



Freedom of Information

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Headlines:

- School fails on four counts over questionnaire, p17
- BBC wins eight out of eight cases in November, p.17
- Top most complained about companies protected from disclosure, p.18

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Department to appeal decision over abortions data

The Department of Health (DoH) has decided to appeal the Information Tribunal's unanimous decision that the government should publish data about the late abortions of disabled fetuses.

Back in July 2008, the Information Commissioner had ordered the DoH to release the figures requested by the Pro-Life Alliance. The DoH contested the disclosure on the basis that the information was "sensitive, personal and private," and therefore fell within the section 40 (personal data)

exemption in the Freedom of Information Act.

Recently in October, the Information Tribunal decided that the likelihood of a doctor being identified from the statistics was "remote" and a patient being identified as "very unlikely".

Though the decision was unanimous, the Tribunal did indicate that the decision turned on the specific facts of the case. The judgment states "we would not wish this decision to be considered a general bar to withholding statistical information from public

disclosure on grounds of protection of personal data. There may be cases where data subjects may be identified or reasonably identifiable from statistics, where different factors and circumstances may determine whether disclosure is unfair or unwarranted.

"Where statistics can be added to other information held by a public authority to identify an individual, consideration must in each case be given to the Data Protection Principles as required by Section 40(3) FOIA".

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Oldest ever FOI case decided

The Information Commissioner has issued a decision in the oldest outstanding freedom of information case to date.

The case, which took four years and five months to determine, involved a request to the Scotland Office for material relating to the Sewel Convention, the convention that Westminster does not normally legislate on matters devolved to Scotland without the consent of the Scottish Parliament.

Initially, the Scotland Office turned down the request in its entirety, before releasing some documents during the Commissioner's investigation. Now, a recent Decision Notice has decided that the government was right "for the most part" to keep the rest secret.

The Decision Notice follows the recent disposal of another case over four years old involving the Hawk 128 advanced jet trainer

aircraft, in which the Commissioner decided in favour of the partial release of further material. The Commissioner is also dealing with several other complaints that date back to 2005.

Christopher Graham recently commented on delays in his office, saying to a BBC programme "we're not as efficient as we should be". He described freedom of information as a cumbersome process

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