

Freedom of Information

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- FOI no longer fragile flower, p.15
- Kent County Council tells all about Ten Alps, p.15
- Register of employers released, p.15

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ICO orders public body to improve handling of requests

The Information Commissioner's Office ('ICO') has issued a formal Practice Direction ordering the Department of Communities and Local Government ('CLG') to improve its handling of requests made under the Freedom of Information Act 2000 ('FOIA').

The Practice Direction was issued following an audit of a number of section 50 ('application for decision by Commissioner') complaints concerning the CLG.

The Information Commissioner Richard Thomas has advised the CLG to

"ensure appropriate expertise and resources are in place to comply with the Act and conform to the associated Codes of Practice." The Commissioner considered that, prior to the drafting of the Practice Direction, the CLG had "failed to demonstrate an appropriate level of commitment to improvement and failed to offer acceptable explanations for performance issues."

One of the issues at the CLG is the backlog of requests for internal reviews. The Code of Practice entitled 'Discharge of Public Authorities Functions under Part 1 of the FOIA' states that such requests should usually be answered within 20 days. The Practice Direction stipulates that the CLG should "contact requesters with longstanding complaints to ascertain whether or not they still wish the Department to conduct an internal review."

Other action recommended by the ICO includes a revisit of the foreword to the section 45 Code of Practice. That Code states that "larger

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Shop them, Tribunal tells FSA

The Information Tribunal has agreed with an earlier finding of the Information Commissioner that the Financial Services Authority ('FSA') was not entitled to withhold the names of the 20 firms that were found to be providing inadequate advice on equity release during 2005.

The FSA's case was that it was entitled to withhold disclosure of the names and identities of certain firms who had been the subject of a mystery shopping exercise, pursuant to the provisions of section 44 ('other legal prohibitions') of the Freedom of Information Act 2000 ('FOIA'). The latter referred to section 348 of the Financial Services and Markets Act 2000 ('FSMA') which states that information that it had received from firms would be "deemed confidential."

It was as a result of the mystery shopping exercise that it was later made public that, on 70% of occasions, the firms that were observed were giving 'poor quality advice' to clients. 20 firms in total were identified through 42 separate mystery shops.

The Information Tribunal found in favour of the Information Commissioner's original determination that the names of the firms did not fall within the ambit of section 348 FSMA (and therefore 44 FOIA) because the names of firms were not catego-

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