


Professional Issues


Freedom of Information
(Bott, Ch 14)

The Freedom of Information Act 2000

- The FOI act 2000 gives individuals the right to access information about certain public bodies by two routes:
 - Publication Scheme
 - General Right of Access
- Any member of the public can apply for access to information held by a public body
- The act has enforcement mechanisms if the body fails to release the information
- Main features:
 - General right of access by any member of the public.
 - There are exemptions but disclosure can be forced on grounds of public interest
 - New office of the Information commissioner with an Information Tribunal with powers to enforce rights of access
 - Public bodies must have a publication scheme that makes release of information routine.


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FOI: Public Rights

- To know whether relevant information exists: the duty to confirm or deny
- To have the information released (and, where possible, in the manner requested)
- To be provided with reasons for a decision to withhold information
- All requests must be in "permanent form"
- Reply must be sent within 20 working days


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FOI: Publication Scheme

- Guide to the information a public body is making available without the need for an FOI request
 - This is relatively inexpensive and is a way of avoiding many FOI requests.
 - Guide to types of information available NOT a list of all of it!
- Scheme has to be approved by Information Commissioner
- Model schemes available on Information Commissioner's web site
- Scotland has its own Information Commissioner:
 - Scottish guidance: <http://www.itspublicknowledge.info/PublicationSchemeGuidance/>
 - Edinburgh University Publication Scheme: <http://www.pubs.recordsmanagement.ed.ac.uk/index.cfm>


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FOI: Exemptions

- Many exemptions, some absolute, some qualified e.g.
 - Commercial Interest
 - Communicating with the Queen
 - Law enforcement
 - Legal Professional Privilege
 - Parliamentary Privilege
- Need to Apply Tests before using Qualified Exemptions
 - Prejudice & Adverse Affect
 - Public Interest (not same as of Interest to the Public)
- FOI does not override DPA but DPA is not an excuse not to comply with FOI requests
 - Data protection will often take priority
 - FOI requests may be partially fulfilled avoiding release if personal data
 - Public interest may allow release of personal data

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FOI: Vexatious or Repeated Requests

- Vexatious means:
 - clearly does not have any serious purpose or value
 - is designed to cause disruption or annoyance
 - has the effect of harassing the public authority
 - can otherwise fairly be characterised as obsessive or manifestly unreasonable.
- Repeated means:
 - More often than a "reasonable interval"
 - Requests asking if previously requested information has changed are OK
 - Reply can say when info is next to be updated and a request before then would be "repeated"

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FOI: Key points to note



- Requests can be received by anyone within the organisation and do not need to refer to the Freedom of Information Act
- Requests must be in writing (including e-mail, fax etc)
- Requests must be dealt within 20 working days
- No obligation to provide information which is already in the public domain/accessible by other means (e.g. via the publication scheme or in a book the organisation may hold)
- No obligation to create information that the Organisation does not already hold (e.g. statistical summaries)
- Organisation may charge a fee for the provision of information.
 - Charges must be calculated in accordance with the fees regulations prescribed by the Department for Constitutional Affairs. Currently £50 maximum.

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Exercise



- Read the paper on MP's allowances and FOI requests
- Find a partner
- Briefly discuss your opinion on the section discussing the release of MP's addresses.
- Agree between yourselves who will construct an argument for the release of the addresses and who against the release
- Individually, spend about 5 minutes constructing either the argument for or against release of addresses.
- Discuss again with your partner and see who you think has the stronger argument.

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