



2001 CHAPTER 17

Obtaining and sharing information

Electronic access to information

2.—(1) After section 103B of the Administration Act there shall be inserted—

“103BA Power of Department to require electronic access to information

- (1) Subject to subsection (2) below, where it appears to the Department—
- (a) that a person falling within section 103B(2A) above keeps any electronic records,
 - (b) that the records contain or are likely, from time to time, to contain information about any matter that is relevant for any one or more of the purposes mentioned in section 103A(2) above, and
 - (c) that facilities exist under which electronic access to those records is being provided, or is capable of being provided, by that person to other persons,

the Department may require that person to enter into arrangements under which authorised officers are allowed such access to those records.

- (2) An authorised officer—
- (a) shall be entitled to obtain information in accordance with arrangements entered into under subsection (1) above only if his authorisation states that his authorisation applies for the purposes of that subsection; and
 - (b) shall not seek to obtain any information in accordance with any such arrangements other than information which relates to a particular

person and could be the subject of a requirement under section 103B above.

(3) The matters that may be included in the arrangements that a person is required to enter into under subsection (1) above may include—

- (a) requirements as to the electronic access to records that is to be made available to authorised officers;
- (b) requirements as to the keeping of records of the use that is made of the arrangements;
- (c) requirements restricting the disclosure of information about the use that is made of the arrangements; and
- (d) such other incidental requirements as the Department considers appropriate in connection with allowing access to records to authorised officers.

(4) An authorised officer who is allowed access in accordance with any arrangements entered into under subsection (1) above shall be entitled to make copies of, and to take extracts from, any records containing information which he is entitled to require under section 103B above.”

(2) After section 104A of that Act there shall be inserted—

“104AA Power of Housing Executive to require electronic access to information

(1) Subject to subsection (2) below, where it appears to the Housing Executive—

- (a) that a person falling within section 103B(2A) above keeps any electronic records,
- (b) that the records contain or are likely, from time to time, to contain information about any matter that is relevant for any one or more of the purposes mentioned in section 104A(2) above, and
- (c) that facilities exist under which electronic access to those records is being provided, or is capable of being provided, by that person to other persons,

the Housing Executive may require that person to enter into arrangements under which authorised officers are allowed such access to those records.

(2) An authorised officer—

- (a) shall be entitled to obtain information in accordance with arrangements entered into under subsection (1) above only if his authorisation states that his authorisation applies for the purposes of that subsection; and

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- (b) shall not seek to obtain any information in accordance with any such arrangements other than information which—
 - (i) relates to a particular person; and
 - (ii) could be the subject of any such requirement under section 103B above as may be imposed in exercise of the powers conferred by section 104A(7) above.

(3) The matters that may be included in the arrangements that a person is required to enter into under subsection (1) above may include—

- (a) requirements as to the electronic access to records that is to be made available to authorised officers;
- (b) requirements as to the keeping of records of the use that is made of the arrangements;
- (c) requirements restricting the disclosure of information about the use that is made of the arrangements; and
- (d) such other incidental requirements as the Housing Executive considers appropriate in connection with allowing access to records to authorised officers.

(4) An authorised officer who is allowed access in accordance with any arrangements entered into under subsection (1) above shall be entitled to make copies of, and to take extracts from, any records containing information which he is entitled to make the subject of a requirement such as is mentioned in subsection (2)(b) above.

(5) The Housing Executive shall not—

- (a) require any person to enter into arrangements for allowing authorised officers to have electronic access to any records; or
- (b) otherwise than in pursuance of a requirement under this section, enter into any arrangements with a person specified in section 103B(2A) above for allowing anyone acting on behalf of the Housing Executive for purposes connected with any benefit to have electronic access to any private information contained in any records,

except with the consent of the Department and subject to any conditions imposed by the Department by the provisions of the consent.

(6) A consent for the purposes of subsection (5) above may be given in relation to a particular case, or in relation to any case that falls within a particular description of cases.

(7) In this section “private information”, in relation to the Housing Executive, means any information held by a person who is not entitled to disclose it to the Housing Executive except in compliance with a requirement imposed by the Housing Executive in exercise of its statutory powers.”.

(3) In section 105 of that Act (offences)—

- (a) in subsection (1)(a), for “or” at the end there shall be substituted—
 - “(ab) refuses or neglects to comply with any requirement under section 103BA or 104AA above or with the requirements of any arrangements entered into in accordance with subsection (1) of that section, or”; and
- (b) in subsection (2), for “subsection (1)(b)” there shall be substituted “subsection (1)(ab) or (b)”.