agreement/or other arrangement regarding confidentiality

27. Although the individuals covered by the scope of the complainant's request did not sign compromise agreements, the correspondence with the University's Human Resources department makes it clear that information relating to their leaving package/pension enhancement was private and confidential. The Commissioner is therefore satisfied that, even in the absence of a specific compromise agreement with a confidentiality clause, there was an assumed right to privacy between the individuals concerned and University concerning matters of a personal financial nature.

² <http://www.informationtribunal.gov.uk/DBFiles/Decision/i485/Decision:%20EA.2010.0095:%2022-2-11.pdf>

Personal and private or public life

28. The Information Commissioner's Office has produced [Awareness Guidance on section 40 of the Act](#)³ which makes it clear that where the information relates to the individual's private life (i.e. their home, family, social life or finances) as opposed to their public life (i.e. their work as a public official or employee) it will deserve more protection than information about them acting in an official or work capacity. The Commissioner takes the view that information relating to an individual's leaving package/pension enhancement relates more to their private as opposed to public life. See the decision of the First-tier Tribunal in the case of [Gibson and the Information Tribunal and Craven District Council EA/2010/0095](#)⁴ where Judge Taylor pointed out (in paragraph 42) that, in relation to personnel matters (such as leaving packages/enhanced redundancy terms), there was 'a very strong expectation of privacy'.

Seniority and roles

29. The above [Awareness Guidance on section 40 of the Act](#)⁵ also makes it clear that public authorities should take into account the seniority of employees when personal information about their staff is requested under the Act. The more senior a person is, the less likely it is that disclosing information about their public duties will be unwarranted or unfair. Information about a senior official's public life should generally be disclosed unless it would put them at risk or unless it also reveals details of the private lives of other people (e.g. the official's family). See the decisions of the First Tier Tribunal – General Regulatory Chamber (Information Rights) in the cases of [Ince v Information Commissioner EA/2010/0089](#)⁶, [Pycroft and the Information Commissioner EA/2010/0165](#)⁷ and [Gibson and the Information Tribunal and Craven District Council EA/2010/0095](#)⁸.

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http://www.ico.gov.uk/for_organisations/sector_guides/~/_media/documents/library/Freedom_of_Information/Detail_ed_specialist_guides/personal_information.ashx

⁴<http://www.informationtribunal.gov.uk/DBFiles/Decision/i485/Decision:%20EA.2010.0095:%2022-2-11.pdf>

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http://www.ico.gov.uk/for_organisations/sector_guides/~/_media/documents/library/Freedom_of_Information/Detail_ed_specialist_guides/personal_information.ashx

⁶ <http://www.informationtribunal.gov.uk/DBFiles/Decision/i458/Ince%20v%20IC%20EA.2010.0089%20-%20Decision%2017Nov2010%20Final.pdf>

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http://www.informationtribunal.gov.uk/DBFiles/Decision/i483/20110211_Pycroft_v_IC_and_SDC_open_decision_EA_20100165.pdf

⁸ <http://www.informationtribunal.gov.uk/DBFiles/Decision/i485/Decision:%20EA.2010.0095:%2022-2-11.pdf>

30. In this case the individuals concerned are comparatively senior as they are not covered by the framework agreement. However, the Commissioner considers that their seniority is less relevant in this case as the requested information relates to their leaving packages/pension enhancements. Furthermore, in this case the withheld information goes beyond information directly concerning the individuals' public roles or decision making process and relates to their personal finances. Although the information relates to the individuals' employment (in the sense that it is payment for service), it is not information so directly connected with their public role that its disclosure would automatically be fair. The Commissioner considers that these are essentially private issues.

The rights and freedoms of the data subjects

31. As mentioned above the individuals within the scope of the complainant's request would have a reasonable expectation that the private and confidential information relating to their personal finances would remain private with disclosure leading to likely distress.
32. The complainant has not produced any evidence that senior University employees who received leaving packages/enhanced redundancy terms within time frame of his request did so under circumstances of alleged wrongdoing and/or malpractice.

The legitimate interests of the public

33. The Commissioner recognises that that the University has a duty to be open, transparent and accountable in relation to how it spends public money. This includes ensuring that any leaving package/pension enhancement paid to a member of staff is calculated in accordance with agreed rules and is accounted for in the University's annual accounts.
34. The complainant believes that any leaving package/pension enhancement paid to senior University employees should be published to allow adequate public scrutiny. He has pointed out that [guidance issued by the Higher Education Funding Council for England \(HEFCE\)](http://www.hefce.ac.uk/pubs/circlets/2009/cl06_09/)⁹ states that although confidentiality clauses are acceptable in relation to payments made to senior staff in higher education establishments, they should be the exception rather than the norm. He has also referred to guidance issued by the National Audit Office (NAO) on 'Ending a Contract of Employment' which makes it clear that any confidentiality clause should 'not prevent the wider public interest being served'¹⁰. In

⁹ http://www.hefce.ac.uk/pubs/circlets/2009/cl06_09/

¹⁰ http://www.hefce.ac.uk/pubs/circlets/2009/cl06_09/

addition, he has pointed out that HM Treasury guidance provides 'any undertakings about confidentiality should leave severance transactions open to adequate public scrutiny'¹¹.

