

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 13 July 2009

Public Authority: Department for Children, Schools and Families
Address: Sanctuary Buildings
Great Smith Street
London
SW1P 3BT

Summary

The complainant made a request under the Freedom of Information Act 2000 (the "Act") to the Department for Children, Schools and Families (the "DCSF") for "Copies of responses made to the public consultation held as part of the review of section 58, Children Act 2004, except for those responses where the respondent requested confidentiality." The DCSF refused to disclose some of the information it held relevant to the scope of the request as it stated that it was exempt from disclosure under section 40 of the Act. The Commissioner considers that the DCSF correctly applied the section 40(2) exemption by virtue of section 40(3)(a)(i) to the information it withheld in this case. However the Commissioner considers that the DCSF breached section 1(1)(b), section 10(1) and sections 17(1)(b) and (c) of the Act in its handling of this request.

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 to the request

2. The DCSF has explained to the Commissioner that during the passage of the Children Act 2004 through Parliament, Margaret Hodge, the then Minister for Children, gave a commitment that the Government would review the practical consequences of section 58 and seek parents' views on smacking. Section 58 limits the availability of the 'reasonable

punishment' defence in cases involving alleged assaults by parents on their children.

3. The Government carried out a consultation, a parental survey, a children and young people's survey and sought additional supporting evidence. The public consultation was open to anyone to respond, but especially sought the views of parents on physical punishment and evidence from those working with children and families on the practical consequences of the changes in the law brought about by section 58 of the Children Act 2004. It ran from 15 June to 10 August 2007.

The Request

4. The complainant made a request to the DCSF on 18 November 2007 for "Copies of responses made to the public consultation held as part of the review of section 58, Children Act 2004, except for those responses where the respondent requested confidentiality."
5. On 30 November 2007 the complainant made a refined request based upon advice he had received from the DCSF. The complainant stated that "I understand that responding to the request in full may exceed the financial limit. I am therefore amending the request to copies of all responses made by organisations of any kind to the public consultation held as part of the review of section 58, Children Act 2004." The complainant also asked "why it is regarded as necessary to render anonymous responses from individuals made to the consultation, before giving Freedom of Information access to them, given that all respondents were very clearly invited to indicate if they wished their responses to be regarded as confidential."
6. On 17 December 2007 the DCSF wrote to the complainant in relation to his original request dated 18 November 2007 as well as his revised request dated 30 November 2007. The DCSF explained that it had refused the complainant's original request dated 18 November 2007 as to comply with it would exceed the £600 cost limit. Therefore it stated that under section 12 of the Act it was not obliged to comply with the full request. It provided reasoning as to why it believed the cost limit would be exceeded. It also explained that it believed it was necessary to anonymise responses from individuals as it would have had to consider whether that information was exempt under section 40 of the Act which relates to personal information. The DCSF enclosed 158 non-confidential responses it received to the consultation from organisations.
7. On 30 January 2008 the complainant wrote to the DCSF as he was dissatisfied with the response he had received. The complainant asked the DCSF to reconsider his original request dated 18 November 2007

and also asked it to consider whether it had responded in full to his refined request dated 30 November 2007.

8. As the complainant had not received any further response from the DCSF by 18 March 2008 he wrote to the Information Commissioner's Office to make a formal complaint.
9. However in a letter dated 17 March 2008 which the complainant later received, the DCSF wrote to him with the result of the internal review it had carried out. It upheld its application of section 12 to the original request. It provided the complainant with further information in relation to his refined request. It recognised that the complainant considered that his original request included copies of individual responses, including identifying details of the respondents, where confidentiality was not requested. It therefore stated that it considered the complainant's letter of 30 January 2008 to be a new request for information and that it would determine whether any exemptions would apply.
10. On 24 April 2008 the DCSF wrote to the complainant again. It explained that it was sending to him copies of the consultation responses from organisations, including identifying details. However it stated that personal information in communications from individuals was exempt from release under section 40 of the Act. Therefore it stated that it would send to the complainant copies of the responses from individuals however it would redact any personal details which may identify them. It stated that this was despite the fact that they may not have requested confidentiality. It stated that it had set out the basis for this exemption in its letter of 17 December 2007. The DCSF no longer sought to rely upon section 12.

