

Report

on an investigation into
complaint no 07/A/12661 against
the London Borough of Camden

10 July 2008

Millbank Tower, Millbank, London SW1P 4QP

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Key to names used

Mrs Gordon	The complainant
Ms Shepard	The complainant's sister
Ms Bean	A Community Mental Healthcare Trust Manager

Report summary

Subject

Mrs Gordon had mental health difficulties and was not capable of managing her own affairs. Camden Council's Community Mental Health Team was aware of this. Mrs Gordon had not paid her council tax. The Council's Revenue team applied for a bankruptcy order, which was granted. They did not adequately record what checks they made and did not make any checks with the social care side of the Council, which would have shown that bankruptcy was not an appropriate recovery method in this case. The consequence was that the resolution of a separate legal case concerning Mrs Gordon's financial affairs was delayed, and substantial unnecessary costs, payable by Mrs Gordon, were incurred by a court appointed Litigation Friend and the Trustee in Bankruptcy.

Finding

Maladministration causing injustice, remedy agreed.

Recommended remedy

The Council has agreed to apply to the court to annul the bankruptcy. If the bankruptcy is annulled the Ombudsman recommends the Council contacts credit rating agencies to advise them that Mrs Gordon's bankruptcy has been annulled. The Ombudsman recommends the Council changes its procedures to make stringent checks for potential vulnerability before taking action leading to bankruptcy, a charging order or committal.

Introduction

1. Ms Shepard complains on behalf of her sister, Mrs Gordon, about the actions of the London Borough of Camden in making her bankrupt for non-payment of council tax on 12 May 2005. Ms Shepard says that Mrs Gordon should not have been made bankrupt as she was mentally ill and unable to manage her own affairs, and the Council was aware of this.
2. The Council says that it had no contact from Mrs Gordon about her council tax until after it had made her bankrupt.
3. During the course of this investigation one of my investigators has met with and interviewed Ms Shepard. He has also inspected the Council's files and computerised records concerning its dealings with Mrs Gordon. My investigator also interviewed officers of the Council who have been involved in the matters complained about, including the Local Taxation Recovery Manager and Ms Bean, a Manager in the Camden and Islington Community Mental Healthcare Trust, which is an NHS and Council partnership.
4. Ms Shepard, the Council, the Litigation Friend and the Trustee in Bankruptcy have all seen a draft of this report. My investigator has also discussed the report with Council officers. All comments have been taken into account in this final report.
5. For legal reasons¹ the names of those mentioned in this report are not their real names.

Legal and Administrative Background

My Jurisdiction

6. There are a number of sections of the Local Government Act 1974, which defines my powers, which have to be considered in reaching a decision on Mrs Gordon's complaint.
7. First, the Act says that I cannot conduct any investigation into

“the commencement or conduct of civil or criminal proceedings in any court of law”.²

However, I retain jurisdiction to investigate administrative actions prior to the issue of court proceedings and, where the Council instructs agents for enforcement of court orders, the actions of those agents (unless they are agents of the Court).

¹ Local Government Act 1974 (“the 1974 Act”), section 30(3).

² Local Government Act 1974, Schedule 5

8. Second, the Act also says that, usually, I should not investigate a complaint where the complainant has had the right to pursue their complaint via the alternative remedy of a statutory tribunal or the Courts.³ However, this is at my discretion and I can investigate where I am satisfied that it was not reasonable to expect the complainant to use those rights. I have no jurisdiction to consider a complaint if proceedings have been issued in respect of an alternative right or remedy.⁴ However, I retain jurisdiction to investigate if Court proceedings have been sought that are misconceived; i.e. where there is no legal basis for the action being sought.
9. Third, the Act also says that normally I should not investigate a complaint unless it was made to me, or to an elected councillor, within 12 months from the day when the complainant first knew something had happened that affected him or her.⁵ However, this is again a discretionary bar and I can investigate where I am satisfied that there are special reasons to accept a complaint about matters the complainant has been aware of for a longer period.
10. Ms Shepard only became aware of Mrs Gordon's bankruptcy in 2007. I am clear that Mrs Gordon has mental health difficulties which impair her ability to act in her own interests, and that it is reasonable for Ms Shepard to act on her behalf. I have exercised my discretion over the right to apply to court for an annulment because of the practical difficulties in getting Mrs Gordon to engage as part of the evidence-gathering process and the prohibitive cost of legal representation.

