



Scottish Information
Commissioner

**Decision 101/2007 Ms Margaret Gokce and the
Scottish Ambulance Service Board**

*Request for access to original voice recording; copy of complete
and original command and control logs.*

**Applicant: Ms Margaret Gokce
Authority: The Scottish Ambulance Service Board
Case No: 200601061
Decision Date: 3 July 2007**

**Kevin Dunion
Scottish Information Commissioner**

Kinburn Castle
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Decision 101/2007 Ms Margaret Gokce and the Scottish Ambulance Service Board

Request for access to original voice recording and copy of command and control logs – access to original recording refused under section 11 of FOISA - copies of information refused under sections 36 and 38 of FOISA.

Relevant Statutory Provisions and Other Sources

Freedom of Information (Scotland) Act 2002 (FOISA) sections: 1(1) (General entitlement); 11(1)-(4) (Means of providing information); 16(1) (Refusal of request), 38(1)(a) and (b), (2)(a)(i) and (b) (Personal information) and 65 (Offence of altering etc. records with intent to prevent disclosure)

Data Protection Act 1998: section 1 (Basic interpretative provisions) (definition of “personal data”) and 2(e) (Sensitive personal data), Schedule 1 (The data protection principles) Part I (The principles) (the first and second data protection principles)

The full text of each of these provisions is reproduced in the Appendix to this decision. The Appendix forms part of this decision.

Facts

Ms Gokce asked the Scottish Ambulance Service Board (the Board) to let her hear original recordings made on its Marathon voice recording system and to let her see its original command and control log. The Board refused, claiming that Ms Gokce's representative had already received that information. When Ms Gokce asked the Board to review her request, the Board provided her with copies of information from its command and control log, but continued to assert that it had already provided the recordings previously. Ms Gokce remained dissatisfied with the Board's response and applied to the Commissioner for a decision.

Following an investigation, the Commissioner found that the Board had failed to comply with some of the technical aspects of FOISA in dealing with Ms Gokce's request, but that it had been correct, under FOISA, not to provide Ms Gokce with access to the original recording.



Background

1. On 3 April 2006, Ms Gokce wrote to the Board requesting unedited copies of the following information:
 - a) original recordings made on the Marathon voice recording system, from specified telephone extensions between the hours of 00:45 and 02:15 on 28 August 2003;
 - b) the complete and original command and control log – sequence of events 13024 (GGW580) and
 - c) the complete and original command and control log – sequence of events 0911959.
2. Ms Gokce requested that she be present when the information is extracted from the system and that arrangements be made to have the information committed to removable media so that she could take it away with her.
3. On 5 May 2006, the Board wrote to Ms Gokce in response to her request for information. The Board advised Ms Gokce that it considered that it had already fully complied with section 11(2) of FOISA given that her representative had already been given transcripts of the recordings in connection with another matter between Ms Gokce and the Board. The Board also stated that FOISA did not entitle an applicant to obtain to obtain original or principal documents.
4. On 9 May 2006, Ms Gokce wrote to the Board requesting a review of its decision. In particular, Ms Gokce asserted that, as the information had not been previously released under FOISA, she had a right, under section 11 of FOISA, to request information in the manner of her preference and this included inspecting the record containing the information and obtaining a copy. In this letter, Ms Gokce also made reference to section 65 of FOISA, which makes it an offence to alter, etc records with the intent to prevent disclosure once an information request has been made for the information contained in the records.



5. On 30 May 2006, the Board notified Ms Gokce of the outcome of its review. The Board re-asserted that it had already provided the information in question but in any event provided further copies of items b) and c). The Board also upheld the decision to refuse access to the original Marathon voice recordings. This was on the basis that it had provided Ms Gokce and her representatives with tape recordings from the Marathon voice recording system and had allowed her representative access to the original recordings in 2003 and again in 2005. The Board also commented that the information had not changed in the intervening period and that it was difficult to see what purpose or value providing the information again might have.
6. On 15 June 2006, Ms Gokce wrote to my Office, stating that she was dissatisfied with the outcome of the Board's review and applying to me for a decision in terms of section 47(1) of FOISA. Ms Gokce was concerned, amongst other things, that the Board had not issued a valid response to her in terms of section 16 of FOISA and that the information was being withheld from her.
7. The case was allocated to an investigating officer. The application was validated by establishing that Ms Gokce had made a valid request for information to a Scottish public authority and had applied to me for a decision only after asking the authority to review its response to that request.