The Investigation

Scope of the case

11. On 18 March 2008 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant asked the Commissioner to consider whether the DCSF had correctly applied the provision contained at section 12 relating to costs and the exemption contained at section 40 relating to personal data to his original request for information and whether the DCSF had responded in full to his refined request for information.
12. On 21 May 2008 the complainant wrote to the Commissioner to refine the scope of his complaint due to the disclosure he had received from the DCSF subsequent to his original complaint. He explained that he now wished to only complain about the DCSF's decision in relation to his revised request of 30 November 2007 that it could only provide

copies of individual responses with the names and other details of the respondents redacted. He asked the Commissioner to rule that the DCSF should provide copies of all individual responses to the consultation, including the names and other given details of the respondents, where confidentiality was not requested.

13. The Commissioner notes that the consultation responses have been divided into confidential and non-confidential responses. The complainant has only requested responses from organisations and from individuals where confidentiality was not requested. The Commissioner understands that the complainant has been provided with all 158 responses received by the DCSF from organisations in full. The Commissioner also understands that the complainant has been provided with copies of the substantive responses from individuals, of which there are 1155, where confidentiality was not requested, with information such as name, address or other identifying details redacted. The DCSF has explained to the Commissioner that other identifying details include information such as children's names. The DCSF has redacted this information upon reliance of the exemption contained at section 40(2) by virtue of section 40(3)(a)(i). The Commissioner has therefore limited his investigation to consider whether the DCSF correctly applied section 40(2) in order to redact identifying information from the responses to the consultation from individuals where the respondent did not request confidentiality.

Chronology

14. On 15 April 2009 the Commissioner contacted the DCSF and asked it to clarify a number of issues in relation to its reliance on section 40(2) of the Act.
15. On 28 May 2009 the DCSF provided the Commissioner with further arguments in relation to its reliance on section 40(2) of the Act.

Analysis

Exemptions

Section 40(2)

16. Section 40(2) of the Act provides an exemption for information that constitutes the personal data of third parties:

“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.”

17. Section 40(3)(a)(i) of the Act states that:

“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, 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),”*

18. The full text of section 40 can be found in the legal annex attached to this decision notice.

19. In this case the DCSF has argued that the withheld information constituted the personal data of the respondents to the consultation and was therefore exempt under section 40(2) of the Act by virtue of section 40(3)(a)(i) as to release the information would breach the data protection principles. In order to reach a view on the DCSF's arguments the Commissioner has first considered whether the withheld information is the personal data of a third party. Section 1 of the DPA defines personal data as information which relates to a living individual who can be identified:

- from that data, or
- from that data and other information which is in the possession of, or is likely to come into the possession of, the data controller.

In this instance the information withheld is the names and other identifying details of the respondents to the public consultation held as part of the review of section 58, Children Act 2004 undertaken by the DCSF. Upon viewing the withheld information the Commissioner believes that the respondents to the consultation would be identifiable from this information. Upon consideration of the withheld information the Commissioner is satisfied that it is the personal data of the respondents to the consultation.

20. Such information is exempt if either of the conditions set out in sections 40(3) and 40(4) of the Act are met. The relevant condition in this case is at section 40(3)(a)(i) of the Act, where disclosure would breach any of the data protection principles. The Trust has argued that disclosure of the personal data would breach the first data protection principle, which states that “Personal data shall be processed fairly and lawfully”.

Furthermore at least one of the conditions in Schedule 2 should be met.

21. In reaching a decision as to whether disclosure of the requested information would contravene the first data protection principle the Commissioner has considered the following:-

How was the information obtained?

22. The DCSF has explained to the Commissioner that the information was obtained as part of a public consultation exercise. Respondents were able to respond online or on paper. The DCSF explained that respondents were encouraged to give their contact details as part of the exercise, but it considered that respondents would have assumed that their views on the policy questions raised would be the focus of the DCSF's interests rather than their personal details.
23. The Commissioner considers that the respondents provided responses to the consultation for the DCSF to use in its consideration of the practical consequences of section 58 of the Children Act 2004. Where confidentiality was not requested the Commissioner considers that those respondents were likely to have been willing for the substance of their responses to be shared externally with outside organisations and individuals to widen public debate in this area. However the Commissioner does not consider that personal details of respondents such as name, address and other identifying details such as names of children were obtained by the DCSF to assist it in its consideration of the consequences of section 58 of the Children Act 2004. Furthermore the Commissioner does not consider that it would assist external individuals or organisations to use the information to widen public debate. The Commissioner does not consider that such personal details of the respondents would enhance the use of the responses for the purpose for which those responses were collated.