Council powers to collect unpaid council tax

11. Where a sum of council tax is unpaid, the Council can seek an order from the Magistrates Court, known as a liability order, in order to pursue recovery of the outstanding amount. Once the Council has obtained a liability order against a debtor it has a number of options available to try to secure payment of its debt. The Courts have held that while recovery action for a council tax debt can be coercive, it is not unlawful if it becomes punitive because of the debtor's failure to pay.⁶ The powers a Council has to recover unpaid council tax are detailed in the appendix to this report.
12. The Council has a council tax recovery policy, which was approved by members in 2005. This says -
 - **“Charging Order** Where a taxpayer owns a property and we have been unsuccessful at obtaining payment in any other way, then we will consider taking an action to obtain an order forcing the sale of the property to cover

3 Local Government Act 1974, Section 26 (6) (a) and 26 (6) (c)

4 Local Government Act 1974, Section 26(6), R v Commissioner for Local Administration, ex parte PH (1999) EWCA Civ 916, R v Commissioner for Local Administration, ex parte Field (2000) COD 58 and Roao Scholarstica Umo v Commissioner for Local Administration in England (2003) EWHC 3202 (Admin)

5 Local Government Act 1974, Section 26(4)

6 R v Cannock Justices ex parte Ireland (1995)

the debt and the costs of the action. This is a last ditch attempt to collect and the procedure is protracted, but in some cases this is the only available action left open to us.

- Bankruptcy We will make a petition for the bankruptcy of some taxpayers. Again this is a protracted, expensive and time consuming exercise, however we have found it to be successful and in some circumstances this is the only appropriate action we can take to secure payment. The costs of this type of action can be claimed from the debtor.
- Committal If payment is not received then we may decide that the appropriate way forward is to take the case back to Court and ask for an investigation to be made into the debtor's means. This action is only used in cases where bankruptcy or charging orders are not appropriate, and in cases where the bailiff has attempted to collect the debt but has been unsuccessful”

Data Protection

13. This complaint involves failure to share data held by different parts of the Council so I need to consider if the restrictions in the use of personal data under the Data Protection Act 1998 prevented this data being shared. Section 2 of the Act says that information about a person's physical or mental health is sensitive personal data. Schedule 3 of the Act gives conditions for processing such data and is given in appendix 2 of this report. Paragraph 3 of the schedule says that such data can be processed to protect the vital interests of the data subject in a case where consent by or on behalf of the data subject has been unreasonably withheld.
14. Camden Council takes the view that personal information will be used only for the purposes for which it was collected. Other London authorities take the view that consent is only needed if the information is to be used for a purpose that is not part of a service the Council has to provide by law and any Council department can use information, even if it was collected for another purpose.⁷
15. The Information Commissioner has said⁸ that he will avoid an overly restrictive application of the law where that would lead to organisations failing to make sensible use of the information they hold. Guidance issued by the Information Commissioner⁹ says that information held by different authority departments can be shared as long as it not for a completely separate and unrelated purpose, and data protection principles are applied. The Guidance says that local authorities should be open and transparent about all the probable reasons for which such data may be used.

7 Information from the Council websites for the London Boroughs of Camden, Merton, and Islington and the City of Westminster; accessed April 2008.

