Two applicants seeking information that would contribute to the Brexit debate have elected not to use the Freedom of Information Act to obtain the information because FOIA is ‘too slow’.

The applicants are applying to the High Court for permission to judicially review the decision of Brexit Secretary David Davis and Chancellor Phillip Hammond not to disclose a series of studies on the economic impact of Brexit.

Molly Scott Cato, a Green Member of the European Parliament, and the Good Law Project are supported by the campaign group, Campaign for Freedom of Information, which has produced a research-backed witness statement in support of the judicial review proceedings. The statement details exactly how FOI operates too slowly to inform the public debate before the Brexit deadline. The UK is due to leave the EU at the end of March 2019.

The applicants’ chosen route to the information is Article 10 of the European Convention of Human Rights. In a 2014 decision, the Supreme Court highlighted the fact that public authorities have a common law power to release information which does not depend on FOIA and can be enforced by judicial review (Kennedy v Charity Commission [2014] UKSC 20).

The CFOI’s witness statement documents the delays that frequently affect FOI requests. It points to a request which the Campaign made to the Ministry of Justice as an example. The MOJ (Continued on page 17)