

# Decision Notice



Decision 017/2014 Ms Julie Bills and the City of Edinburgh Council

Resolution Complaint Panel Report

Reference No: 201301942

Decision Date: 5 February 2014

[www.itspublicknowledge.info](http://www.itspublicknowledge.info)

**Rosemary Agnew**

Scottish Information Commissioner

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## Summary

On 27 March 2013, Ms Bills asked for a copy of a Resolution Complaint Panel Report prepared by the City of Edinburgh Council (the Council). The Council decided that the information in the report was entirely excepted from disclosure under the EIRs.

However, during the investigation, the Council disclosed a redacted version of the report to Ms Bills.

The Commissioner found that the Council was entitled to withhold the redacted information, given that its disclosure would prejudice substantially the course of justice, etc. or would breach the Data Protection Act 1998. The Commissioner also found that the information provided to Ms Bills during the investigation should have been disclosed at an earlier stage.

## Relevant statutory provisions

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Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) and 1(6) (General entitlement); 2(1)(b) (Effect of exemptions); 39(2) (Health, safety and the environment)

The Environmental Information (Scotland) Regulations 2004 (the EIRs) regulations 2(1) (definition (a), (b) and (c) of "environmental information"); 5(1) and (2)(b) (Duty to make available environmental information on request); 10(1), (2), (3) and (5)(b) (Exceptions from duty to make environmental information available); 11(1), (2), (3)(a)(i) and (b) (Personal data)

Data Protection Act 1998 (the DPA) sections 1(1) (Basic interpretative provisions) (definition of "personal data"), Schedules 1 (The data protection principles, Part 1: the principles) (the first data protection principle), 2 (Conditions relevant for 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

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1. On 27 March 2013, Ms Bills asked the Council for a copy of a Resolution Complaint Panel Report (the report) concerning the property in which she and other proprietors resided. The complaint concerned the manner in which the Council's Property Conservation Department had executed its powers in relation to repairs carried out under statutory notice in the shared building.
2. The Council responded on 30 April 2013, withholding the entire report under regulations 10(4)(e) and 10(5)(b) of the EIRs.
3. On 16 May 2013, Ms Bills emailed the Council requesting a review of its decision. Ms Bills stated that the decision not to disclose the report went against the Council's professed policy of "openness and transparency".
4. The Council notified Ms Bills of the outcome of its review on 12 June 2013. It upheld its previous decision without amendment.
5. On 22 August 2013, Ms Bills emailed the Commissioner, stating that she was dissatisfied with the outcome of the Council's review and applying to the Commissioner for a decision in terms of section 47(1) of FOISA. (By virtue of regulation 17 of the EIRs, Part 4 of FOISA applies to the enforcement of the EIRs as it applies to the enforcement of FOISA, subject to certain specified modifications.)
6. The application was validated by establishing that Ms Bills made a request for information to a Scottish public authority and applied to the Commissioner for a decision only after asking the authority to review its response to that request.

## Investigation

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7. On 27 August 2013, the Council was notified in writing that an application had been received from Ms Bills and was asked to provide the Commissioner with the information withheld from her. The Council responded with the information requested and the case was then allocated to an investigating officer.
8. The investigating officer subsequently contacted the Council, giving it an opportunity to provide comments on the application (as required by section 49(3)(a) of FOISA which, by virtue of regulation 17 of the EIRs, applies for the purposes of the EIRs as it applies for the purposes of FOISA) and asking it to respond to specific questions.



9. Following the issue of *Decision 186/2013 Mr Tim Quelch and Mr Donald Keith and the City of Edinburgh Council*<sup>1</sup>, the Council decided that information from the report sought by Ms Bills could be disclosed.
10. On 11 November 2013, the Council disclosed a redacted version of the report to Ms Bills, withholding the remaining information under regulations 10(5)(b), 11(1) and 11(2) of the EIRs.
11. On the same day, the Council provided detailed submissions to the Commissioner as why it considered the remaining information in the report should be withheld. On 8 January 2014, the Council explained why it had initially withheld information that was later disclosed.
12. Ms Bills was invited to provide submissions on why the remaining withheld information should be disclosed, but chose not to do so.