35. The University has responded to the above points made by the complainant by referring to an extended extract from [guidance issued by the Higher Education Funding Council for England \(HEFCE\)](#)¹² in relation to the desire for adequate scrutiny for severance payments made to senior staff. This guidance clarifies that 'both sides in a severance agreement should understand that any information covered by a confidentiality clause will need to be disclosed, on demand, to the HEFCE Accounting Officer or the NAO. This is consistent with the Nolan Committee's Second Report on local public spending bodies which, in respect of HEI's (Higher Education Institutions), recommended that where confidentiality clauses were deemed absolutely necessary, legitimate concerns about potential malpractice could be raised with HEFC or the NAO (as well as, where applicable, the Visitor or an independent review body).' Although no confidentiality clauses were signed in this case, the Commissioner notes that there are channels through which severance payments made by High Education Institutions (such as Universities) may be scrutinised in the event of potential malpractice.
36. The University has stated that any leaving packages would have been calculated in accordance with an individual's contract of employment in terms of notice periods (or payments in lieu of notice) and payments of annual leave.
37. The University has pointed out that although there is no collective agreement on individual contracts (for employees not covered by the framework agreement) for the payment of redundancy, the current policy is to use the statutory calculation¹³ at actual salary and times it by the number of years of service multiplied by 1.5.
38. With regard to pension enhancements/payments made to senior members of staff not covered by the framework agreement the University has pointed out that these are calculated in accordance with the rules of the Teachers Pension Scheme (TPS)¹⁴.

¹¹ http://www.hefce.ac.uk/pubs/circllets/2009/cl06_09/

¹² http://www.hefce.ac.uk/pubs/circllets/2009/cl06_09/

¹³ http://www.direct.gov.uk/en/Employment/RedundancyAndLeavingYourJob/Redundancy/DG_174330

¹⁴ <http://www.teacherspensions.co.uk/scheme/scheme1.htm>

39. On the question of accountability the Commissioner notes that pension payments, including enhancements for those staff taking early retirement under past reorganisation programmes are referenced in the University's annual accounts¹⁵.

Conclusion

40. The Commissioner finds that there are strong reasons for requested information being withheld in this case. It is likely that any disclosure would cause distress to the individuals concerned who would have a reasonable expectation that information relating to their personal circumstances would remain private. Although no compromise agreements were signed in this case it is clear from the letters sent to the individuals concerned by the University's Human Resources department that the information relating to the leaving packages was 'private and confidential'. The leaving packages in this case relate more to the individuals' private life than their public duties and although it is accepted that the individuals concerned were senior employees this is less relevant in this case as the information requested is not directly connected with their public role. The Commissioner has not been presented with any arguments or evidence that the individuals concerned committed any wrongdoing or malpractice.
41. The Commissioner recognises that there is a public interest in the University being seen to be open, transparent and accountable in relation to how it spends public money. This includes the way it calculates any payments it makes to staff who leave/retire. In this case the Commissioner accepts that there are adequate systems in place to ensure that payments made are calculated fairly and accounted for appropriately. The University makes payments in accordance with individual's employment contracts and has a defined policy for calculating redundancy awards. Pensions are calculated in accordance with the TPS's rules and these payments (including any enhanced ones for early retirement) are accounted for in the University's annual accounts. Furthermore, the Commissioner notes that the HEFCE Accounting Officer or the NAO may demand and scrutinise details of any payments made to staff even if they are incorporated into a compromise agreement with a confidentiality clause.
42. The Commissioner has balanced the consequences of any release of the individual's personal data in this case, taking into account their reasonable expectations of privacy, with the general principles of accountability and transparency required by the University and

¹⁵ <http://www.arts.ac.uk/34551.htm>

concluded that it would be unfair for the information to be disclosed for the above reasons.

43. As the Commissioner is satisfied that section 40(2) of the Act has been engaged in this case, he has not gone on to consider the University's application of section 41.

Procedural requirements

Section 17: Refusal of the request

44. Section 17(1) of the Act requires a public authority to provide an applicant with a refusal notice stating the basis upon which it has refused the information and within the time for complying with section 1(1) of the Act.
45. The University's first substantive response to the request did not contain details of the exemption(s) on which it was relying. This omission therefore represents a breach of section 17(1) of the Act.
46. Section 17(7)(a) of the Act requires that notification of the refusal of the request must contain particulars of the public authority's internal complaints procedure or state that it does not have one. Section 17(7)(b) requires a public authority to provide details of the applicant's rights under section 50 of the Act.
47. The Commissioner notes that the first substantive response from the University did not contain details of either its internal complaints procedure or the complainant's section 50 rights. This therefore represents a breach of both sections 17(7)(a) and 17(7)(b) of the Act.

The Decision

48. The Commissioner's decision is that the University dealt with the request for information in accordance with the Act apart from the procedural breaches listed above for which no further steps are required.