8 "Sharing Personal Information – Our Approach"; Information Commissioners Office, April 2007

9 "Data Protection Good Practice Note – Sharing data between different local authorities" June 2008

Investigation

Mrs Gordon's contacts with the Community Mental Healthcare Trust

16. Mrs Gordon suffers from a continuing mental illness. In 2000 she was forcibly admitted for treatment to hospital under the Mental Health Act 1983 at the initiative of the Camden and Islington Community Mental Healthcare Trust (CMHT) and Ms Bean¹⁰ was involved in this admission. After a stay in hospital Mrs Gordon discharged herself, returned home and refused further offers of help from the CMHT.
17. At the beginning of 2002 the CMHT on its own initiative assessed Mrs Gordon, since her family informed them in that they did not feel qualified to make a decision about Mrs Gordon's sectioning. CMHT decided that she should not be detained in hospital as she was not a risk to herself or others, although they acknowledged that she was suffering from paranoid psychosis. Mrs Gordon again declined offers of help.
18. At this time Mrs Gordon was involved in litigation with a bank over a mortgage. In the course of this it became apparent to the Court that Mrs Gordon was not capable of representing herself or conducting her own affairs. The Court asked that a Litigation Friend¹¹ be appointed. The bank approached Ms Bean at the CMHT. She helped provide medical evidence of Mrs Gordon's illness and in July 2003 the Court appointed the Official Solicitor as her Litigation Friend.
19. In December 2004 Ms Shepard wrote to the Council's social services unit in view of a possible imminent settlement of Mrs Gordon's financial affairs after the appointment of the Litigation Friend, and general concerns about Mrs Gordon's mental health and financial welfare. Ms Shepard sought coordinated action by Council services. She expressed concern that Mrs Gordon was neither working nor claiming social security benefits and wondered how she paid for her gas, other utilities and council tax. Ms Shepard asked if the Council could help with claiming benefit for Mrs Gordon. She also mentioned the appointment of the Litigation Friend and the possibility that Mrs Gordon would need rehousing if her home was repossessed as a result of the legal proceedings.
20. The letter was acknowledged by the social services complaints team and passed to the CMHT. Ms Bean had two telephone conversations with Ms Shepard and then wrote to her to in January 2005 to confirm that the CMHT were aware of the appointment of the Official Solicitor, but that Mrs Gordon had always declined support from the CMHT.

¹⁰ Ms Bean is technically an employee of Camden Council

¹¹ An independent person who will manage the case to ensure that the litigant's interests are represented

21. In August 2005 Ms Shepard again contacted the CMHT about her sister and her concern over the lack of any state benefits. The CMHT wrote to Mrs Gordon, who replied to say that she was

“... quite satisfied with the professional advice she received from her solicitors and accountants/financial advisors who act for me as and when I require.”

At this point, Ms Shepard, Ms Bean and the Official Solicitor did not know that on 12 May 2005 Mrs Gordon had been made bankrupt by the Council for non-payment of her council tax.

Council tax recovery action

22. Mrs Gordon had not been paying her council tax. The Council had obtained liability orders and instructed bailiffs to collect the debt. Some payments were made, and there was some contact with Mrs Gordon, but nothing in these contacts suggested she had any mental health difficulties. She had been claiming council tax benefit, but her claim had lapsed in January 2001. Bailiffs were instructed, but were unable to collect the debts, including for the period in which she was sectioned under the Mental Health Act and the years subsequent to this.
23. By November 2004 Mrs Gordon owed £5,109.48 council tax and court costs for the period from 1996 to 2005. The council tax recovery section checked that she owned her own property and passed the debt to solicitors for bankruptcy proceedings. The Council's records do not show that checks about her circumstances were made with the council tax benefit section or with adult care services. When interviewed the council tax Recovery Manager says that the council tax team do not have full access to the benefits system so cannot look at claim forms, and they did not check such cases with adult care services (although this is to change). There is no record of why the Council considered bankruptcy (as opposed to committal or a Charging Order) was appropriate.
24. In its response to the draft of this report the Council say that it has spoken to the manager who made the decision in this case, who later moved to another position in the Council. He said that he made appropriate checks of council tax and benefit records, checked correspondence and bailiff reports, and then properly considered if other recovery methods were appropriate, in accordance with the Council's policy. The policy did not require the physical recording of these checks, but that is not to say they were not carried out.
25. The Council also questions if it was -
- “... reasonable for the recovery manager to display what would have been an extraordinary level of foresight and conduct an unsolicited check with Social Services - with nothing to point him in that direction?”