## Commissioner's analysis and findings

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13. In coming to a decision on this matter, the Commissioner considered all of the withheld information and the relevant submissions, or parts of submissions, made to her by both Ms Bills and the Council. She is satisfied that no matter of relevance has been overlooked.

### FOISA or EIRs?

14. The Council considered that the information requested was environmental information, as defined in regulation 2(1) of the EIRs. It concerned an investigation into the Council's use of statutory notices and associated building repairs. Since that investigation could have led to further building works or modifications to the built environment, the Commissioner considered the information in the report to cover measures likely to affect the state of the elements of the environment (including land and built structures), and factors (such as noise and waste) that affect or are likely to affect those elements. Consequently, she is satisfied that the requested information falls within the definition of environmental information set out in regulation 2(1) of the EIRs, specifically paragraphs (b) and (c) of that definition.

### Section 39(2) of FOISA – environmental information

15. The exemption in section 39(2) of FOISA provides, in effect, that environmental information (as defined by regulation 2(1) of the EIRs) is exempt from disclosure under FOISA, thereby allowing any such information to be considered solely in terms of the EIRs. In this case, the Commissioner accepts that the Council was entitled to apply the exemption to the withheld information, given her conclusion that it is properly classified as environmental information.

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<sup>1</sup> [http://www.itspublicknowledge.info/ApplicationsandDecisions/Decisions/2013/201202445\\_201202476.aspx](http://www.itspublicknowledge.info/ApplicationsandDecisions/Decisions/2013/201202445_201202476.aspx)



16. As there is a separate statutory right of access to environmental information available to Ms Bills in this case, the Commissioner accepts that in this case the public interest in maintaining this exemption and in dealing with the request in line with the requirements of the EIRs outweighs any public interest in disclosing the information under FOISA.

### **Exceptions relied upon to withhold the information**

17. As noted above, the Council withheld information in the report under regulations 10(5)(b), 11(1) and 11(2) of the EIRs. The Commissioner will first consider whether the personal data in the report is exempt under regulations 11(1) and 11(2) of the EIRs, before considering the applicability of regulation 10(5)(b) of the EIRs.

### **Regulation 11(1) of the EIRs - personal information of the applicant**

18. The Council considered that details of Ms Bills' complaint, included in the report, constituted her own personal data and should be excepted under regulation 11(1) of the EIRs.
19. Regulation 11(1) contains an absolute exception (i.e. not subject to the public interest test) in relation to personal data of which the applicant is the data subject. This exception exists under the EIRs because individuals have a separate right to make a request for their own personal data under section 7 of the DPA (commonly known as a subject access request). The DPA will therefore usually determine whether a person has a right to information about themselves. Therefore, the effect of the exception in regulation 11(1) of the EIRs is not to deny individuals a right of access to information about themselves, but to ensure that the right is exercised under the appropriate legislation.

#### *Is the information under consideration Ms Bills' own personal data?*

20. "Personal data" are defined in section 1(1) of the DPA as "data which relate to a living individual who can be identified from those data, or 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."
21. Having reviewed the information withheld in terms of regulation 11(1) of FOISA, the Commissioner is satisfied that the information comprises the personal data of Ms Bills. Ms Bills can be identified from the information, which focuses on her, and is biographical in relation to her: consequently, it relates to her. Therefore, it is the Commissioner's view that this information is absolutely excepted from disclosure under regulation 11(1) of the EIRs: as such, this information was correctly withheld by the Council.



