

Decision Notice



Decision 076/2010 Mr Tom Gordon and the Scottish Ministers

Correspondence between the First Minister and named individuals

Reference No: 200901316/17/18/19

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Summary

Mr Gordon requested from the Scottish Ministers (the Ministers) information relating to correspondence between the First Minister, or his office, and four named individuals. The Ministers responded by releasing some relevant information to Mr Gordon, while withholding what they considered to be personal data under section 38(1)(b) of FOISA and certain other information under section 30(c). Following a review, Mr Gordon remained dissatisfied and applied to the Commissioner for a decision.

Following an investigation, in the course of which the Ministers dropped their reliance on section 30(c) of FOISA, the Commissioner found that the Ministers had partially failed to deal with Mr Gordon's request for information in accordance with Part 1 of FOISA, by withholding certain information under section 38(1)(b) of FOISA (finding that disclosure would not contravene any of the data protection principles). He also found, however, that the Ministers had been correct to rely on the exemption in section 38(1)(b) for withholding other information. He required the Ministers to disclose to Mr Gordon the information he considered to have been wrongly withheld.

Relevant statutory provisions and other sources

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) and 1(6) (General entitlement); 2(1) and (2)(e)(ii) (Effect of exemptions); 8(1)(c) (Requesting information), and 38(1)(b), (2)(a)(i), (2)(b) and (5) (definitions of "data protection principles", "data subject" and "personal data") (Personal information)

Data Protection Act 1998 (the DPA) sections 1(1) (Basic interpretative provisions – definition of "personal data") and 2 (Sensitive personal data); Schedules 1 (The data protection principles: the first principle) and 2 (Conditions relevant for the purposes of the first principle: processing of any personal data – condition 6).

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

Background

1. On 13 January 2009, Mr Gordon sent four separate emails to the Ministers, requesting a copy of all correspondence between the First Minister Alex Salmond, or his office, and (respectively) Sir Angus Grossart, Sir George Matthewson, Brian Souter and Sandi Thom, or his/her office or representatives, since May 2007.



2. The Ministers responded to all four requests on 4 February 2009. In each case they applied section 14(1) of FOISA, refusing to comply with the request on the basis that it was vexatious and supplying arguments in support of this assertion.
3. On 23 February 2009, Mr Gordon wrote to the Ministers (separately in respect of each request) requesting a review of the relevant decision. On 23 March 2009, the Ministers responded in respect of all four requests for review, confirming that a review was being undertaken but advising that it would not be completed "within the 20 working day deadline normally applicable to internal FOI reviews".
4. Mr Gordon received no further correspondence from the Ministers in respect of his requests for review and on 22 April 2009 wrote to the Commissioner's Office, stating that he was dissatisfied with these failures and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
5. Following an investigation and *Decision 062/2009 Mr Tom Gordon and the Scottish Ministers*, in which the Ministers were required to provide responses to Mr Gordon's requests for review, a review was carried out by the Ministers.
6. The Ministers notified Mr Gordon of the outcome of their review on 10 July 2009. They disclosed some relevant information to Mr Gordon, while arguing that the remainder was withheld under the exemptions in sections 30(c) and 38(1)(b) of FOISA.
7. On 21 July 2009 Mr Gordon wrote to the Commissioner, separately in respect of each request, stating that he was dissatisfied with the outcome of the Ministers' review and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
8. The application was validated by establishing that Mr Gordon had made requests for information to a Scottish public authority and had applied to the Commissioner for a decision only after asking the authority to review its responses to those requests.

Investigation

9. On 24 July 2009, the Ministers were notified in writing that an application had been received from Mr Gordon and were asked to provide the Commissioner with any information withheld from him. The Ministers responded with the information requested and the case was then allocated to an investigating officer.



