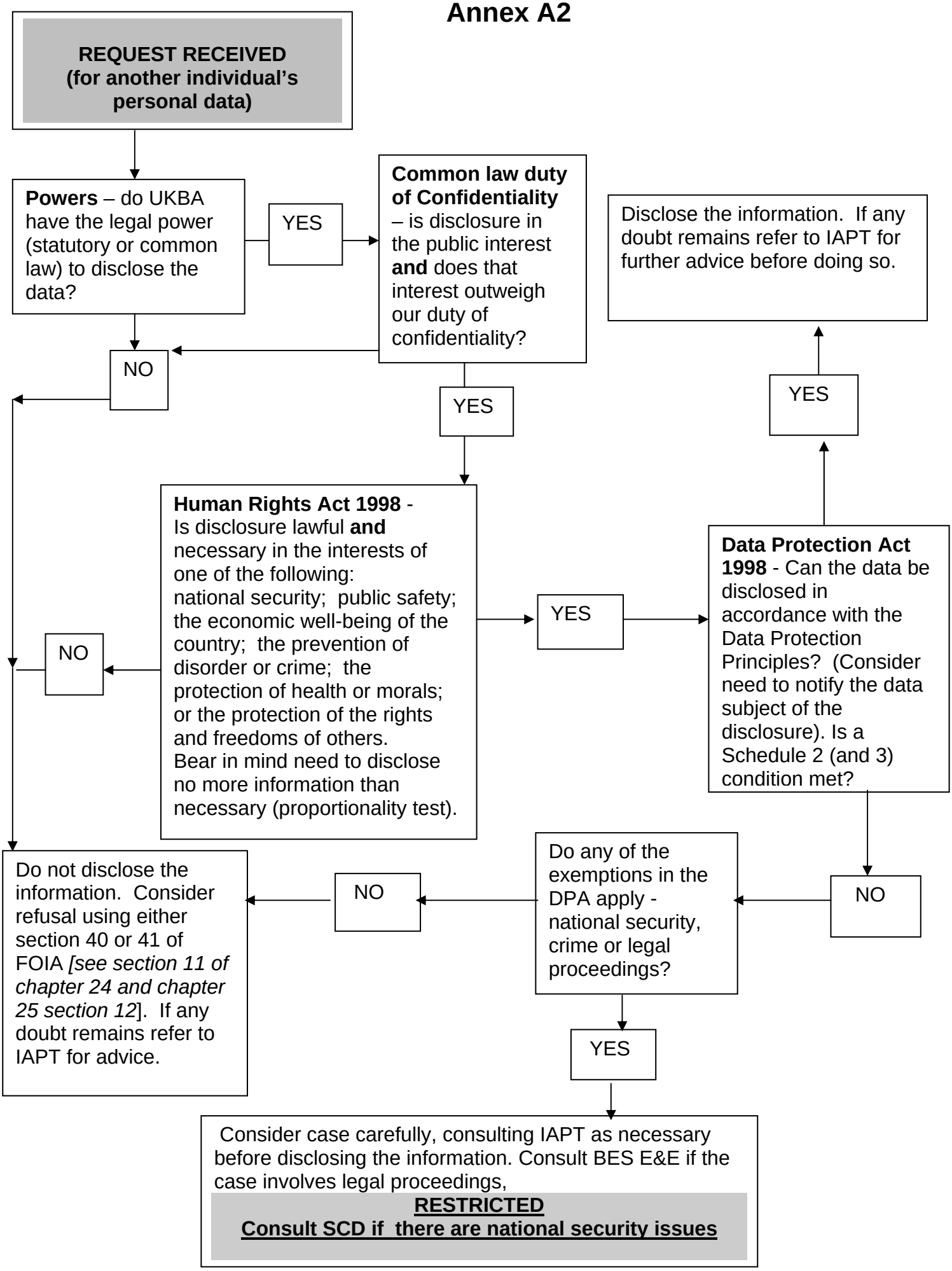
Annex A2


REQUEST RECEIVED
(for another individual's personal data)
Powers – do UKBA have the legal power (statutory or common law) to disclose the data?
YES
Common law duty of Confidentiality – is disclosure in the public interest and does that interest outweigh our duty of confidentiality?
Disclose the information. If any doubt remains refer to IAPT for further advice before doing so.
NO
YES
YES
Human Rights Act 1998 - Is disclosure lawful and necessary in the interests of one of the following: national security; public safety; the economic well-being of the country; the prevention of disorder or crime; the protection of health or morals; or the protection of the rights and freedoms of others. Bear in mind need to disclose no more information than necessary (proportionality test).
YES
Data Protection Act 1998 - Can the data be disclosed in accordance with the Data Protection Principles? (Consider need to notify the data subject of the disclosure). Is a Schedule 2 (and 3) condition met?
NO
Do any of the exemptions in the DPA apply - national security, crime or legal proceedings?
NO
NO
Do not disclose the information. Consider refusal using either section 40 or 41 of FOIA [see section 11 of chapter 24 and chapter 25 section 12]. If any doubt remains refer to IAPT for advice.
YES
Consider case carefully, consulting IAPT as necessary before disclosing the information. Consult BES E&E if the case involves legal proceedings,
RESTRICTED
Consult SCD if there are national security issues