

HEALTH ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 Chapter 3

Protection of Nhs from Fraud and Other Unlawful Activities

Section 51: Protection of personal information disclosed for purposes of proceedings

253. **Section 51** provides special protection in relation to proceedings for information obtained from personal records (as defined in the Police and Criminal Evidence Act 1984) in compliance with a notice served under section 46 where either
- the identity of an individual can be ascertained from that information alone; or
 - the discloser has reasonable cause to believe that any person who may receive the information, either directly or indirectly, will be able to identify an individual by using that information and other information obtained by the appropriate national authority through the use of powers under this Chapter and disclosed by or on behalf of that national authority.

This information is referred to as ‘protected information’

254. If a person discloses protected information for the purposes of any civil, criminal or relevant disciplinary proceedings they must take all reasonable steps to ensure that information is not further disclosed to any person who does not need to have that information for the purposes of the proceedings.
255. **Subsection (4)** requires the appropriate national authority to make provision through the code of practice under section 49 or otherwise to require the disclosing officer to ensure that the information is clearly identified as protected information, either by using a distinguishing mark or in some other way.
256. **Subsection (5)** provides that protected information must not be disclosed during proceedings unless the proceedings are held in private or the court or tribunal, having considered an application under **subsection (6)**, grant permission.
257. **Subsections (6) to (9)** set out the procedure to be followed by a court or tribunal on an application by a party for protected information to be disclosed. If the court or tribunal considers it necessary in the interests of justice, then it can give permission for the information to be adduced as evidence with any conditions it thinks necessary, and it must consider whether the whole or part of the proceedings should be held in private.