

Freedom of Information

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Headlines

- PSNI's attempt to reduce fine resulting from FOI release fails, p.18
- Scottish government re-releases legal advice on court battle with SIC, p.19
- ICO updates guidance on datasets, p.20

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Do better with resources, Commissioner tells Ministry of Defense

The Ministry of Defence ('MOD') has been issued with a [Practice Recommendation](#) ('PR') by the Information Commissioner's Office over its consistently poor level of performance in handling Freedom of Information requests and internal reviews within the required timescales.

The PR follows an Enforcement Notice ('EN') that the ICO issued in June 2023. It has been given because the Commissioner reached the view that the MOD's request handling practices still do not conform to Parts 4 and 5 of the sec-

tion 45 Freedom of Information Code of Practice (the sections that deal with timeliness in responses and internal reviews). The PR tracks the MOD's progress in these areas as against the previous EN.

The PR records improvements including weekly monitoring of overdue requests and engagement with the FOI focal point responsible for the request; engagement with subject matter experts alongside FOI focal points to ensure quality and timely input is provided to cases; and increased communications across

the organisation to raise awareness of FOI.

The PR notes that the Commissioner "does not have concerns" about a lack of understanding or engagement from the MOD's central team responsible for FOI management. In his view, what appears to be preventing the MOD from improving and maintaining its performance in respect of the age profile of overdue requests is a lack of resource.

On why he decided to issue a PR instead of a

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Water company repeatedly fails to correctly classify requests

Water company, United Utilities, has repeatedly failed to classify information as environmental according to Regulation 2 of the Environmental Information Regulations 2004 ('EIRs'), leading the Commissioner to issue a [Practice Recommendation](#) ('PR').

The Commissioner received numerous complaints from individuals about United Utilities erroneously refusing to deal

with their request for information on the basis that the information being requested wasn't environmental.

The distinction is critical as United Utilities, as a water and waste water service provider, has an obligation to comply with requests for environmental information, under the EIRs, but not non-environmental information under FOIA.

If the requested information isn't environmental, the Commissioner doesn't have any power to investigate how the request has been handled, or compel United Utilities to take any steps.

The Commissioner reached the view that, in repeatedly failing to categorise information as environmental, either during

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