## Regulation 11(2) of the EIRs – personal data of other people

22. The Council argued that other personal data in the report was excepted from disclosure under regulation 11(2) of the EIRs. Regulation 11(2) excepts personal data of which the applicant is not the data subject, where either "the first condition" (set out in regulation 11(3)) or "the second condition" (set out in regulation 11(4)) applies. Personal data are defined in section 1(1) of the DPA as specified above.
23. The Commissioner has considered the withheld information and the context in which it is held. She is satisfied that the information is personal data in line with section 1(1) of the DPA – it clearly relates to the individuals and the individuals can be identified from the information.
24. The Council argued that the exception in regulation 11(2) applied because disclosure of the personal data would contravene the first data protection principle.

### *Would disclosure of the information breach the first data protection principle?*

25. The first data protection principle requires that personal data shall be processed fairly and lawfully and, in particular, shall not be processed (in this case, disclosed into the public domain) unless at least one of the conditions in Schedule 2 to the DPA is met and, in the case of sensitive personal data (as defined by section 2 of the DPA), at least one of the conditions in Schedule 3 to the DPA is also met.
26. The Commissioner has considered the definition of sensitive personal data set out in section 2 of the DPA, and she is satisfied that the personal data under consideration in this case do not fall into any of the categories set out in that definition. Therefore, it is not necessary to consider the conditions in Schedule 3 in this case.
27. There are three separate aspects to the first data protection principle: (i) fairness, (ii) lawfulness and (iii) the conditions in the schedules. However, these three aspects are interlinked. For example, if there is a specific condition which permits the personal data to be disclosed, it is likely that disclosure would also be fair and lawful.
28. The Commissioner must now go on to consider whether there are any conditions in Schedule 2 to the DPA which would permit the personal data to be disclosed. Where a Schedule 2 condition can be met, she will then go on to consider whether disclosure of the personal data would otherwise be fair and lawful.
29. When considering the conditions in Schedule 2, the Commissioner has noted Lord Hope's comment in the case of *Common Services Agency v Scottish Information Commissioner* [2008] UKHL 47<sup>2</sup> 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.

<sup>2</sup> <http://www.publications.parliament.uk/pa/ld200708/ldjudgmt/jd080709/comm-1.htm>



*Can any of the conditions in Schedule 2 to the DPA be met?*

30. Condition 1 of Schedule 2 permits personal data to be processed if the data subject consents to the data being processed. The Council did not state whether it had sought consent from the data subjects, but, in the circumstances of this case, the Commissioner has concluded that condition 1 in Schedule 2 cannot be met.
31. The Commissioner considers that the only other condition in Schedule 2 to the DPA which might apply in this case is condition 6. Condition 6 allows personal data to be processed if that 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 subjects.
32. There are, therefore, a number of different tests which must be satisfied before condition 6 can be met. These are:
  - Is Ms Bills pursuing a legitimate interest or interests?
  - If yes, is the processing involved necessary for the purposes of those interests? In other words, is the disclosure proportionate as a means and fairly balanced as to ends, or could the legitimate interest be achieved by means which interfere less with the privacy of the data subjects?
  - Even if the processing is necessary for the purposes of Ms Bills' legitimate interests, is the processing unwarranted in this case by reason of prejudice to the rights and freedoms or legitimate interests of the data subjects? This will involve a balancing exercise between the legitimate interests of Ms Bills and those of the third parties. Only if (or to the extent that) the legitimate interests of Ms Bills outweigh those of the third parties can the personal data be made available.

*Is Ms Bills pursuing a legitimate interest or interests?*

33. There is no definition within the DPA of what constitutes a "legitimate interest", but the Commissioner takes the view that the term indicates that matters in which an individual properly has an interest should be distinguished from matters about which he or she is simply inquisitive. In the Commissioner's published guidance on regulation 11(2) of FOISA<sup>3</sup>, it states:  
  
*"In some cases, the legitimate interest might be personal to the applicant – e.g. he or she might want the information in order to bring legal proceedings. With most requests, however, there are likely to be wider legitimate interests, such as the scrutiny of the actions of public bodies or public safety."*
34. Ms Bills was asked to explain her interest in receiving the personal data, but did not provide any submission.

