

FREEDOM OF INFORMATION

The Freedom of Information Acts 1997 and 2003 enable members of the public 'to obtain access to official information to the greatest extent possible consistent with the public interest and the right to privacy'.

THE ACT ESTABLISHES THREE STATUTORY RIGHTS:

- a legal right for each person to **access** information/a record held by public bodies;
- a legal right for each person to have official **information** relating to him/herself **amended** where it is incomplete, incorrect or misleading;
- a legal right to **obtain reasons** for decisions affecting oneself;

In addition, the Act provides for the establishment of an independent Office of Information Commissioner to review decisions relating to FOI made by public bodies.

Under the Act a record includes any memorandum, text or other document, any photograph, film or recording, or any form in which data are held (whether manual, mechanical or electronic), and anything that is a part, or a copy, or a combination of the foregoing.

The following manual and electronic records may be sought from bodies within the scope of the Act:

- all records created from commencement date (21st April 1998)
- all personal records irrespective of when created
- any other records necessary to the understanding of a current record
- all personnel records of staff in public bodies created less than three years before commencement. Earlier records may be accessed if they are liable to be used in a way that might adversely affect the interests of the member of staff involved.

INFORMATION THAT DOES NOT COME WITHIN THE SCOPE OF THE ACT:

Information that is:

- already publicly available
- available under another enactment (except the Data Protection Act: requests for personal data may be made under either Act).
- excluded under section 46 of this Act (legal and other restrictions).

HOW IS AN FOI REQUEST MADE?

A person who wishes to exercise the right of access under the Act shall make a request, in writing, to the head of the public body concerned for access to the record concerned. The requester must:

- state that the request is made under the FOI Act
- set out sufficient particulars to enable the record to be identified
- specify the preferred form of access, if he or she has such a preference (e.g. photocopy or computer disc)

Can an FOI request be refused?

Requests to access records may be refused for any of three reasons

1. the record is exempt under Part III (Exemptions) of the Act

2. the record is excluded under Section 46

3. refusal for the following administrative reasons (Section 10):

- i. the record does not exist or cannot be found
- ii. the request does not include sufficient details to identify the record sought
- iii. the request is of a voluminous nature
- iv. the information requested is likely to be published within 12 weeks
- v. the request is frivolous or vexatious
- vi. a fee or deposit for a previous or current request has not been paid

The public body must consult with the requester to ascertain more clearly what information is being sought, before refusing a request on the grounds that it does not contain sufficient particulars or is a voluminous request (Section 10(2) refers).

FEES

Fees may be charged as follows:

- in respect of personal records, fees to cover the cost of copying the records requested will not apply, except where a large number of records are involved
- in respect of other (non-personal) information, fees may be charged in respect of the time spent in efficiently locating and copying records. No charges may apply in respect of the time spent in considering requests.