Steps Required

49. The Commissioner requires no steps to be taken.

Other matters

50. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matters of concern:
51. Part VI of the section 45 Code of Practice makes it desirable practice that a public authority should have a procedure in place for dealing with complaints about its handling of requests for information, and that the procedure should encourage a prompt determination of the complaint. As he has made clear in his 'Good Practice Guidance No 5', published in February 2007, the Commissioner considers that these internal reviews should be completed as promptly as possible. While no explicit timescale is laid down by the Act, the Commissioner has decided that a reasonable time for completing an internal review is 20 working days from the date of the request for review. In exceptional circumstances it may be reasonable to take longer but in no case should the time taken exceed 40 working days. The Commissioner is concerned that in this case, it took over 100 working days for an internal review to be completed, despite the publication of his guidance on the matter.

Right of Appeal

52. Either party has the right to appeal against this Decision Notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

53. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
54. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

Dated the 14th day of June 2011

Signed

**Andrew White
Group Manager – Complaints Resolution
Information Commissioner’s Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Legal Annex

General Right of Access

Section 1(1) provides that -

"Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
- (b) if that is the case, to have that information communicated to him."

Section 2(3) provides that –

"For the purposes of this section, the following provisions of Part II (and no others) are to be regarded as conferring absolute exemption –

- (a) section 21
- (b) section 23
- (c) section 32
- (d) section 34
- (e) section 36 so far as relating to information held by the House of Commons or the House of Lords
- (f) in section 40 –
 - (i) subsection (1), and
 - (ii) subsection (2) so far as relating to cases where the first condition referred to in that subsection is satisfied by virtue of subsection (3)(a)(i) or (b) of that section,
 - (iii) section 41, and
 - (iv) section 44"

Section 40 – Personal information

(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.

(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.

(3) 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 [1998 c. 29.] Data Protection Act 1998, 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

(ii) section 10 of that Act (right to prevent processing likely to cause damage or distress), and

(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 [1998 c. 29.] Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.

(4) The second condition is that by virtue of any provision of Part IV of the [1998 c. 29.] 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).

(5) The duty to confirm or deny—

(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

(b) does not arise in relation to other information if or to the extent that either—

(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 [1998 c. 29.] Data Protection Act 1998 or would do so if the exemptions in section 33A(1) of that Act were disregarded, or

(ii) by virtue of any provision of Part IV of the [1998 c. 29.] 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).

(6) 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 [1998 c. 29.] Data Protection Act 1998 shall be disregarded.

(7) In this section—

- “the data protection principles” means the principles set out in Part I of Schedule 1 to the [1998 c. 29.] Data Protection Act 1998, as read subject to Part II of that Schedule and section 27(1) of that Act;
- “data subject” has the same meaning as in section 1(1) of that Act;
- “personal data” has the same meaning as in section 1(1) of that Act.

Data Protection Act 1998

Section 1 - Basic interpretative provisions

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

- “data” means information which—

(a)

is being processed by means of equipment operating automatically in response to instructions given for that purpose,

(b)

is recorded with the intention that it should be processed by means of such equipment,

(c)

is recorded as part of a relevant filing system or with the intention that it should form part of a relevant filing system, or

(d)

does not fall within paragraph (a), (b) or (c) but forms part of an accessible record as defined by section 68;

- “data controller” means, subject to subsection (4), a person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be, processed;
- “data processor”, in relation to personal data, means any person (other than an employee of the data controller) who processes the data on behalf of the data controller;
- “data subject” means an individual who is the subject of personal data;

- “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;
 - “processing”, in relation to information or data, means obtaining, recording or holding the information or data or carrying out any operation or set of operations on the information or data, including—
 - (a)

organisation, adaptation or alteration of the information or data,
 - (b)

retrieval, consultation or use of the information or data,
 - (c)

disclosure of the information or data by transmission, dissemination or otherwise making available, or
 - (d)

alignment, combination, blocking, erasure or destruction of the information or data;
 - “relevant filing system” means any set of information relating to individuals to the extent that, although the information is not processed by means of equipment operating automatically in response to instructions given for that purpose, the set is structured, either by reference to individuals or by reference to criteria relating to individuals, in such a way that specific information relating to a particular individual is readily accessible.
- (2) In this Act, unless the context otherwise requires—
- (a) “obtaining” or “recording”, in relation to personal data, includes obtaining or recording the information to be contained in the data, and
 - (b) “using” or “disclosing”, in relation to personal data, includes using or disclosing the information contained in the data.

(3) In determining for the purposes of this Act whether any information is recorded with the intention—

(a) that it should be processed by means of equipment operating automatically in response to instructions given for that purpose, or

(b) that it should form part of a relevant filing system,

it is immaterial that it is intended to be so processed or to form part of such a system only after being transferred to a country or territory outside the European Economic Area.

(4) Where personal data are processed only for purposes for which they are required by or under any enactment to be processed, the person on whom the obligation to process the data is imposed by or under that enactment is for the purposes of this Act the data controller. (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.”

The first data protection principle provides that –

“Personal data shall be processed fairly and lawfully...”