The Investigation

8. On 10 July 2006, the Board was notified in writing that an application had been received from Ms Gokce (as required by section 49(3)(a) of FOISA) and was invited to comment on the application. The Board was also asked to provide my office with specified items of information required for the purposes of the investigation. The Board commented on 24 July 2006 and subsequently provided the investigating officer with access to the original recordings and other information requested by the officer in two subsequent visits by the officer to the Board's headquarters in November 2006.



9. For the sake of clarity, it might be helpful if I describe what Ms Gokce is seeking access to. Ms Gokce used to be employed by the Board. She would like to access, under FOISA, the original recordings of radio and telephone conversations made to and from ambulance control from specified numbers. Within the specified time period these include conversations which took place between ambulance dispatchers, an ambulance crew and a public call for assistance. Ms Gokce asserts that only amended, altered or incomplete versions of recordings made on the Marathon system have been made available to her and that the release of complete, unabridged and unedited information will assist her in pursuit of a separate legal matter between her and the Board.
10. The audio recording system used by the Board at this time was called the Marathon voice recording system. My understanding is that this system records conversations made on head-sets worn by Ambulance Headquarters staff, public calls made to and from the Ambulance Headquarters and between Headquarters and ambulance crews.
11. I also understand that the Command and Control log, also known as the Sequence of Events, is a time-indexed document which shows the sequence of events for a particular incident (0911959). The Resource Log, also known as the Vehicle Sequence of Events, is also time-indexed and shows what a specific vehicle (GGW 5580 is an ambulance) did during a particular time period.

Submissions from the Board

12. The Board submitted that it had supplied Ms Gokce with items b) and c) on 3 April 2006 in its response to her request for review. As such the Board felt it could provide nothing further.
13. The Board also submitted that, in relation to item a), the voice recordings were not easy to copy or redact as specialist equipment was required to de-multiplex the recordings and non-relevant recordings could not be blanked out.
14. In addition, the Board submitted that it was not reasonably practicable (the test set out in section 11(1) of FOISA) to accede to Ms Gokce's request for access to the original recordings made on the Marathon system.



15. In any event, the Board also claimed that exemptions under sections 36 and 38 of FOISA applied to the recordings. This was because the recordings contained the personal information of individuals calling the Board for assistance and much of the information on the recordings was provided to the Board in confidence. It should be noted that it was only at this stage of the investigation that the Board clarified which of the exemptions in FOISA it was relying on to withhold the information from Ms Gokce. It had not mentioned any exemptions in its earlier correspondence with Ms Gokce.
16. Finally, the Board considered that, even were the exemptions not considered appropriate, it now considered Ms Gokce's request as vexatious on the grounds that it had already provided Ms Gokce with the information previously and, as the information had not changed, it could only surmise that the purpose of the request was not principally for access to the information.

Submissions from Ms Gokce

17. In her submissions, Ms Gokce stated that she was dissatisfied with the Board's apparent disregard of section 16 of FOISA. Ms Gokce believed that the Board did not wish to confirm or deny whether it held the information. She noted that the Board had not specified any exemption or why the exemption applied to the information she had requested.
18. Ms Gokce submitted that she was dissatisfied with the Board's provision of items b) and c), believing that the documents had been tampered with and / or fabricated.
19. Finally, in relation to item a), Ms Gokce asserted that any information she had previously been provided with had been copies of copies. With the potential for editing and distorting the information in making these copies, Ms Gokce required, under section 11 of FOISA, access to the original voice recordings in order to assess the veracity of the information she and her representatives had already received.

The Commissioner's Analysis and Findings

20. This investigation focussed on the three items of information requested by Ms Gokce in her original request. I will deal with items b) and c), then turn to item a).



