

Freedom of Information

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Headlines

- Bodies call on governments to restore FOI on Access to Information day, p.17
- Warning that post Brexit secrecy could limit information rights, p18
- Access to government information hits record lows, figures show, p19

Contents

<i>Expert comment</i>	2
<i>FOIA: the terminus of Information Rights?</i>	4
<i>Recent decisions of the Information Commissioner and Tribunals</i>	9
<i>FOI news</i>	16

ICO reverses position on identifying underperforming authorities

The Information Commissioner’s Office is being criticised for its apparent change of stance on revealing the identities of those public authorities that it has targeted because of their poor compliance with FOI time limits.

The approach was revealed in the ICO’s response to a June 2020 FOI request, asking it for the names of authorities monitored over the previous five years.

The ICO replied that the names of those monitored until 2017 were publicly available, but

that it was not prepared to name the authorities it had worked with under its ‘insight and compliance’ approach (which the ICO introduced in 2018).

Revealing these, it said, could prejudice its ability to ‘constructively engage’ with the authorities and ‘jeopardise the ICO’s ability to obtain information’ from them.

The statements may represent a U-turn. Delays by some authorities in replying to FOI requests has been a serious problem facing requesters and in 2010, the ICO began monitoring authorities

that repeatedly failed to meet FOI time limits. It press-released their names and continued monitoring them until their performance improved. Monitoring gradually declined, ceasing altogether in 2017.

In 2018, the ICO introduced a new insight and compliance approach by which authorities were asked to submit their statistics on meeting FOI (and subject access) time limits.

Any not answering at least 90% of requests on

[\(Continued on page 16\)](#)

Regulatory policy newly updated

The Information Commissioner’s Office has issued an update to its regulatory approach with new guidance for FOI practitioners.

The updated policy states that:

“Where public authorities have complaint backlogs, we expect organisations to establish recovery plans focused on bringing the organisation back within compliance with the Freedom of Information Act within a reasonable timeframe. Where these

backlogs pre-date the public health emergency, we may also unpause formal monitoring and regulatory action that was in train before the crisis.”

In terms of FOI guidance, the updated policy contains no other substantive modifications from the previous version.

Many authorities face significant FOI backlogs due to the pandemic. For example, *The Star* reported that at Sheffield Council, as at 1st September,

there were 309 open requests — more than double since the start of March before the pandemic hit, when the figure was 132.

As a result, between 1st March and 1st September, only 43% of the 640 FOI requests received were responded to within 20 working days and 220 have still not been responded to. This is a significant drop compared to 2018 and 2019

[\(Continued on page 16\)](#)