10. The investigating officer subsequently contacted the Ministers, giving them an opportunity to provide comments on the application (as required by section 49(3)(a) of FOISA) and asking them to respond to specific questions. In particular, the Ministers were asked to justify their reliance on the exemptions in sections 30(c) and 38(1)(b) of FOISA. They were also asked to comment on submissions made by Mr Gordon in relation to information he considered should have been located by the Ministers in response to his requests (but which did not appear to have been so located).
11. A full response was received from the Ministers. In this response, they explained that, having carried out a further review of the withheld information, they intended to release further copies of documents 7 and 8 (correspondence with Sandi Thom) to Mr Gordon, with references to Sir Sean Connery no longer redacted. They would also release a further copy of document 11 (correspondence with Brian Souter) with the venue of an event no longer redacted. These releases subsequently took place, resulting in the full disclosure of documents 7 and 11: as a consequence the Commissioner does not find it necessary to give further consideration to the information in these documents. Neither does he require to consider the redactions from documents 1 and 2, which Mr Gordon confirmed in his application were not of concern to him.
12. In the course of the investigation, the Ministers dropped their reliance on section 30(c) of FOISA in respect of the information under consideration in this case. In the circumstances, the Commissioner does not find it necessary to give the application of this exemption further consideration in this decision.
13. During the investigation the Ministers indicated that they considered all of these information requests from Mr Gordon to be invalid. Their submissions on this and all other points relevant to this decision will be considered fully in the Commissioner's analysis and findings below.

Commissioner's analysis and findings

14. In coming to a decision on this matter, the Commissioner has considered all of the withheld information and the submissions made to him by both Mr Gordon and the Ministers and is satisfied that no matter of relevance has been overlooked.



15. As indicated above, the Ministers indicated in the course of the investigation that they considered Mr Gordon's requests to be invalid. This followed the decision of the Court of Session in the case of *Glasgow City Council and Dundee City Council v Scottish Information Commissioner [2009] CSIH 73*, in which the Court emphasised that FOISA gives a right to information rather than documents. The Ministers contended that Mr Gordon had not described the information he was seeking, as required by section 8(1)(c) of FOISA, characterising the requests as broadly framed and unfocused. In the Minister's view, they did nothing more than indicate where the information Mr Gordon might be interested in might be found, which could not be equated with describing the information requested. The Ministers highlighted the importance, as noted in the Court of Session decision, of identifying precisely the information sought by the applicant, emphasising that (irrespective of how they might have dealt with these requests prior to that decision) they remained entitled to revisit that position in the light of the decision and consequently treat the requests as invalid.
16. The Commissioner has considered Mr Gordon's four requests in the light of the Ministers' submissions and the Court of Session decision referred to above. Clearly, they refer to "all correspondence" between the First Minister or his Office and the specified individuals within a specified timeframe and the Commissioner considers the descriptions of the requested information provided by Mr Gordon to have been sufficiently clear to enable its identification and location, which must be the primary consideration in determining whether such a description is valid. They refer to named individuals and dates. Also, since the Ministers provided the investigating officer with the information withheld, the Commissioner cannot accept that the difficulty experienced by the Ministers in this case was in fact one of identification: whatever effect the Court of Session decision may have had on the applicable law, it cannot in any event have affected the matter of identification as a question of fact. Further, given that the information was clearly capable of identification (and thereby location), he does not consider the specification of any subject matter to have been necessary in the circumstances, as the Ministers appear to suggest: he would also note that this will not be something the applicant is necessarily in a position to know.
17. In addition, the Commissioner notes the Ministers' attempts in their submissions to distinguish documents from information: in particular, they submit that they were wrong in the past (prior to the Court of Session decision) to interpret requests of this kind broadly and thus to search for and consider disclosing the documents requested without identifying the information sought. In this case, however, while noting the Ministers' submissions on this point, the Commissioner must also take into consideration paragraph 45 of the Court of Session's Opinion. Here, the Court states that where a request refers to a document which may contain the relevant information, it may nonetheless be reasonably clear in the circumstances that it is the information recorded in the document that is relevant. As indicated above, he considers it to have been clear in this case that the applicant was seeking the information in the specified correspondence.
18. The Commissioner is therefore satisfied that the requests submitted by Mr Gordon were sufficiently clear and, in particular, that they described the information requested as required by section 8(1)(c) of FOISA. Consequently, he is satisfied that the requests (and therefore the subsequent application to the Commissioner) are valid.