Items b) and c) - sequence of events 13024 (GGW580) and 0911959

21. In a written submission to my office, the Board assured the investigating officer that the documents provided to Ms Gokce in response to her request for review were copies of the unedited and unaltered originals held by the Board.
22. The investigating office has reviewed both the information provided to Ms Gokce in response to her request for review and the originals of this information held by the Board and can detect no discernable difference between the two sets of information.
23. While Ms Gokce has continued to assert throughout the investigation that the logs could be or have been subject to alteration, I have found no evidence of this. In the evidence submitted by Ms Gokce to support this assertion, the conclusion of Deloitte Touche (acting as auditors to the Board), is that an error was made in the time reference on the transcript and that this explained the apparent discrepancies in the Command and Control logs Ms Gokce identified. My understanding is that Deloitte Touche were engaged as auditors by the Board in relation to separate legal proceedings between Ms Gokce and the Board.
24. Further, I can find no evidence of the information having been altered, erased or concealed *after* the Board's receipt of Ms Gokce's request. There is therefore no evidence to suggest that a criminal offence has been committed under section 65 of FOISA (offence of altering etc. records with intent to prevent disclosure).
25. I should also note that my powers do not extend to the authentication or assessing the veracity of the information actually held by Scottish public authorities. If Ms Gokce's concerns surrounding the information remain, there are other appropriate avenues with relevant powers open to her in pursuing the matter.
26. I am therefore satisfied, on the balance of probabilities and on the evidence submitted to my office, that Ms Gokce has received the information she requested.
27. As such I will not consider items b) and c) further in this decision notice.

Item a) - original recordings from telephone extensions 3238, 3240 and 3241, each between the hours of 00:45 and 02:15 on 28 August 2003

28. Prior to discussing the exemptions claimed by the Board, I will address Ms Gokce's submission that the recording could be or has been tampered with or altered by the Board.



29. The evidence submitted by Ms Gokce is a letter, dated December 2006, from the Chair of the Board. This addresses allegations made in April 2006 by Ms Gokce's representative that the original Marathon recording has been tampered with.
30. However, the allegations appear to relate to copies of the tape provided to Ms Gokce's representative at earlier, separate proceedings between Ms Gokce and the Board, sometime in 2005. By necessity, the evidence Ms Gokce submitted relates to the information as it existed *prior* to her request for information (3 April 2006). I also note that the conclusion reached by Deloitte Touche is that, despite some of the recordings being of poor quality, there is no evidence to suggest that the recordings have been amended or edited.
31. As noted above, my powers under section 65 of FOISA apply only where there is evidence of information having been altered or destroyed *after* an applicant has made a request for it under FOISA.
32. The investigating officer reviewed the recordings in a visit to the Board's headquarters and was provided with a master copy of the recording, taken by Deloitte Touche, in order to assess the exemptions claimed by the Board. Reviewing the recording and the master copy the investigating officer was unable to find any evidence that the recordings had been tampered with or amended subsequent to Ms Gokce's request.
33. I therefore conclude that there is no evidence to suggest that the information Ms Gokce requested was altered subsequent to her request for information and that there was no requirement for me to consider deploying the powers available to me under section 65 of FOISA. Further, I am satisfied, on the balance of probabilities, based upon the evidence submitted by both parties, that the information considered by the investigating officer was the unedited information as it was held by the Board at the time of Ms Gokce's request.
34. As noted above, in its submissions the Board claimed item a) was exempt under sections 38 and 36 of FOISA. I will now go on to consider whether item a) is exempt.

Section 38 – personal information

35. The Board submitted that the recordings contained the personal information of both callers to the Board and the Board staff on duty at that time and, as such, was exempt in terms of section 38(1)(b) of FOISA.
36. Having considered the contents of the recordings, I am satisfied that the information contained in the recordings is personal information.