<sup>3</sup> <http://www.itspublicknowledge.info/nmsruntime/saveasdialog.asp?IID=3085&SID=133>



35. The Commissioner accepts that Ms Bills may have reasons for requiring the personal information within the report, but it is not evident what these are. Given the lack of any submission from Ms Bills on this point, the Commissioner cannot demonstrate that Ms Bills has a legitimate interest in the withheld information.
36. Given this conclusion, the Commissioner finds that there is no condition in Schedule 2 which would permit disclosure of the personal data under consideration. In the absence of a condition permitting disclosure, that disclosure would be unlawful. Consequently, the Commissioner finds that disclosure would breach the first data protection principle and that the information is therefore excepted from disclosure (and properly withheld) under regulation 11(2) of the EIRs.

### Regulation 10(5)(b) of the EIRs

37. Regulation 10(5)(b) of the EIRs provides that a Scottish public authority may refuse to make environmental information available to the extent that its disclosure would, or would be likely to, prejudice substantially the course of justice, the ability of an individual to receive a fair trial or the ability of any public authority to conduct an inquiry of a criminal or disciplinary nature. As with all of the exceptions in regulation 10, it is subject to the public interest test in regulation 10(1)(b) and, in line with regulation 10(1)(a), must be interpreted in a restrictive way, with a presumption in favour of disclosure.
38. In relation to the statutory repairs carried out at Ms Bills' property, the Council explained that it is required to comply with sections 24(1) and 26 of the City of Edinburgh District Council Order Confirmation Act 1991 (the "1991 Act")<sup>4</sup>. The 1991 Act enables the Council to act where owners cannot or will not agree on a course of action.
39. The Council confirmed during the investigation that it had incorrectly withheld some parts of the report when responding to Ms Bills' request; it disclosed this information to Ms Bills on 11 November 2013. The Council explained that it had reviewed the decision to withhold all information in the report after receiving *Decision 186/2013*.
40. The Commissioner welcomes the Council's decision to disclose information which it had previously withheld, but must conclude that the initial decision to apply the exception in regulation 10(5)(e) was incorrect, and that in failing to provide information to which no exception applied, the Council failed to comply with regulation 5(1) of the EIRs.
41. The Council argued that disclosing the remaining information in the report would deprive the Council of the opportunity to prepare its case in private, in advance of any judicial hearing, and that the building blocks of any defence of the Council's actions would be removed before the court could take a view. The Council considered that, if the owners were provided with this information in advance of any judicial decision, the opportunity for the Council to recover expenses incurred in the project would be significantly diminished, and the owners would have been advantaged at the Council's significant expense.

<sup>4</sup> <http://www.legislation.gov.uk/ukla/1991/19/schedule/enacted>





42. The Council also considered that if one of the elements in the statutory process had not been complied with, any defence the Council might have in relation to this dispute would be substantially prejudiced by the release of any view from within the Council accepting non-compliance.
43. In its submissions, the Council considered the situation in *Decision 186/2013* was similar to that considered in this case, and referred to paragraph 73 to support its reasoning as to why the remaining information should be withheld, namely:
- “...the Commissioner recognises that the report does contain details of the Council’s likely position, should it have to raise or defend any court proceedings arising from this dispute. She accepts that disclosure of such information would impact on the fairness of these proceedings, substantially prejudicing the Council’s position in defending any litigation”.
44. The Council recognised that decisions about disclosure must be taken on a case-by-case basis, and that the report which was the subject of *Decision 186/2013* was significantly longer and more detailed than the report sought by Ms Bills, but it submitted that the contents of the report sought by Ms Bills equally include details of the Council’s likely position, should court proceedings arise in relation to this matter. The Council considered that release of the information would therefore prejudice substantially the Council’s position in defending any litigation, and in pursuing those parties involved in overseeing and signing off the works, should such proceedings arise.
45. In its submissions, the Council provided specific reasons for withholding each piece of information in the report. Given that these submissions focused on the actual content of the withheld information, the Commissioner cannot describe them here. However, the Commissioner has considered the Council’s submissions in detail.
46. In reaching a conclusion, the Commissioner accepts that disclosure of the information withheld from the report would be likely to prejudice substantially the ability of the Council to prepare any legal defence or pursuit, if such disclosure took place before any court hearing. She therefore accepts that the Council was entitled to withhold this information under regulation 10(5)(b). Being satisfied that the exception is engaged in relation to such information, the Commissioner will go on to consider whether the public interest test favours disclosure of this information.