Section 38(1)(b) – Personal Information

19. The Ministers relied on the exemption in section 38(1)(b) of FOISA in respect of information redacted from documents 8, 9, 10, 12 and 13.
20. The exemption in section 38(1)(b) (read with section 38(2)(a)(i) or, as appropriate, section 38(2)(b)) of FOISA exempts personal data from disclosure, if 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. This particular exemption is an absolute exemption in that it is not subject to the public interest test set down in section 2(1)(b) of FOISA.
21. In their submissions to the Commissioner, the Ministers argued that the information withheld under this exemption was personal data and that its disclosure would contravene the first data protection principle. In particular, the Ministers believed that disclosure would be unfair and that of the 6 conditions for processing in Schedule 2 to DPA, only the sixth might be of relevance but in practice it was not met. The processing was not necessary for the purposes of any legitimate interest and, even if it were, would be prejudicial to the rights and freedoms or legitimate interests of the individuals concerned.
22. In considering the application of the exemption, the Commissioner will therefore first consider whether the information withheld under section 38(1)(b) is personal data as defined in section 1(1) of the DPA

Is the information personal data?

23. Section 1(1) of the DPA defines personal data as 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 (the full definition is set out in the Appendix).
24. The information withheld from Mr Gordon comprises the home addresses of specific individuals, together with the names and details of certain third parties (or their activities or views) referred to in the correspondence.
25. Having considered the information withheld from Mr Gordon under section 38(1)(b), along with the Ministers' submissions, the Commissioner accepts that the information does constitute personal data. It relates to one or more individuals who can be identified from the information. It also has that/these individual(s) as its focus and is biographical of them in a significant sense, and consequently the Commissioner is satisfied that it relates to them.
26. The Commissioner must now go on to consider whether disclosure would breach any of the data protection principles contained in Schedule 1 to the DPA. As mentioned above, the Ministers have argued that disclosure would breach the first data protection principle.



Would disclosure breach the first data protection principle?

27. The first data protection principle requires personal data to be processed fairly and lawfully. It also states that personal data shall not be processed unless at least one of the conditions in Schedule 2 (to the DPA) is met, and, in the case of sensitive personal data, at least one of the conditions in Schedule 3 (to the DPA) is also met. For the purposes of the DPA, disclosure is a form of processing.
28. The conditions in Schedule 3 are very restrictive and it therefore makes sense, before going on to consider whether the conditions in Schedule 2 would permit the information to be disclosed, to look at whether the information falls into the definition of sensitive personal data.
29. Having considered the categories of sensitive personal data set out in section 2 of the DPA, the Commissioner considers that the information withheld from Mr Gordon in document 10 (other than the redacted address) would be sensitive personal data. Consequently, the Commissioner is required to consider whether there are any conditions in Schedule 3 of the DPA which would permit disclosure of this information.
30. While the processing of sensitive personal data is permitted in certain very limited circumstances, for example where the data subject has given his explicit consent to the processing or where it is necessary for the administration of justice, the Commissioner does not consider that any of the conditions in Schedule 3 would permit the disclosure of the information he has identified as sensitive personal data in this case. As no condition in Schedule 3 would be fulfilled by release of this information, the Commissioner does not find it necessary to consider whether any of the conditions in Schedule 2 of the DPA would be applicable to disclosure of this information.
31. The Commissioner will now go on to consider whether any of the conditions in Schedule 2 can be met in disclosing the remainder of the personal data which has been withheld from Mr Gordon.
32. When considering the conditions in Schedule 2 of the DPA, the Commissioner has also noted Lord Hope's comment in the case of the Common Services Agency v Scottish Information Commissioner¹ (the Collie judgement) that the conditions require careful treatment in the context of a request for information under FOISA, given that they were not designed to facilitate the release of information but rather to protect personal data from being processed in a way that might prejudice the rights, freedoms or legitimate interests of the data subject.