37. I note that the recordings also contain the personal information of Ms Gokce and, as such, would be subject to section 38(1)(a) of FOISA and therefore absolutely exempt under FOISA.
38. Under section 38(1)(b) of FOISA (read in conjunction with section 38(2)(a)(i) or section 38(2)(b)), information is exempt information if it constitutes personal data and the disclosure of the information to a member of the public otherwise than under FOISA would contravene any of the data protection principles contained in Schedule 1 to the DPA.
39. In this case, the Board submitted that the release of the information relating to third parties would breach the first and second data protection principles. The first principle states that personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless at least one of the conditions in Schedule 2 of the DPA is met and, in the case of sensitive personal data, at least one of the conditions in Schedule 3 of the DPA is also met. The second principle states that personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
40. In justifying its application of the exemption to the personal information which has been withheld from Ms Gokce, the Board has submitted that the information in question constitutes personal data relating to living individuals in the form of their personal details, together with medical conditions and opinions in relation to their calls to the Ambulance Service for assistance.
41. Having considered the definition of personal data contained in section 1(1) of the DPA, I am satisfied that the information about third parties which has been withheld is their personal data. As noted above, some of this information is also the personal data of Ms Gokce – this is absolutely exempt under section 38(1)(a) of FOISA - but there is information which is solely the personal data of third parties.
42. The third party personal information which has been withheld is a mixture of sensitive and non-sensitive personal data. As can be seen from the Appendix, the definition of sensitive personal data in section 2 of the DPA includes information as to the physical or mental health or condition of a person. This type of information requires additional safeguards.
43. As noted above, in determining whether release of the third party personal information would breach the first data protection principle, I can only order release of the information if the disclosure of the information to a member of the public (i.e. the release of the information into the public domain) would be fair and lawful and if there is a condition in schedule 2 (and, in the case of the sensitive personal information, schedule 3) to the DPA which would allow the information to be disclosed.



44. As can be expected, the information consists of the recorded details (names, addresses and other personal details, including medical details), observations and comments of members of the public as well as the views, opinions and advice of the ambulance service crews, call-takers and dispatchers on duty during the period covered by Ms Gokce's request.
45. I have taken into consideration the submissions that have been made by the Board and Ms Gokce. I accept the submissions from the Board that the third parties would have provided information in the expectation that it would be dealt with in confidence and would not be released into the public domain without their consent (which I accept would be inappropriate, if not impossible, to seek in this particular context). I also take the view that the public callers and staff about whom the information relates and who provided information would have had no expectation that the information recorded about them would be further released.
46. I am satisfied in the circumstances that release of the third party non-sensitive information would be unfair. Given that I have found that the disclosure of the information would be unfair, I am not required to go on to consider whether the disclosure of the information would be unlawful or would be permitted by one of the conditions in Schedule 2 (and in the case of the sensitive personal information, Schedule 3) of the DPA.
47. Consequently, I am satisfied that the information relating to third parties which has been withheld is exempt from release in terms of section 38(1)(b) of FOISA.
48. I have also considered whether redaction of the personal information from the audio recording would be suitable in fulfilling the terms of Ms Gokce's request. Having listened to the recordings I am satisfied that redaction of all the exempt personal information would leave little else that could reasonably fulfil Ms Gokce's request or provide meaningful information in context. Further, given that Ms Gokce required access to the original recording, and her assertion that any other form of release (e.g. a copy of the recording, with the personal information suitably redacted) could be compromised by alteration or editing, I cannot see that redaction of the personal information would satisfy Ms Gokce's request.
49. Given that I accept that the information cannot be disclosed as a result of the first data protection principle, I am not required, and therefore do not intend, to consider whether the second data protection principle applies in this case.
50. I am also satisfied that the personal information relating to Ms Gokce which has been withheld is exempt from release in terms of section 38(1)(a) of FOISA. However, this does not affect Ms Gokce's right to make a subject access request for her own personal information under the terms of the DPA, should she wish to do so.



51. As has been noted above, Ms Gokce already has a copy of the recordings (regardless of Ms Gokce's concerns that they have or may have been subject to alteration). However, I am aware that the disclosure to Ms Gokce came about as a result of separate proceedings between Ms Gokce and the Board. In considering the release of information under FOISA, I must consider the release of the information into the public domain, not just restricted to one individual and her representatives.

Section 36 – confidentiality

52. I am satisfied that all of the withheld information constitutes personal information of either Ms Gokce or certain third parties, and that all of it is absolutely exempt from release under either section 38(1)(a) or section 38(1)(b) of FOISA. As such, I am not required to consider the application of section 36(2) of FOISA cited by the Board in relation to this information and will not do so.

Section 16 – refusal of request

53. In her application to me, Ms Gokce asserted that the Board had failed in its obligations under section 16 of FOISA on two counts:-

- that it had not disclosed that it held the information requested;
- that it had not specified any exemption or stated why the exemption applies.

54. In the course of the investigation these matters were raised with the Board in order to ascertain whether there had been a technical breach of FOISA by the Board.

55. In its response to the first point, the Board submitted that it had never sought to deny holding the information. Indeed, by asserting that it had already provided Ms Gokce with the information on previous occasions and that it would not do so again, the Board believed that ought to have been sufficient confirmation that it held the information.