26. The Council's solicitors wrote to Mrs Gordon to warn her that the Council intended to take bankruptcy proceedings against her. The letter did not give any warning of the costs that would be incurred or the risk of losing her home. Mrs Gordon did not contact the Council or the solicitors.
27. The statutory demand was served, and on 12 May 2005 Mrs Gordon was made bankrupt. The Official Receiver appointed a Trustee in Bankruptcy to deal with the matter.

After the bankruptcy

28. The legal action between the bank and Mrs Gordon had almost reached a conclusion, with an agreement to sell the property to meet the debt and use the balance to buy a new home for Mrs Gordon. The bankruptcy meant that this resolution was no longer possible as the Trustees in Bankruptcy now controlled the disposal of the property.
29. In August 2006, once the bank and the Litigation Friend became aware of the bankruptcy, the council tax section was contacted by the Litigation Friend. At this point the council tax section became aware that Mrs Gordon had mental health difficulties and that the CMHT had been aware of this. A Recovery Officer emailed Ms Bean to find out what was known, saying –

“Had this department been aware of her circumstances [mental impairment] then this action [bankruptcy] would never have been taken and more appropriately a charge would have been made on her property.”
30. Ms Bean replied to say that Mrs Gordon had not engaged with her team, but Ms Bean had been someone the family could approach if they felt the need. She also said that a Litigation Friend had been appointed by the court.
31. The Litigation Friend then asked the Council if it would annul the bankruptcy. The Council contacted the Trustee and said it would annul the bankruptcy if both parties bore their own costs. At this stage the Trustee in Bankruptcy's costs were around £8,150. The Trustee responded by saying that case law¹² said that in cases where the petitioning creditor realises an error has been made they should pay the Trustee's costs and remuneration as the Trustee is an innocent party, appointed as a result of the petitioning creditor's actions. The Council refused to proceed on this basis.
32. At the end of November 2007 Ms Shepard learnt about the bankruptcy and wrote to the Council to complain about this action being taken, in view of the Council's knowledge of Mrs Gordon's mental health. The Council's response was that, on the basis of the information the Council had, the decision to make Mrs Gordon bankrupt was justified. However, when my investigator interviewed Ms Bean she

¹² Butterworth –v- Souter [2000] BPIR 582

said that if a Recovery Officer had asked her about Mrs Gordon she would have told them she was incapable of managing her own affairs.

33. As a result of my investigation the Council has now applied to have the bankruptcy annulled. It will be up to the court to decide who should pay the costs of all parties involved. The Trustee's costs are now about £42,800 and Litigation Friend's costs are around £7,600. Many of these costs have been incurred as a result of the delay to the resolution of the legal case with the bank and the additional work required by the Trustee to secure the creditor's position. As both the Litigation Friend and the Trustee in Bankruptcy have been appointed by the courts I cannot, for the reason given in paragraph 7, comment either favourably or unfavourably on their actions or the level of their costs.

Conclusion

34. In its response to the draft report the Council suggested that the CMHT should have passed Ms Shepard's letter of December 2004 asking for assistance on to council tax. I have considered this point, but am reluctant to conclude this was maladministration. The letter asked for a range of help, not just for assistance with council tax. The CMHT's response was to contact Mrs Gordon, who refused assistance. A council cannot force somebody to make a claim for council tax benefit, or make it for them if they do not cooperate. However, it would have been open to Ms Shepard to contact the revenue team directly and explain her sister's situation.
35. Recovery of council tax from debtors is becoming an increasingly difficult business. Bailiffs are less effective and committals appear to use considerable resources for a low recovery rate. So councils have been increasingly turning to bankruptcy as a recovery method. As my colleague Ombudsman has already said¹³ bankruptcy is a legitimate method of recovery and is appropriate in some cases. My investigator has been told by several authorities that they find that the threat of bankruptcy often produces payment in full or suitable arrangements to pay. The authorities say that few cases proceed beyond the threat of bankruptcy, and even fewer to a forced sale.
36. So use of bankruptcy or its threat may be a legitimate way of collecting a local taxation debt. But the consequences can be traumatic, possibly involving considerable costs payable by the debtor and at worse the forced sale of their home. In view of this, councils need to consider alternative recovery methods to bankruptcy and have evidence of why they were not pursued. Camden Council says that checks were carried out, but not recorded. I cannot say if the checks were or were not carried out, but the Council did not have satisfactory mechanisms in place to record why the decision to pursue bankruptcy was made or any supporting evidence for this decision. This was maladministration.