¹ [2008] UKHL 47: <http://www.publications.parliament.uk/pa/ld200708/ldjudgmt/jd080709/comm-1.htm>



33. The Commissioner considers condition 6 to be the only condition in Schedule 2 which might permit disclosure in this case. Condition 6 permits personal data to be processed if the processing (which in this case would be by disclosure in response to Mr Gordon's information request) is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights, freedoms or legitimate interests of the data subject (the individual(s) to whom the withheld information relates). It is clear from the wording of this condition that each case will turn on its own facts and circumstances.
34. There are, therefore, a number of different tests which must be considered before condition 6 can be met. These are:
- a. Does Mr Gordon have a legitimate interest in obtaining the withheld personal data?
 - b. If yes, is the disclosure necessary to achieve these legitimate aims? In other words, is the disclosure proportionate as a means and fairly balanced as to ends, or could these legitimate aims be achieved by means which interfere less with the privacy of the individuals in question?
 - c. Even if the processing is necessary for Mr Gordon's legitimate purpose, would the disclosure nevertheless cause unwarranted prejudice to the rights and freedoms or legitimate interests of the individuals? As noted by Lord Hope in the Collie judgement there is no presumption in favour the release of personal data under the general obligation laid down in FOISA. Accordingly, the legitimate interests of Mr Gordon must outweigh the rights, freedoms or legitimate interests of the individuals before condition 6(1) will permit the personal data to be disclosed. If the two are evenly balanced, the Commissioner must find that the Ministers were correct to refuse to disclose the personal data to Mr Gordon.

Does Mr Gordon have a legitimate interest?

35. Mr Gordon has pointed out that much of the information has already been released, which in his view strongly suggests that section 38 of FOISA cannot be applied across the board. He is also of the view that all five of the individuals on whom he has requested information have a considerable public profile already. He notes that the Scottish Government regularly releases the names of hundreds of individuals who have met the First Minister and other Ministers.
36. Mr Gordon has argued that those who engage with Ministers (as opposed to approaching them as their local MSP) inevitably and unsurprisingly waive some of their privacy. This applies, in Mr Gordon's view, to both face to face meetings and correspondence. He submits that the business of government should be as open and transparent as possible, and that if individuals conduct business with government then they must accept the culture of openness and transparency.



37. The Commissioner accepts that the business of government should be as open and transparent as possible, and that this should include understanding who the First Minister and other Ministers have been in communication with in the course of their official business. He therefore accepts that Mr Gordon has a legitimate interest in the disclosure of the withheld personal data, and that this legitimate interest in seeking to ensure that the business of government is open and transparent reflects the wider public interest.
38. The Commissioner must now go on to consider whether the disclosure of the withheld information is necessary to achieve Mr Gordon's legitimate aims.

Is the disclosure necessary to achieve these legitimate aims?

39. As indicated above, the Ministers have stated that the processing of the withheld personal data is not necessary for the purposes of any legitimate interest.
40. Having considered the arguments presented by Mr Gordon as to why he has a legitimate interest in the disclosure of the withheld information, together with the content of the redacted information, the Commissioner accepts that disclosure would be necessary to fulfil those legitimate interests. He can identify no reasonable means of achieving those legitimate interests in the absence of disclosure.
41. As the Commissioner is satisfied that disclosure of the personal data would be necessary to fulfil Mr Gordon's legitimate interests, the Commissioner is now required to consider whether that disclosure would nevertheless cause unwarranted prejudice to the rights and freedoms or legitimate interests of the individual data subjects.

Would disclosure cause unwarranted prejudice to the rights and freedoms or legitimate interests of the data subjects?

