

Freedom of Information

What is Public Information?

Public information is information in relation to bodies that exercise functions of a public nature. Public information may relate to an authority's: current and previous professional information about its department heads; current and previous policy information and the decision-making process for those policies (including any meeting minutes, etc); information relating to how it apportions its finances (including detailed reasoning for why it selected a specific private sector company to conduct a specific task on its behalf), etc.

The Act

The Freedom of Information Act 2000 (FOIA) mandates that any individual from anywhere in the world making a request for specific information to a public authority, publicly-owned company, or a designated body performing public functions (academy schools, Association of Chief Police Officers, Financial Ombudsman Service, and Universities and Colleges Admissions Service (UCAS)) (for ease of reading this entire group shall be referred to throughout this text en mass as 'public authority'), is entitled to know if that information is held, and if so is entitled to have that information communicated to them or to be provided with an explanation

informing them of why the information cannot be released.



Before the Act was introduced there had been no right of access to the government by the public.

The Act requires all public authorities to have a publication scheme, approved by the ICO. The publication scheme sets out the commitment to make certain classes of information routinely available, such as policies and procedures, minutes of meetings, annual reports and financial information. The information you release in accordance with the publication scheme represents the minimum you must disclose. If a member of the public wants information not listed in the scheme, they can still ask for it. A public authority's publication scheme should also be readily available.

The Public Interest Test

The ICO provides guidelines to public authorities to assist them with the decision to disclose, or not to disclose information. Public authorities carry out what is known as 'The public interest test'; the theory being that what interests the

public - the latest big story to hit the news, may not always be in the 'public interest' – disclosure of a specific public authority's information on the topic may have wider negative implications if released to the public.

In the Act, the Information Commissioner lists a number of public interest factors that would encourage the disclosure of information. A summary of which is as follows:

- Furthering the understanding of and participation in the public debate of issues of the day.
- Promoting accountability and transparency by public authorities for decisions taken by them.
- Promoting accountability and transparency in the spending of public money.
- Allowing individuals and companies to understand decisions made by public authorities affecting their lives.
- Bringing to light information affecting public health and public safety.

Finding the Information

To enable the information to be provided within the timeframes outlined in the Act the organisation needs to be able to find the information. If the information is not filed appropriately, providing the information could tie up resources that could be better-utilised on profit-making tasks.



Once a request is received the clock starts ticking and this is where the requirement to be able to handle, manage, archive, store and retrieve the organisation's information in an effective way is so imperative. If the information is not held this must be advised to the applicant within 20 working days of the request, without an effective way of finding the data this is a hard target to achieve. For schools, the standard time limit is 20 school days, or 60 working days if this is shorter.

An individual not content with the response (or lack of response) to their request will in the first instance make a complaint direct to the public authority. Their second line of approach, if still not satisfied with the response, will be to the ICO. When a complaint is made against a public authority, the ICO investigates the facts and may then issue a Decision Notice. Decision Notices are published on the internet for anybody to see. The Decision Notice is the Commissioner's view on whether or not the public authority has complied with the Act and can include legally binding steps for the public authority to follow. Unlike the Data Protection Act 1998 (DPA), the ICO cannot fine a public authority for failing to comply with the Act, nor can it require you to

pay compensation to anyone for breaches of the Act. However, failure to comply with a Decision Notice is contempt of court, punishable by a fine.

The ICO encourages organisations not covered by the Act to consider the option of voluntary application of the Act. To avoid confusion when requests are made, the ICO respectfully asks that organisations make it clear to the applicant that their adherence to the Act is voluntary.

Personal Information

FOIA is separate from the Data Protection Act 1998 (DPA), in that any requests for Personal Data apply through a Subject Access Request under the DPA. Unless specific circumstances apply, Personal information can only be released to the named individual to whom the information entails. Please refer to our Data Protection and Privacy Flyer for further detail about the DPA and how Regency IT Consulting can assist you.

Regency IT Consulting

Regency IT Consulting have the experience and expertise to provide an organisation with a tailored Freedom of Information Strategy. We are able to advise on systems design and implementation; ensuring that data is managed, secured and archived to enable easy retrieval of relevant information when FOIA requests are received. We can also provide detailed and tailored compliance auditing of implemented systems. Regency Consultants are able to deliver the full spectrum of specialist IA support to businesses within both the public and private sector, throughout the UK and elsewhere.