Likely Expectation of the Data Subject

24. The DCSF has explained that the respondents had the ability to tick a box indicating that they would prefer their responses to remain confidential. It clarified that the withheld information in this case only relates to those individuals who did not tick that box. It is the DCSF's view that the respondents would have taken this request for confidentiality to refer to the substance of their replies, that is the opinions and evidence that they were offering in response to the questions posed in the consultation paper, rather than to their own personal details, which they would have assumed would be protected by Data Protection legislation.
25. The DCSF explained that the complainant's assertion was that it was safe to assume that individuals had tacitly given their consent to their personal details being disclosed simply by not requesting

confidentiality. The DCSF stated however that although these individual respondents did not request confidentiality, they did not necessarily consent to their personal details, rather than just the substantive points they were making, being disclosed into the public domain. The DCSF stated that it was its view that respondents would have assumed as a matter of course that it would not release their personal details.

26. Upon viewing the responses the Commissioner notes that the 'tick box' was rather a box which states 'Confidential Response' and the respondent had to enter either 'yes' or 'no'. The 'Confidential Response' box was positioned after the personal information boxes on the form but before the area for the substantive response. The Commissioner considers that the 'Confidential Response' box could have been taken to relate to all information on the form but that it would have been more likely to have been taken to relate just to the substance of the response and that respondents would have expected their personal details to remain confidential as a matter of course. Due to the ambiguous nature of the 'Confidential Response' box and its positioning on the form the Commissioner considers that even where confidentiality was not requested it is likely that respondents would not have expected their personal details to be disclosed. Furthermore some responses were not provided on the DCSF's form and therefore the Commissioner cannot determine whether or not confidentiality was expected in relation to those responses.
27. The Commissioner considers that respondents, even where confidentiality was not requested, would not have expected their personal details such as name, address and other identifying information such as names of their children, to be disclosed into the public domain. The Commissioner considers that those who did not request confidentiality may have been willing for the substance of their responses to be shared externally and utilised by a wider audience but would have not expected their identifying details to be disclosed alongside their responses. The Commissioner is therefore satisfied that it is reasonable to assume that those involved would have a legitimate expectation that their personal details would not be disclosed.

The effect of disclosure on the Data Subject

28. The DCSF has suggested that disclosure of the withheld information would have a profoundly negative impact upon the data subjects involved. It explained that the subject matter of the consultation concerned the physical punishment of children. It stated that this is a controversial topic on which the public have diverse and strong views. If names and addresses were disclosed into the public domain, it suggested that this could lead either to harassment or a display of hostility towards individuals with opposing views, or to canvassing or requests for financial support.

29. The Commissioner's Awareness Guidance 1 covering Section 40 Personal Information, states that public authorities should take into account the potential harm or distress that may be caused by the disclosure. The Guidance states that, "For example, there may be particular distress caused by the release of private information about family life. Some disclosures could also risk the fraudulent use of the disclosed information (e.g. addresses, work locations or travel plans where there is a risk of harassment or other credible threat to the individual), which is unlikely to be warranted. However, the focus should be on harm or distress in a personal capacity. A risk of embarrassment or public criticism over administrative decisions, or the interests of the public authority itself rather than the individual concerned, should not be taken into account."
30. The above Guidance can be accessed at the following:
- http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/personal_information.pdf
31. The Commissioner considers that due to the sensitive nature of the issues involved in the consultation, disclosure of the identifying withheld information alongside the substantive responses may cause the respondents significant distress.
32. After considering the arguments put forward by the DCSF and the withheld information itself, the Commissioner considers that taking into account the particularly sensitive area the consultation is concerned, the likely expectations of the respondents and the reasons why the information was obtained, disclosure of the withheld information would be unfair and therefore the section 40(2) exemption was correctly applied in this case. Since the Commissioner considers disclosure of this information would be unfair he has not gone to consider whether a schedule 2 condition can be met.