42. As indicated above, the personal data under investigation in this case comprises the home addresses of specific individuals, together with the names and details of certain third parties (or of their activities or views) referred to in the correspondence.
43. The Ministers submitted that in exercising their obligations under the DPA reasonably and responsibly, it was appropriate that they should withhold the information. As indicated above, they believed that even if disclosure were necessary for the purposes of any legitimate interest, it would be prejudicial to the rights and freedoms or legitimate interests of the individuals concerned.
44. In relation to the withheld home and email addresses of particular individuals, the Ministers understood that these were not generally available to the public and that they had therefore been correct to err on the side of caution in refusing to release these. More particularly, the Ministers highlighted what they saw as the considerable sensitivity of certain information withheld from document 13.



45. As indicated above, Mr Gordon has argued that the five individuals who are the subjects of the correspondence have a considerable public profile already, noting that the Scottish Government regularly releases the names of hundreds of individuals who have met the First Minister and other Ministers.
46. Having considered the email address withheld from document 9 and all of the withheld information in document 13, the Commissioner accepts that the data subjects in these cases would have had no reasonable expectation in putting the information in question into correspondence with the First Minister that it would arrive in the public domain. He notes in particular the relatively sensitive nature of certain information in document 13, even if it is not sensitive personal data as defined in section 2 of the DPA. While acknowledging that each of the data subjects concerned has a certain public profile, he does not accept that it follows that they should expect information of a more personal nature (in respect of themselves and others) should be freely available to the public. This is not the kind of information which is routinely published in relation to individuals who meet the First Minister and other Ministers.
47. The remaining information withheld from document 9, however, refers to a relatively senior employee of the National Theatre of Scotland, in the context of their employment in that capacity. It is purely descriptive of that person's involvement in receiving a guest at a performance. In the circumstances, therefore, the Commissioner does not consider that it would be beyond the individual's reasonable expectation that this information would be placed in the public domain.
48. The Commissioner considers matters to be rather more finely balanced, however, in relation to the personal data withheld from document 12. The information in question refers to an individual who has held prominent positions in certain sectors of the economy and elsewhere and relates to a matter which would appear to be of some public interest. On the other hand, the information purports to advance a third party's understanding of that individual's views. It is not possible in the circumstances to verify whether this understanding was accurate, and given the context the Commissioner is not satisfied that disclosure could have been within the reasonable expectation of the data subject. He also notes that there is no evidence that the matters raised were ever taken up, or even responded to, by the First Minister or any other Minister.
49. Having balanced Mr Gordon's legitimate interests against the rights, freedoms or legitimate interests of the individual data subjects, therefore, the Commissioner finds that condition 6 would not be met by disclosure of certain of the withheld personal data from document 9 (email address only) or any of the withheld personal data from documents 12 or 13. As condition 6 cannot be met in these cases, and given that he has identified no condition in Schedule 3 which would permit the disclosure of the sensitive personal data in document 10, the Commissioner would regard disclosure of any of this data as unlawful. As Lord Hope noted in the Collie judgement, any disclosure which fails to meet at least one of the necessary conditions in Schedule 2 and (where applicable) Schedule 3 will be contrary to section 4(4) of the DPA (which requires the data controller to comply with the data protection principles). In all the circumstances, therefore, the Commissioner finds that disclosure would breach the first data protection principle and that these elements of the withheld personal data were properly withheld under section 38(1)(b) of FOISA.



50. On the other hand, for the reasons stated in paragraph 47 above, the Commissioner does find that the legitimate interest in release of the information redacted from the body of document 9 would outweigh any consequent prejudice to the rights, freedoms or legitimate interests of the data subject. He is therefore satisfied that condition 6 in Schedule 2 of the DPA would be fulfilled by disclosure of this information. He can identify no other reason why disclosure of this information should be considered unfair or unlawful, and notes that no specific relevant arguments have been provided by the Ministers on this point. As a consequence, he cannot uphold the Ministers' reliance on the exemption in section 38(1)(b) of FOISA in relation to this information and therefore requires its release.

