

## ANNEX A

### **Exemptions under the DPA**

It is not necessary to comply with the DPA where:

- **Information is held for the purpose of the prevention/detection of crime.** The data controller is not required to disclose personal data if it is held to prevent or detect crime or to apprehend or prosecute offenders. This applies to information received from or disclosed by another organisation (e.g. police) and to information held on the Authority's records, such as in adult safeguarding cases where there is a criminal investigation. The data controller is not obliged to allow access to information which might prejudice a criminal investigation. This exemption also applies where an alleged offence involves any unlawful claim for payment out of public funds such as benefits;
- Disclosure would prejudice the carrying out of social work functions **because there is a significant risk that it would result in serious harm to another person.** The data controller need not disclose personal data where to do so would prejudice the carrying out of social services functions because serious harm could be caused to the physical or mental health or condition of the subject or any other person, including employees of the Authority. Only that information which is likely to cause serious harm may be withheld;
- **The data requested has been supplied to a court.** Reports written by the Department become the property of the court at the point at which they are filed with a court;
- **Personal data is covered by other legislation.** In particular, adoption records and reports which are governed by the provisions of the Adoption Act 1976, sections 50 & 51, parental order records and reports which are governed by provisions of the Adoption Act 1976, and the Human Fertilisation and Embryology Act 1990 and regulations (DP (Miscellaneous Subject Access Exemption));
- **The information requested is not covered by the Act** and is confidential (i.e. information relating to deceased persons. Such information is covered by the Freedom of Information Act. Information is exempt from disclosure under the Freedom of Information Act (FOIA) if it was obtained, in confidence, from any other person (including another public authority) and disclosure would constitute a breach of confidence actionable by that or any other person;
- **The information is covered by legal privilege.** The data controller need not disclose personal data if it attracts legal privilege. This covers all communications, written and oral, to and from the Authority's legal staff in which advice is sought and/or provided. It includes notes of telephone calls and legal advice given at meetings and conferences. It also refers to any process by which legal staff are instructed. Please note: it may not be possible to apply this exemption if the legal advice has already been communicated in any way to the data subject or to a family member or friend acting on his/her behalf. This exemption does not apply to communications with lawyers who do not act for the Authority. Advice should be sought from Legal Services in these circumstances.

If the decision is made to withhold information, the data subject must be informed in writing that an exemption applies, that the information they have requested will not be released to them and their right of appeal.

The ICO has published guidance called, "[Freedom of Information Act. Practical Guidance: Information about the deceased](#)".