Freedom of Information (Extension) Bill

CONTENTS

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TO

Make providers of social housing, local safeguarding children boards, Electoral Registration Officers, Returning Officers and the Housing Ombudsman public authorities for the purposes of the Freedom of Information Act 2000; to make information held by persons contracting with public authorities subject to the Freedom of Information Act 2000; to extend the powers of the Information Commissioner; and for connected purposes.

B E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1   Extension of the Freedom of Information Act 2000 to certain persons

    The Schedule has effect.

2   Application of the Freedom of Information Act 2000 to contractors

    In the Freedom of Information Act 2000, after section 3 insert—

    "3A   Application of this Act to contractors   *5*

      (1)   Any contract made by a public authority with any person ("the contractor") for the provision of services to or on behalf of the public authority shall be deemed to include the specified disclosure provision.

      (2)   Where such a contract is to any extent performed by means of a sub-contract with another person ("a sub-contractor"), that sub-contract shall be deemed to include the specified disclosure provision.   *10*

      (3)   In this section the "specified disclosure provision" means a provision stipulating that all information held in connection with the performance or proposed performance of the contract by—

          (a)   the contractor,   *15*
          (b)   a sub-contractor, and
          (c)   any other person acting on behalf of the contractor or sub-contractor

is, notwithstanding any provision to the contrary in the contract, deemed to be held on behalf of the public authority for the purpose of this Act or the Environmental Information Regulations 2004."

3   Contractors: powers of entry and inspection

(1)   After section 55 of the Freedom of Information Act 2000 (Powers of entry and inspection) insert—   *5*

"55A Contractors: powers of entry and inspection

Where an application to the Information Commissioner has been made under section 50 in relation to information which is held by any person on behalf of a public authority, the Commissioner shall have the same powers—   *10*
   (a)   to require that person to furnish information to the Commissioner by means of an information notice under section 51, and
   (b)   to obtain and execute a warrant under section 55 and Schedule 3   *15*
in relation to that person as the Commissioner does in relation to the public authority."

4   Offence of altering etc. records with the intent to prevent disclosure

For section 77 of the Freedom of Information Act 2000 (Offence of altering etc. records with the intent to prevent disclosure) substitute—   *20*

"77   Offence of altering etc information with intent to prevent disclosure

   (1)   Where a request for information has been made to a public authority it is an offence for any person listed in subsection (2) to alter, deface, block, erase, destroy or conceal information with the intention of preventing the disclosure by that authority of all or part of the   *25*
information to the communication of which the applicant would have been entitled.

   (2)   Subsection (1) applies to—
       (a)   the public authority and to any person who is employed by, is an officer of, or is subject to the direction of, the public   *30*
authority, and
       (b)   any person holding information on behalf of the public authority, any employee of that person and any person subject to the direction of that person.

   (3)   A person guilty of an offence under this section is liable on summary   *35*
conviction to a fine.

   (4)   No proceedings for an offence under this section shall be instituted—
       (a)   in England or Wales, except by the Commissioner or by or with the consent of the Director of Public Prosecutions;
       (b)   in Northern Ireland, except by the Commissioner or by or with   *40*
the consent of the Director of Public Prosecutions for Northern Ireland.

   (5)   Summary proceedings for an offence under this section—

    (a)   may be brought within the period of 6 months beginning with the day on which the prosecutor first knew of evidence that, in the prosecutor's opinion, was sufficient to bring the proceedings, but

    (b)   may not be brought after the end of the period of 3 years beginning with the day on which the offence was committed. *5*

  (6) A certificate signed by or on behalf of the prosecutor and stating the day on which the 6 month period described in subsection (5) began is conclusive evidence of that fact.

  (7) A certificate purporting to be signed as described in subsection (5) is to be treated as so signed unless the contrary is proved." *10*

5   Financial provisions

There is to be paid out of money provided by Parliament –
    (a)   *any expenditure incurred under or by virtue of this Act, and*
    (b)   *any increase attributable to this Act in the sums payable under any other Act out of money so provided.* *15*

6   Commencement and short title

  (1) This Act comes into force three months after the day on which it is passed.

  (2) This Act may be cited as the Freedom of Information (Extension) Act 2018.

SCHEDULE   Section 1

PERSONS TO BE CONSIDERED PUBLIC AUTHORITIES UNDER THE FREEDOM OF INFORMATION
ACT 2000

(1) Part 6 of Schedule 1 of the Freedom of Information Act 2000 is amended as
follows.

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(2) At the appropriate places, insert each of—

"An acting returning officer appointed to discharge a returning officer's
functions in England and Wales under section 28 of the Representation
of the People Act 1983";

"An electoral registration officer appointed under section 8 of the
Representation of the People Act 1983";

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"A Local Safeguarding Children Board established under section 13 of the
Children Act 2004 (Establishment of LSCBs)";

"A provider of social housing within the meaning of section 80 of the
Housing and Regeneration Act 2008, other than a local authority, in
respect of information relating to the provision of social housing";

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"A returning officer appointed under section 25 of the Representation of
the People Act 1983 (Returning officers: Scotland)";

"A returning officer appointed under section 35 of the Representation of
the People Act 1983 (Returning officers: local elections in England and
Wales)";

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"A returning officer appointed under section 41 of the Representation of
the People Act 1983 (Returning officers: local elections in Scotland)".

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Presented by Andy Slaughter,
supported by Dan Jarvis,
Jo Stevens, David Hanson,
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Ordered, by The House of Commons,
to be Printed, 19 *July* 2017.