Consideration of whether other information held

51. In his application to the Commissioner, Mr Gordon expressed concern that he might not have been provided with all of the information held by the Ministers and falling within the scope of his requests. By way of example, he noted the absence from the information released to him of any reference to Sir Angus Grossart's appointment as chair of the Scottish Futures Trust, and also the limited amount of information which appeared to be held on Sir George Mathewson's membership of the Council of Economic Advisers. The Ministers were asked to comment on this.
52. In response, the Ministers advised that they had carried out searches of their systems using the names of the individuals and the dates of the period in question to identify any and all items of correspondence between the First Minister and the four named individuals. They explained that no further items of correspondence had been discovered through the use of these search parameters. They also explained what areas of their systems were searched and how the First Minister's correspondence was managed.
53. The Ministers also advised that the Scottish Government already proactively published the minutes and annual reports of the Council of Economic Advisers on their website (<http://www.scotland.gov.uk/Topics/Economy/Council-Economic-Advisers>). They explained that the website for the Scottish Futures Trust (<http://www.scottishfuturestrust.org.uk>) contained a substantial amount of proactively published information, including board meeting agendas, a register of members' interests and the Trust's current business plan.
54. The Commissioner is satisfied, on the basis of the submissions received from the Ministers, that they held no further information falling within the scope of Mr Gordon's requests, in addition to that identified in response to the requests and either disclosed to or withheld from him.



DECISION

The Commissioner finds that the Scottish Ministers (the Ministers) partially complied with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information requests made by Mr Gordon.

The Commissioner finds that by relying on section 38(1)(b) of FOISA for withholding certain information from Mr Gordon, the Ministers complied with Part 1.

However, the Commissioner also finds that the Ministers failed to comply with Part 1 (and in particular section 1(1)) of FOISA in withholding information from document 9 under section 38(1)(b) of FOISA.

The Commissioner therefore requires the Ministers to release to Mr Gordon the information redacted from the body of document 9 (i.e. not the withheld email address), by 12 July 2010.

Appeal

Should either Mr Gordon or the Scottish Ministers 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 after the date of intimation of this decision notice.

Margaret Keyse
Head of Enforcement
27 May 2010



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.

...

- (6) This section is subject to sections 2, 9, 12 and 14.

2 Effect of exemptions

- (1) To information which is exempt information by virtue of any provision of Part 2, section 1 applies only to the extent that –

- (a) the provision does not confer absolute exemption; and
- (b) in all the circumstances of the case, the public interest in disclosing the information is not outweighed by that in maintaining the exemption.

- (2) For the purposes of paragraph (a) of subsection 1, the following provisions of Part 2 (and no others) are to be regarded as conferring absolute exemption –

...

- (e) in subsection (1) of section 38 –

...

- (ii) paragraph (b) where the first condition referred to in that paragraph is satisfied by virtue of subsection (2)(a)(i) or (b) of that section.

8 Requesting information

- (1) Any reference in this Act to “requesting” information is a reference to making a request which –

...

- (c) describes the information requested.



38 Personal information

- (1) Information is exempt information if it constitutes-
- ...
- (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; or
- ...
- (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.
- ...
- (5) In this section-
- "the data protection principles" means the principles set out in Part I of Schedule 1 to that Act, as read subject to Part II of that Schedule and to section 27(1) of that Act;
- "data subject" and "personal data" have the meanings respectively assigned to those terms by section 1(1) of that Act;
- ...

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-

- (a) the racial or ethnic origin of the data subject,
- (b) his political opinions,
- (c) his religious beliefs or other beliefs of a similar nature,
- (d) whether he is a member of a trade union (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992),
- (e) his physical or mental health or condition,
- (f) his sexual life,
- (g) the commission or alleged commission by him of any offence, or
- (h) any proceedings for any offence committed or alleged to have been committed by him, the disposal of such proceedings or the sentence of any court in such proceedings.



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.

...

Schedule 2 – Conditions relevant for purposes of the first principle: processing of any personal data

...

6. (1) The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject.

...