

# Freedom of Information

Volume 16, Issue 4

March / April 2020

## Headlines

- Scotland is first country in the world to delay FOI access because of coronavirus, p.17
- Access to information is ‘a collateral victim’ of pandemic, p.18
- Secrecy row over details of suspected coronavirus cases in care homes, p.20

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## First-Tier Tribunal suspends all information rights cases for 28 days

The First-Tier Tribunal has ordered a general stay of all FOI and EIRs proceedings appealing decisions of the Information Commissioner.

The stay, granted on 1st April, will last 28 days (and all deadlines will be extended accordingly) before being reviewed. According to an analysis of public listings, 62 cases may be affected.

The order followed a request from the Information Commissioner’s Office to temporarily stop appeals against its decisions.

The ICO’s request seems to have been motivated by a problem in creating ‘bundles’. Bundles are the master pile of documents used in a court or tribunal case that lawyers from both sides can refer the judge to. A bundle consists of several lever-arch files containing hundreds of pages of documents, paginated and set up with numbered and lettered dividers.

Many courts and Tribunals have begun accepting electronic bundles, where everything is done with PDF documents instead of sheets of paper. The ICO’S letter to the

Tribunal reveals that: “Given the COVID-19 pandemic, the Tribunal made enquiries about the Information Commissioner’s ability to create and provide electronic bundles for the Tribunal’s use. The Commissioner is exploring this option but at present, the Information Commissioner’s office is not equipped to prepare and disseminate electronic bundles. Further, with the Commissioner’s office’s closure, it is not presently possible to provide paper bundles therefore at present we are unable to progress

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## ‘PAs should not use pandemic to justify treating the right to know as disposable’

FOI experts and campaigners are warning against public authorities treating the right to know as ‘a disposable extra’ during this time, saying that such an approach may lose public trust when they most need it.

The coronavirus pandemic has prompted calls for FOIA to be relaxed and led some public authorities to announce that they will stop answering FOI requests.

However, FOI time limits

have not been formally extended in the UK — the emergency Coronavirus Act 2020, which became law on 25th March, did not amend FOI or subject access time limits.

The Information Commissioner’s Office has said, though, that it will not penalise public authorities for failing to meet deadlines during the crisis.

On 16th March 2020, the ICO said: “we understand that resources, whether they are finances or peo-

ple, may be diverted away from usual compliance or information rights work.

“Whilst we can’t extend statutory timescales, we will not be penalising public authorities for prioritising other areas or adapting their usual approach during this extraordinary period.”

Commenting on the meaning of the ICO’s ‘no penalisation’ announce-

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