Procedural Requirements

Section 1

33. Section 1(1) of the Act states 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."*

34. The Commissioner has considered whether the DCSF has complied with section 1(1)(a) and (b) of the Act.

35. The Commissioner understands that the complainant made his original request for all responses to the consultation where the respondents had not requested confidentiality on 18 November 2007. The Commissioner understands that at some point prior to 30 November 2007, when the complainant made a refined request, the DCSF wrote to the complainant and explained that it would exceed the cost limit to comply with the original request and therefore suggested that it should be refined. In doing this the Commissioner considers that the DCSF implied that the information requested on 17 November 2007 was held. Therefore the Commissioner considers that the DCSF complied with section 1(1)(a) of the Act.
36. However the DCSF did not provide the complainant with all of the information it held relevant to the scope of the request, which was not exempt by virtue of section 40(2), until 24 April 2008. As the DCSF did not provide the information it held which was not exempt within the statutory time for compliance, the Commissioner consider that section 1(1)(b) of the Act has been breached.

Section 10

37. Section 10(1) of the Act requires that a public authority must comply with section 1(1)(a) and (b) promptly and in any event not later than the twentieth working day following the date of receipt of the request.
38. As the DCSF did not provide the information it held relevant to the scope of the request which was not exempt within 20 working days the Commissioner considers it did not fulfil its obligations under section 1(1)(b) within the statutory time for compliance and therefore breached section 10(1) of the Act.

Section 17

39. Section 17(1) states that –

“A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which -

- (a) states that fact,*
- (b) specifies the exemption in question, and*
- (c) states (if that would not otherwise be apparent) why the exemption applies.”*

40. The Commissioner has considered whether the DCSF has complied with section 17(1)(a), (b) and (c) of the Act.

41. In this case the DCSF stated that it wished to rely upon the section 40 exemption to withhold some of the requested information within its response of 17 December 2007 and subsequently in its response of 24 April 2008.
42. The Commissioner notes that the exemption contained at section 40 of the Act is multifaceted and the Trust did not specify the subsection of the exemption which it had applied.
43. Furthermore the Commissioner considers that the Trust did not provide the complainant with an adequate or relevant explanation as to why the section 40(2) exemption by virtue of section 40(3)(a)(i) was engaged.
44. The Commissioner therefore considers that the DCSF breached section 17(1)(b) and (c).

The Decision

45. The Commissioner's decision is that the DCSF correctly withheld the identifying information contained within the responses to the consultation under section 40(2) by virtue of section 40(3)(a)(i).
46. However the Commissioner considers that the DCSF breached sections 1(1)(b), section 10(1) and sections 17(1)(b) and (c) of the Act in its handling of this request.

Steps Required

47. The Commissioner requires no steps to be taken.

Right of Appeal

48. Either party has the right to appeal against this Decision Notice to the Information Tribunal. Information about the appeals process may be obtained from:

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@tribunals.gsi.gov.uk.
Website: www.informationtribunal.gov.uk

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.

Any Notice of Appeal should be served on the Tribunal within 28 calendar days of the date on which this Decision Notice is served.

Dated the 13th day of July 2009

Signed

**David Smith
Deputy Commissioner**

**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 1(2) provides that -

“Subsection (1) has the effect subject to the following provisions of this section and to the provisions of sections 2, 9, 12 and 14.”

Section 1(3) provides that –

“Where a public authority –

(a) reasonably requires further information in order to identify and locate the information requested, and

(b) has informed the applicant of that requirement,

the authority is not obliged to comply with subsection (1) unless it is supplied with that further information.”

Section 1(4) provides that –

“The information –

(a) in respect of which the applicant is to be informed under subsection (1)(a), or

(b) which is to be communicated under subsection (1)(b),

is the information in question held at the time when the request is received, except that account may be taken of any amendment or deletion made between that time and the time when the information is to be communicated under subsection (1)(b), being an amendment or deletion that would have been made regardless of the receipt of the request.”

Section 1(5) provides that –

“A public authority is to be taken to have complied with subsection (1)(a) in relation to any information if it has communicated the information to the applicant in accordance with subsection (1)(b).”

Section 1(6) provides that –

“In this Act, the duty of a public authority to comply with subsection (1)(a) is referred to as “the duty to confirm or deny”.”