#### *Public interest test*

47. Having found that the Council correctly applied the exception in regulation 10(5)(b) to this information, the Commissioner is required to consider the public interest test in regulation 10(1)(b) of the EIRs. This specifies that a public authority may only withhold information to which an exception applies where, in all the circumstances, the public interest in making the information available is outweighed by the public interest in maintaining the exception.



48. As noted above, Ms Bills did not provide specific comments as to why it would be in the public interest for the remaining withheld information in the report to be disclosed. However, she had previously made comments about the public interest in disclosure of the full contents of the report, and the Commissioner has taken these into account in reaching her decision in relation to the remaining withheld information.
49. In her correspondence with the Council, Ms Bills stated that it was wrong that property owners did not have access to a report about their own properties, and that this went against the Council's professed policy of openness and transparency. She believed that, without a platform for discussion, there was no working towards resolution. In her application to the Commissioner, Ms Bills claimed that the property owners had been the victims of mismanagement, incompetence and negligence, and it was therefore very much in the public interest to have access to the report so that communication could be opened up, action taken towards resolution, defects rectified and a final bill agreed upon. She argued that, most importantly, access to the contents of the report would be crucial in helping the residents to move forward, bringing to an end the disruption and distress caused by the statutory repairs process.
50. The Council acknowledged the undoubted interest the public has in relation to the affairs of Property Conservation and Property Care (from the context of this case, it is understood that the Council was referring to the controversial programme of repairs carried out under statutory notice). However, it considered that the public interest in favour of releasing the remaining information in the report was significantly outweighed by the public interest in maintaining the exception. The Council referred to the Commissioner's conclusion in paragraph 89 of *Decision 186/2013*, in which the Commissioner found that the public interest in transparency and accountability, in relation to the actions and decisions of the Council, was outweighed by the public interest in ensuring that any future action relating to the statutory works described in the report was not prejudiced by disclosure of information which would show the Council's likely position in such legal proceedings.
51. The Council noted that decisions must be taken on a case-by-case basis, but submitted that the Commissioner's view should equally apply to the report sought by Ms Bills. The Council stated that the importance of not disclosing the Council's likely legal position prior to the commencement of proceedings outweighs the public interest in releasing the information.
52. The Commissioner recognises that there has been widespread public concern surrounding the statutory repair process in Edinburgh. She considers that, given the scale of public concern, there is an identifiable public interest in disclosing information that would show how the Council is investigating residents' complaints about the works carried out under statutory notice. She takes the view that, to some extent, the Council's decision (during the investigation) to disclose part of the report goes some way towards satisfying this public interest.



53. The Commissioner recognises that the Council is in the process of investigating and addressing serious concerns raised in relation to its Property Conservation Service regarding the statutory notice process and associated works. She is aware that individuals affected by these works have raised concerns about works on their own properties, and that this presents significant challenges for the Council. She takes the view that where complaints have been made about the way in which work has been done by the Council or by contractors acting on its behalf, it is in the public interest for the Council to be able to carry out comprehensive, balanced and robust investigations into those complaints.
54. On balance, having weighed up the arguments advanced by Ms Bills and the Council, the Commissioner finds that, in all the circumstances of this case, the public interest in making the remaining withheld information available to Ms Bills is outweighed by that in maintaining the exception in regulation 10(5)(b) of the EIRs. The Commissioner finds that the public interest in transparency and accountability, in relation to the actions and decisions of the Council, is outweighed by the public interest in ensuring that any future court action relating to the statutory works described in the report is not prejudiced by disclosure of information which would show the Council's likely position in such legal proceedings. Therefore, although there are good reasons why disclosure of the information might be in the public interest, the Commissioner accepts that, on balance, it is in the public interest for the information to be withheld.
55. The Commissioner therefore finds that the Council was correct in applying the exception at regulation 10(5)(b) of the EIRs to the information in the report which has not been disclosed.

