



Health and Social Care Act 2008

2008 CHAPTER 14

PART 1

THE CARE QUALITY COMMISSION

CHAPTER 6

MISCELLANEOUS AND GENERAL

Information

77 Defence

- (1) It is a defence for a person charged with an offence under section 76 to prove that at the time of the alleged offence—
 - (a) any of the circumstances in subsection (2) applied in relation to the disclosure, or
 - (b) the person reasonably believed that any of them so applied.
- (2) The circumstances are—
 - (a) that the disclosure was made in a form in which the individual to whom the information relates is not identified;
 - (b) that the disclosure was made with the consent of that individual;
 - (c) that the information disclosed had previously been lawfully disclosed to the public;
 - (d) that the disclosure was made under or pursuant to regulations under section 113 or 114 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) (complaints about health care or social services);
 - (e) that the disclosure was made in accordance with any enactment or court order;
 - (f) that the disclosure was necessary or expedient for the purposes of protecting the welfare of any individual;

Status: This is the original version (as it was originally enacted).

- (g) that the disclosure was made to any person or body in circumstances where it was necessary or expedient for the person or body to have the information for the purpose of exercising functions of that person or body under any enactment.
- (3) It is also a defence for a person charged with an offence under section 76 to prove that the disclosure was made—
- (a) for the purpose of facilitating the exercise of any of the Commission’s functions,
 - (b) in connection with the investigation of a criminal offence (whether or not in the United Kingdom), or
 - (c) for the purpose of criminal proceedings (whether or not in the United Kingdom).
- (4) If a person charged with an offence under section 76 relies on a defence in subsection (1) or (3), and evidence is adduced which is sufficient to raise an issue with respect to that defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.
- (5) For the purposes of subsection (2)(a), information disclosed by a person is to be treated as being in a form in which an individual is identified if the individual can be identified from a combination of—
- (a) the information, and
 - (b) other information disclosed by the person or by the Commission.