37. Part of the Council was aware that Mrs Gordon had a mental health difficulty and was unable to conduct her own affairs. The failure to make effective internal enquiries led to unwarranted action against a clearly vulnerable lady. This was also maladministration.
38. If a council chooses to use bankruptcy to collect a local taxation debt it should make all reasonable checks of the information it has to establish that the debtor is not vulnerable. Given the possible consequences of bankruptcy I do not think it unreasonable for Revenue Officers to look beyond their own departmental information and consider a council's records as a whole. If required enquiries of Adult Social care should establish, via the professional opinion of a social worker, if that the debtor is vulnerable. In addition reasonable steps should be taken to contact the debtor personally to see if there are any grounds for not proceeding with the action.
39. If information had been sought and made available, the Council most likely would have applied for a Charging Order instead. This would have not have prevented the sale of Mrs Gordon's property to meet her debts to the bank, and would probably have cleared the debt to the Council at a lower cost.
40. It is also worth commenting on the Council's response to Ms Shepard's complaint. Despite clear evidence officers were aware that, in retrospect, the bankruptcy action had not been appropriate, the Council's response to the complaint was that the action was justified. The Council's response was inappropriate and unhelpful to the concerned relatives of Mrs Gordon.
41. The result of this has been to cause Mrs Gordon an injustice in that the resolution of her case with the bank has been delayed and substantial additional costs have been added that will be paid for out of the sale of her property.

Finding

42. For the reasons set out in paragraph 36 and 37 I find maladministration by the Council causing the injustice described in paragraph 41.

Proposal for settlement

43. I must now seek to put Mrs Gordon in the position that she would have been had no maladministration occurred. My draft report recommended that the Council should apply to the court for the annulment of Mrs Gordon's bankruptcy, on the grounds she was not capable of managing her own affairs at the time and pay the costs of this action. I am pleased to say that the Council has applied for an annulment.
44. Bankruptcy has a detrimental effect on an individual's credit rating. If the court annuls the bankruptcy I recommend the Council contact credit rating agencies to

make them aware of this. Normally this would be the responsibility of the debtor, but Mrs Gordon seems incapable of taking such action or of giving authorisation for Ms Shepard to do this.

45. This leaves the question of Mrs Gordon's liability for her council tax debt. It is possible she is entitled to an exemption on the grounds of her mental health. The Litigation Friend has applied for such an exemption and the Council is considering this. If it is able to award an exemption I would recommend this be backdated as far as possible. The Council then can consider whether, in the light of the action being taken by the bank, it should apply for a Charging Order or obtain some other binding agreement that any remaining council tax debt and liability order costs be paid.
46. I recommend the Council reviews its procedure to ensure that stringent checks of all its records are carried out, and recorded, for any potential vulnerability before taking action against a debtor leading to bankruptcy, a charging order or committal. I would ask the Council to report to me within three months to let me know what changes it has made.
47. The Council may wish to review its policy on the sharing of personal data within the Council in the light of the practice of other councils and the advice of the Information Commissioner.

Tony Redmond
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10 July 2008

Appendix 1 – Council tax recovery procedure

1. Options for recovery of debts of council tax are described below.

Bailiffs

2. Bailiffs can be instructed to collect outstanding debts, if necessary through threatening to take, or actually taking certain goods owned by the debtor. A bailiff cannot take such a levy unless they have gained peaceful entry into a debtor's home or premises, or can levy on goods outside the property such as a car. Unless peaceful entry has been made on a previous visit bailiffs do not have the right to break in to collect council tax debts.

