

Freedom of Information What does it mean for us?

Introductory Training Session from
the Information Commissioner

Date

Freedom of Information Act 2000

- Passed November 2000
- Comes into force in stages
- Fully in force from January 2005
- Covers entire public sector
- Promotes greater openness and accountability

The Act – In summary:

- Applies to public authorities
- Establishes statutory right to information
- Sets out exemptions from that right
- Provides for the release of exempt information in the public interest

The Act – In summary (contd):

- Requires public authorities to produce publication schemes
- Requires 2 statutory Codes of Practice
- Establishes Information Commissioner
- Amends Data Protection Act 1998

The reality of FOI:

- Covers all information 'held', regardless of form in which recorded
- Fully retrospective
- Anyone can apply for information
- All written requests for information to be dealt with in 20 working days*
- There is **no** exemption for embarrassment
- There are implications for the private sector

Our duties as a public authority:

- Adopt Publication Scheme
- Deal with requests for information

The timetable

Publication Schemes

November 2002	Central Government
February 2003	Local Government
June 2003	Police
October 2003	NHS
February 2004	Education, publicly-owned companies
June 2004	Remaining public authorities

The right to request information:

1 January 2005

What is a publication scheme?

- A commitment to publish certain information
- Document setting out:
 - ‘classes’ of information
 - manner of publication
 - whether a fee applies
- must have regard to public interest
- ongoing process
- provision for ‘model’ schemes

Why have a publication scheme?

- It promotes greater openness - with benefits for us, as well as the public
- Developing a scheme helps us prepare for requests
- The law says so

Publication schemes: What do we need to know?

- That the scheme exists
- Why it is necessary
- What it covers
- Who the scheme coordinator is
- How to advise and assist the public
- That our feedback is valuable for development

New rights for the public:

- To be informed in writing whether information held (“duty to confirm or deny”), and
- If so, to have information communicated

subject to ...

Right to information, subject to:

- Fees (Regulations)
- Cost ceilings
- Vexatious or repeated requests
- Further information provided
- The exemptions

Requests for information

- Must be in writing
- Must include name and address of applicant
- Must describe information requested

Applicants **do not** need to refer to the Act or state they are making a request for information.

The exemptions

- Absolute exemptions
 - No right of access under FOI
 - There may be a another means of getting access to information
- Qualified exemptions
 - Even if the exemption applies, authorities must disclose if it is in the public interest to do so

The public interest test

- Is the exemption a qualified one?
- If so, you must still disclose the information unless the public interest in maintaining the exemption outweighs the public interest in disclosure

What is the public interest?

- The concept of the public interest is deliberately flexible
- May include:
 - Promoting public debate of issues of the day;
 - Promoting accountability in decision making and public expenditure
 - Allowing individuals to understand decisions and, in some cases, assisting individuals in challenging those decisions;
 - Bringing to light information affecting public safety

What about personal information?

- Requesting information about yourself
- Requesting information about others

Dealing with requests: What do we need to know?

- How to recognise a request for information
- That we have a duty to provide advice and assistance (see 'Access Code')
- That our authority has 20 working days to respond (extended where required to consider public interest)

contd ...

What do we need to know?

...contd

- That information must be provided in the form requested, where 'reasonably practicable'
- What our procedure is, for dealing with requests and who is responsible for this.
- That it is a criminal offence to alter, deface, block, erase, destroy or conceal information to prevent disclosure

What about the Environmental Regulations?

- What do the Regs cover?
- How do they fit with FOI?
- Similarities
- Differences

Who will be using FOI and the Regs?

- The public
- The media
- Pressure groups

Anyone worldwide

What if they are not happy with our response?

- Internal complaints procedure
- Information Commissioner:
 - promotes compliance
 - enforces the law
 - informs the public
- Information Tribunal

Records management: Questions to ask

- What information do we hold?
- Can we access information easily?
- Do we record information legibly?
- What does the 'Records Management Code' require?
- What does our policy on records management say?

Remember!

- Third parties may have a right to access the information we record
- It is a criminal offence to tamper with existing records that have been requested for disclosure
- There is no exemption for embarrassment
- **Create records with an eye to other people seeing them**

The key to FOI

- Commitment to openness from the top
- Good record keeping
- Effective communication within the authority

Guidance and further information:

www.informationcommissioner.gov.uk