56. The Board also considered that, upon review, providing Ms Gokce with copies of items b) and c) of her request ought to have been sufficient to confirm that it held the information.



57. Section 16(1) of FOISA states that when a public authority is refusing to supply information to an applicant, the authority must, among other things, disclose that it holds the information. While the letter from the Board does not suggest that the information is not held, it does not make it clear that the information is actually held by it. I do not consider that the duty to disclose whether information is held is the same as a duty to include a statement in a refusal notice that the information is actually held. In many cases it will be clear from the context of the notice whether information is or is not held. In this case, I can detect no deliberate obfuscation of the fact that the Board held the information and therefore do not wish to find that the Board breached FOISA in this respect. However, it would be good practice in future for the Board to ensure that its section 16 notices do make it clear whether or not information is held.
58. In relation to the second point above, the Board submitted that it had not sought to apply exemptions because it was still under the belief that, having already provided Ms Gokce with the information previously (albeit under circumstances other than an application for it under FOISA), it had complied with providing the information. As such, it had considered that Ms Gokce's request under FOISA was something akin to a repeat request and refused on the basis that it had already responded.
59. However, upon review, the Board had provided Ms Gokce with items b) and c) of her request, given that full reports were not made available to her previously - at the earlier, separate legal proceedings between Ms Gokce and the Board, sometime in 2005. However, the Board maintained that it had already provided copies and access to original recordings to Ms Gokce's representatives previously.
60. Whether or not the Board had considered any exemptions prior to this investigation, the first evidence of the application of any exemptions I am aware of is in the Board's submission to my office on 24 July 2006. In that submission the Board considered sections 36 and 38 of FOISA applied to item a) of Ms Gokce's request. As items b) and c) had been supplied to Ms Gokce upon review, it did not consider any exemptions for these items.
61. Given that the Board has, indeed, relied upon sections 36 and 38 of FOISA to exempt item a), I must find that the Board was in breach of section 16(1)(c) and (d) of FOISA in that it did not specify any exemptions or why these applied in its refusal of Ms Gokce's request. (Given that both of the exemptions subsequently relied on by the Board were absolute exemptions in that they are not subject to the public interest test, there was no corresponding breach of section 16(2).)



62. However, given that the Board rapidly sought to inform my office of its intention to apply sections 36 and 38 of FOISA (and given that I have accepted that section 38 of FOISA does, in any event, apply) I do not require the Board to take any remedial action in respect of this breach of FOISA.

Section 11 – means of providing information

63. Ms Gokce wished to access the original Marathon voice recording system rather than an extract or re-recording of the information.
64. In both the response to Ms Gokce's initial request and to her request for review, the Board asserted that it did not believe it was under any obligation to allow Ms Gokce to listen to the recordings.
65. Section 11 of FOISA allows for the applicant to express a preference for receiving information by one or means mentioned in subsection (2).
66. The means are: provision in a permanent form or in another form acceptable to the applicant, of a copy of the information; a digest or summary of the information; or a reasonable opportunity to inspect a record containing the information.
67. Where an applicant has expressed a preference a public authority must, so far is reasonably practicable, give effect to that preference.
68. Ms Gokce is therefore correct in her assertion that section 11(1) and (2) of FOISA provides for a preference – in this case a reasonable opportunity to inspect a record containing the information.
69. However, I have accepted that the recordings are exempt under section 38 of FOISA. As a consequence, the Board is under no obligation to provide the information at all, regardless of the preference stated by Ms Gokce.
70. As such I am satisfied that in the circumstances the Board had no requirement to give effect to Ms Gokce's means of preference under section 11(1) of FOISA.

Whether the request made by Ms Gokce was vexatious

71. As noted above, the Board suggested that Ms Gokce's request for information may have been vexatious. In the course of the investigation this point was raised with the Board.



72. The Board's contention was that Ms Gokce and her various representatives had access to the original recordings in 2003 and 2005. As such, to request it again indicated that it was not access to the information itself that was Ms Gokce's motive for making the request. However, the Board accepted that, as Ms Gokce's request was the first *by her and under FOISA*, it would be difficult to demonstrate that the April 2006 request was vexatious.
73. Given that, upon clarification, the Board did not wish to pursue the claim that Ms Gokce's request was vexatious in the terms of section 14 of FOISA, I do not propose to consider the matter further.