Attachment of earnings

3. If a debtor is in PAYE employment then the Council can apply to their employer for deductions to be made from their wages. The level of deductions is set by statute¹⁴. If a debtor is self employed, earns less than £75 per week or £300 per month before tax, or lives on a pension or investment income then deductions cannot be made.

Attachment of benefit

4. One method of recovering council tax for local authorities is to apply for a deduction from ongoing benefit to the Department for Work and Pensions. However, this can only be done where a debtor is in receipt of income support or (income based) Job Seekers Allowance. The level of deductions is fixed by the Government at £2.90 per week, and so may not be an effective method of clearing a large debt.

Committal hearing

5. If the Council has attempted, but failed, to collect a debt through the use of bailiffs then it can request that the debtor appear before the Magistrates Court to consider if they should be committed to prison for "wilful refusal" or "culpable neglect" in the non-payment of their council tax. Magistrates must conduct a means enquiry to establish the reason for non-payment. They are given options including committing the debtor to prison, suspending any committal on terms (such as ordering a fresh payment arrangement) or remitting some of the debt (i.e. writing it off)¹⁵.
6. If the debtor refuses to attend court, and the Council is not able to have an arrest warrant executed then this recovery method is ineffective.

¹⁴ The Council Tax and Non-Domestic Rating (Amendment) (England) Regulations 2006

¹⁵ Council Tax (Administration and Enforcement) Regulations 1992, 47 & 48

Bankruptcy

7. Bankruptcy can be used as a means to try and recover a debt where a creditor is owed at least £750. With council tax debts, if a local authority chooses to use bankruptcy as a means of recovery then it must first obtain a liability order, for any sums it is owed.¹⁶ In addition, under the 1986 Insolvency Act rules that govern bankruptcy proceedings the creditor must also serve a document known as a statutory demand. This should explain the debt the Council is seeking to recover.
8. A debtor can ask the County Court to set aside a statutory demand on the basis that the debt is not owed. One reason would be that the debtor was not capable of managing their own affairs at the time of the bankruptcy order.
9. If a statutory demand is served and the debt remains unpaid after a further 21 days (or no arrangement has been made to the satisfaction of the creditor), then a bankruptcy petition can be served. In effect, the petition requests that the County Court (or High Court in London) make an order that the debtor be declared bankrupt.
10. Where a bankruptcy order is made, and a debtor has assets that might be sold to settle a debt, a licensed insolvency practitioner will be appointed as a trustee to safeguard and secure the assets of the debtor for the benefit of creditors generally. Trustees are entitled to be paid for the costs of their management of the estate of the bankrupt out of the proceeds of the estate. Some fees are statutory¹⁷; others are on a “time and costs” basis and will vary from case to case and trustee to trustee, depending on what actions the Trustee has been required to take.
11. In March 2000 the Court of Appeal held that as bankruptcy was a procedure allowed by statute and regulations, there could be no objection in principle to a Council using those proceedings to collect an outstanding debt which it had a duty to collect.¹⁸

Charging Orders

12. Another method of collection available to a Council is to seek a charging order against a debtor.¹⁹ This is a way of securing a debt through the County Court against a debtor’s property, so that in the event that the property is sold, the creditor must be paid from the proceeds of sale. For a Council to be able to pursue this course of action it must hold a liability order against the debtor and the debtor must owe at least £1,000. The Courts can consider suspending a

¹⁶ Council Tax (Administration and Enforcement) Regulations 1992, 49(1)

¹⁷ The Official Receiver charges £1,715. The Department of Trade and Industry charge are 17% of all realisations after the first £2,000.

¹⁸ Griffin v Wakefield Metropolitan District Council Court of Appeal (2000)

¹⁹ Council Tax (Administration and Enforcement) Regulations 1992, regulations 50 and 51

Charging Order on repayment terms. Where a creditor holds an outright Charging Order or any payment terms are not adhered to, then the creditor can seek an Order for Sale. This too, can be suspended at the Court's discretion; for example on the basis of an order that regular repayments are made.