Time for Compliance

Section 10(1) provides that –

“Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.”

Section 10(2) provides that –

“Where the authority has given a fees notice to the applicant and the fee paid is in accordance with section 9(2), the working days in the period beginning with the day on which the fees notice is given to the applicant and ending with the day on which the fee is received by the authority are to be disregarded in calculating for the purposes of subsection (1) the twentieth working day following the date of receipt.”

Section 10(3) provides that –

“If, and to the extent that –

- (a) section 1(1)(a) would not apply if the condition in section 2(1)(b) were satisfied, or
- (b) section 1(1)(b) would not apply if the condition in section 2(2)(b) were satisfied,

the public authority need not comply with section 1(1)(a) or (b) until such time as is reasonable in the circumstances; but this subsection does not affect the time by which any notice under section 17(1) must be given.”

Section 10(4) provides that –

“The Secretary of State may by regulations provide that subsections (1) and (2) are to have effect as if any reference to the twentieth working day following the date of receipt were a reference to such other day, not later than the sixtieth working day following the date of receipt, as may be specified in, or determined in accordance with the regulations.”

Section 10(5) provides that –

“Regulations under subsection (4) may –

- (a) prescribe different days in relation to different cases, and
- (b) confer a discretion on the Commissioner.”

Section 10(6) provides that –

“In this section –

“the date of receipt” means –

- (a) the day on which the public authority receives the request for information, or
- (b) if later, the day on which it receives the information referred to in section 1(3);

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.”

Refusal of Request

Section 17(1) provides that -

“A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which -

- (a) states that fact,
- (b) specifies the exemption in question, and
- (c) states (if that would not otherwise be apparent) why the exemption applies.”

Section 17(2) states –

“Where–

- (a) in relation to any request for information, a public authority is, as respects any information, relying on a claim-
 - (i) that any provision of part II which relates to the duty to confirm or deny and is not specified in section 2(3) is relevant to the request, or
 - (ii) that the information is exempt information only by virtue of a provision not specified in section 2(3), and
- (b) at the time when the notice under subsection (1) is given to the applicant, the public authority (or, in a case falling within section 66(3) or (4), the responsible authority) has not yet reached a decision as to the application of subsection (1)(b) or (2)(b) of section 2,

the notice under subsection (1) must indicate that no decision as to the application of that provision has yet been reached and must contain an estimate of the date by which the authority expects that such a decision will have been reached.”

Section 17(3) provides that -

“A public authority which, in relation to any request for information, is to any extent relying on a claim that subsection (1)(b) or (2)(b) of section 2 applies must, either in the notice under subsection (1) or in a separate notice given within such time as is reasonable in the circumstances, state the reasons for claiming -

(a) that, in all the circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether the authority holds the information, or

(b) that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.”

Section 17(4) provides that -

“A public authority is not obliged to make a statement under subsection (1)(c) or (3) if, or to the extent that, the statement would involve the disclosure of information which would itself be exempt information.

Section 17(5) provides that –

“A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1(1), give the applicant a notice stating that fact.”

Section 17(6) provides that –

“Subsection (5) does not apply where –

- (a) the public authority is relying on a claim that section 14 applies,
- (b) the authority has given the applicant a notice, in relation to a previous request for information, stating that it is relying on such a claim, and
- (c) it would in all the circumstances be unreasonable to expect the authority to serve a further notice under subsection (5) in relation to the current request.”

Section 17(7) provides that –

“A notice under section (1), (3) or (5) must –

- (a) contain particulars of any procedure provided by the public authority for dealing with complaints about the handling of requests for information or state that the authority does not provide such a procedure, and
- (b) contain particulars of the right conferred by section 50.”

Personal information.

Section 40(1) provides that –

“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.”

Section 40(2) provides that –

“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.”

Section 40(3) provides that –

“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, 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 Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.”

Section 40(4) provides that –

“The second condition is that by virtue of any provision of Part IV of the

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)."

Section 40(5) provides that –

“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 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 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).”

Section 40(6) provides that –

“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 Data Protection Act 1998 shall be disregarded.”

Section 40(7) provides that –

In this section-

"the data protection principles" means the principles set out in Part I of Schedule 1 to the 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.