Decision

I find that the Scottish Ambulance Service Board (the Board) partially complied with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Ms Gokce.

I find that by releasing sequence of events 13024 (GGW580) and sequence of events 0911959, the Scottish Ambulance Service Board complied with parts b) and c) of Ms Gokce's request for information.

I also find that the Board dealt with Ms Gokce's request in accordance with Part 1 of FOISA in refusing to allow her to access or to provide her with copies of specified recordings made on the Marathon voice recording system, on the basis that the recordings contained exempt information in terms of section 38(1)(a) and (b) of FOISA.

However, in failing to advise Ms Gokce which of the exemptions it wished to apply and why these applied, the Board failed to comply with section 16(1)(c) and (d) of FOISA and, as a consequence, failed to comply with Part 1 of FOISA.

Given that I can detect no deliberate obfuscation and that the exemption under section 38 of FOISA was subsequently upheld, I do not require the Board to take any action in response to this failure.



Appeal

Should either Ms Gokce or the Board wish to appeal against this decision, there is an appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days of receipt of this decision notice.

Kevin Dunion
Scottish Information Commissioner
3 July 2007



Appendix

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002

1 General entitlement

- (1) A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority.

11 Means of providing information

- (1) Where, in requesting information from a Scottish public authority, the applicant expresses a preference for receiving it by any one or more of the means mentioned in subsection (2), the authority must, so far as is reasonably practicable, give effect to that preference.
- (2) The means are-
 - (a) the provision to the applicant, in permanent form or in another form acceptable to the applicant, of a copy of the information;
 - (b) such provision to the applicant of a digest or summary of the information; and
 - (c) the provision to the applicant of a reasonable opportunity to inspect a record containing the information.
- (3) In determining, for the purposes of subsection (1), what is reasonably practicable, the authority may have regard to all the circumstances, including cost; and where it determines that it is not reasonably practicable to give effect to the preference it must notify the applicant of the reasons for that determination.
- (4) Subject to subsection (1), information given in compliance with section 1(1) may be given by any means which are reasonable in the circumstances.

...



16 Refusal of request

- (1) Subject to section 18, a Scottish public authority which, in relation to a request for information which it holds, to any extent claims that, by virtue of any provision of Part 2, the information is exempt information must, within the time allowed by or by virtue of section 10 for complying with the request, give the applicant a notice in writing (in this Act referred to as a "refusal notice") which-
 - (a) discloses that it holds the information;
 - (b) states that is so claims;
 - (c) specifies the exemption in question; and
 - (d) states (if not otherwise apparent) why the exemption applies..

38 Personal information

- (1) Information is exempt information if it constitutes-
 - (a) personal data of which the applicant is the data subject;
 - (b) personal data and either the condition mentioned in subsection (2) (the "first condition") or that mentioned in subsection (3) (the "second condition") is satisfied;...
- (2) 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 Data Protection Act 1998 (c.29), 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...
 - (b) in any other case, that such disclosure would contravene any of the data protection principles if the exemptions in section 33A(1) of that Act (which relate to manual data held) were disregarded.

...



65 Offence of altering etc. records with intent to prevent disclosure

- (1) Where –
- (a) a request for information is made to a Scottish public authority; and
 - (b) the applicant is, under section 1, entitled to be given the information or any part of it,

a person to whom this subsection applies who, with the intention of preventing the disclosure by the authority of the information, or part, to which the entitlement relates, alters, defaces, blocks, erases, destroys or conceals a record held by the authority, is guilty of an offence.

- (2) Subsection (1) applies to the authority and to any person who is employed by, is an officer of, or is subject to the direction of, the authority.
- (3) A person guilty of an offence under subsection (1) is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

Data Protection Act 1998

1 Basic interpretative provisions

- (1) In this Act, unless the context otherwise requires –
- ...
- "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
- ...

2 Sensitive personal data

In this Act "sensitive personal data" means personal data consisting of information as to-

- ...
- (e) his [the data subject's] physical or mental health or condition



SCHEDULE 1

THE DATA PROTECTION PRINCIPLES

PART I

THE PRINCIPLES

1. Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless
 - (a) at least one of the conditions in Schedule 2 is met, and
 - (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.

2. Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.