13. The disadvantage of Charging Orders is that the debt is not paid until the property is sold. If there are current council tax debts these will need to be secured on the property by a further Charging Order. If the debtor does not sell the property themselves then the Council has to apply to the court for a forced sale, incurring additional costs payable from the sale proceeds. The court will decide if the sale will proceed; if the debt is small or there are other family living in the property the court may refuse to enforce the Order.

Appendix 2 – Schedule 3, Data Protection Act 1998

CONDITIONS RELEVANT FOR PURPOSES OF THE FIRST PRINCIPLE: PROCESSING OF SENSITIVE PERSONAL DATA

1. The data subject has given his explicit consent to the processing of the personal data.
2. — (1) The processing is necessary for the purposes of exercising or performing any right or obligation which is conferred or imposed by law on the data controller in connection with employment.
 - (2) The Secretary of State may by order—
 - (a) exclude the application of sub-paragraph (1) in such cases as may be specified, or
 - (b) provide that, in such cases as may be specified, the condition in sub-paragraph (1) is not to be regarded as satisfied unless such further conditions as may be specified in the order are also satisfied.
3. The processing is necessary—
 - (a) in order to protect the vital interests of the data subject or another person, in a case where—
 - (i) consent cannot be given by or on behalf of the data subject, or
 - (ii) the data controller cannot reasonably be expected to obtain the consent of the data subject, or
 - (b) in order to protect the vital interests of another person, in a case where consent by or on behalf of the data subject has been unreasonably withheld.
4. The processing—
 - (a) is carried out in the course of its legitimate activities by any body or association which—
 - (i) is not established or conducted for profit, and
 - (ii) exists for political, philosophical, religious or trade-union purposes,
 - (b) is carried out with appropriate safeguards for the rights and freedoms of data subjects,
 - (c) relates only to individuals who either are members of the body or association or have regular contact with it in connection with its purposes, and

- (d) does not involve disclosure of the personal data to a third party without the consent of the data subject.
5. The information contained in the personal data has been made public as a result of steps deliberately taken by the data subject.
6. The processing—
- (a) is necessary for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings),
 - (b) is necessary for the purpose of obtaining legal advice, or
 - (c) is otherwise necessary for the purposes of establishing, exercising or defending legal rights.
7. — (1) The processing is necessary—
- (a) for the administration of justice,
 - (aa) for the exercise of any functions of either House of Parliament,
 - (b) for the exercise of any functions conferred on any person by or under an enactment, or
 - (c) for the exercise of any functions of the Crown, a Minister of the Crown or a government department.
- (2) The Secretary of State may by order—
- (a) exclude the application of sub-paragraph (1) in such cases as may be specified, or
 - (b) provide that, in such cases as may be specified, the condition in sub-paragraph (1) is not to be regarded as satisfied unless such further conditions as may be specified in the order are also satisfied.
8. — (1) The processing is necessary for medical purposes and is undertaken by—
- (a) a health professional, or
 - (b) a person who in the circumstances owes a duty of confidentiality which is equivalent to that which would arise if that person were a health professional.
- (2) In this paragraph “medical purposes” includes the purposes of preventative medicine, medical diagnosis, medical research, the provision of care and treatment and the management of healthcare services.
9. — (1) The processing—

(a) is of sensitive personal data consisting of information as to racial or ethnic origin,

(b) is necessary for the purpose of identifying or keeping under review the existence or absence of equality of opportunity or treatment between persons of different racial or ethnic origins, with a view to enabling such equality to be promoted or maintained, and

(c) is carried out with appropriate safeguards for the rights and freedoms of data subjects.

(2) The Secretary of State may by order specify circumstances in which processing falling within sub-paragraph (1)(a) and (b) is, or is not, to be taken for the purposes of sub-paragraph (1)(c) to be carried out with appropriate safeguards for the rights and freedoms of data subjects.

10. The personal data are processed in circumstances specified in an order made by the Secretary of State for the purposes of this paragraph.