## DECISION

The Commissioner finds that the City of Edinburgh Council (the Council) partially complied with the Environmental Information (Scotland) Regulations 2004 (the EIRs) in responding to the information request made by Ms Julie Bills.

The Commissioner finds that in withholding information under regulations 11(1), 11(2) and 10(5)(b) within the report, the Council complied with the EIRs.

However, by wrongly withholding under regulation 10(5)(b) information which was later disclosed, the Council failed to comply with the regulation 5(1) of the EIRs.

Given that the Commissioner found the remaining information in the report was excepted under regulation 10(5)(b) of the EIRs, she does not require the Council to disclose this information.



## Appeal

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Should either Ms Bills or the City of Edinburgh Council wish to appeal against this decision, they have the right to 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.

**Margaret Keyse**  
**Head of Enforcement**  
**5 February 2014**



## Appendix

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### 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 –

...

- (b) in all the circumstances of the case, the public interest in disclosing the information is not outweighed by that in maintaining the exemption.

...

##### 39 Health, safety and the environment

...

- (2) Information is exempt information if a Scottish public authority-
- (a) is obliged by regulations under section 62 to make it available to the public in accordance with the regulations; or
- (b) would be so obliged but for any exemption contained in the regulations.

...



## The Environmental Information (Scotland) Regulations 2004

### 2 Interpretation

(1) In these Regulations –

...

"environmental information" has the same meaning as in Article 2(1) of the Directive, namely any information in written, visual, aural, electronic or any other material form on –

- (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
- (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in paragraph (a);
- (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in paragraphs (a) and (b) as well as measures or activities designed to protect those elements;

...

### 5 Duty to make available environmental information on request

(1) Subject to paragraph (2), a Scottish public authority that holds environmental information shall make it available when requested to do so by any applicant.

(2) The duty under paragraph (1)-

...

(b) is subject to regulations 6 to 12.

...



## 10 Exceptions from duty to make environmental information available–

- (1) A Scottish public authority may refuse a request to make environmental information available if-
  - (a) there is an exception to disclosure under paragraphs (4) or (5); and
  - (b) in all the circumstances, the public interest in making the information available is outweighed by that in maintaining the exception.
- (2) In considering the application of the exceptions referred to in paragraphs (4) and (5), a Scottish public authority shall-
  - (a) interpret those paragraphs in a restrictive way; and
  - (b) apply a presumption in favour of disclosure.
- (3) Where the environmental information requested includes personal data, the authority shall not make those personal data available otherwise than in accordance with regulation 11.  
...
- (5) A Scottish public authority may refuse to make environmental information available to the extent that its disclosure would, or would be likely to, prejudice substantially-  
...
  - (b) the course of justice, the ability of a person to receive a fair trial or the ability of any public authority to conduct an inquiry of a criminal or disciplinary nature;  
...

## 11 Personal data

- (1) To the extent that environmental information requested includes personal data of which the applicant is the data subject then the duty under regulation 5(1) to make it available shall not apply to those personal data.
- (2) To the extent that environmental information requested includes personal data of which the applicant is not the data subject and in relation to which either the first or second condition set out in paragraphs (3) and (4) is satisfied, a Scottish public authority shall not make the personal data available.



- (3) The first condition is-
- (a) in a case where the information falls within paragraphs (a) to (d) of the definition of "data" in section 1(1) of the Data Protection Act 1998 that making the information available otherwise than under these Regulations would contravene-
    - (i) any of the data protection principles;
    - ...
  - (b) in any other case, that making the information available otherwise than under these Regulations 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.
- ...

## 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;
- ...





## **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.

...