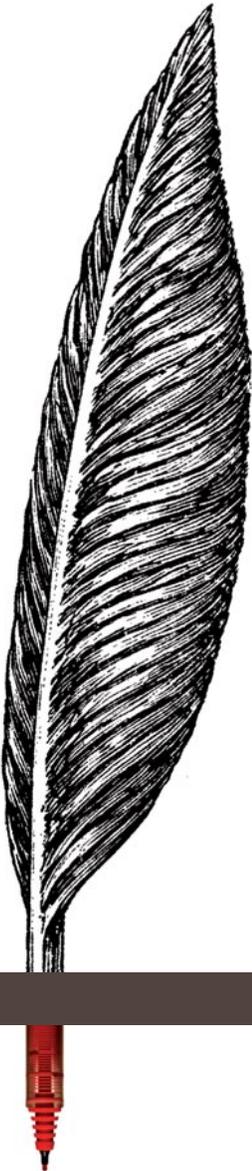


Winckworth
Sherwood



The Freedom of Information Act

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Information law has assumed a prominent place in the modern legal landscape. The Freedom of Information Act ("FOIA") in particular has established a new culture of transparency and openness in public authorities. Whilst public authorities have been forced to address their information management procedures in order to comply with the requirements under the FOIA, the shift in culture in the public authority arena means that both the public and private sector are entitled to benefit from the introduction of a "right to know". Since information law is regarded as a rapidly and constantly developing area of law, our commercial team understands the importance of ensuring that you are kept informed of any updates or developments in this area and specifically how any changes will affect your operation.

What we do

Since its inception in 2005 we have frequently been asked to draft data handling policies for public authorities, tailoring them to the specific needs of the client. We focus on trying to ensure that members of staff responsible for handling requests for information clearly understand their obligations under the FOIA. We also look at the client's internal reporting mechanisms in order to safeguard against mishandling requests for information. In order to facilitate the implementation of data handling policies, we offer in-house training to clients so that staff who handle requests for information are well versed and confident when dealing with any such requests. We find that this reassures both members of staff and the organisation itself, since handling requests for information can be time consuming, complex and at times, daunting.

The FOIA also impacts on public authorities' commercial arrangements. Public authorities need to be FOIA compliant at all times. Generally speaking, confidentiality arrangements arising in the course of commercial dealings should not prevent the public authority from complying with, or be utilised to avoid, its obligations under the FOIA. We are familiar with drafting clauses contained within commercial agreements which seek to prevent any such conflict arising.

The FOIA cannot be viewed in isolation and requests for information also necessitate consideration of other statutory schemes, including the Data Protection Act 1998 and the Environmental Information Regulations 2004, the latter operating in a similar forum to the FOIA. Our practice includes specialist knowledge of both of these regimes thereby enabling us to offer our clients comprehensive advice in all aspects of information law.

We can also advise you or your organisation on how best to structure a request for information under the FOIA, should you be minded to make one, so as to minimise the risk of the request being rejected on grounds that it is too wide or that the cost of complying would take it outside of the appropriate fee limit.

Who we act for

We act for a range of private and public sector clients including: various registered social landlords; the Wales Audit Office; the National Policing Improvements Agency and the Rail Safety and Standards Board.

Case Studies

Examples of recent work that we have undertaken in this area include the following:

- advising a public body on an FOIA request made in the context of a highly sensitive litigation dispute. The claim was made at the outset of the litigation, before either party was required to disclose documentation in the course of the proceedings. Since the applicant was not a public authority, the client could not adopt a similar strategy for obtaining information under the FOIA. We therefore had to address whether exemptions under the FOIA prevented disclosure to the other side which would have provided an advantage at this crucial early stage in the proceedings;
- drafting a data handling policy for a confidential incident reporting system operating in the transport industry. The client had particular concerns about requests for information received from investigative bodies. Since confidentiality was considered to be integral to its core function, the client needed to ensure that its members of staff were trained to deal with any such requests with vigilance and caution thereby maintaining the integrity of the organisation and the confidentiality of reporting individuals at all times;
- advising a company limited by guarantee carrying out quasi public functions on a consultation paper proposing to extend coverage of the FOIA beyond Schedule 1 to organisations that carry out functions of a public nature under section 5 of the FOIA.

How we can help

Our experienced team of lawyers regularly advise on all aspects of freedom of information and data protection law. We keep ourselves up to date with developments in this area and pass on the benefits of our knowledge and experience to clients through regular updates.

We are on hand to assist at short notice with tricky requests for information and to advise on compliance issues more generally.

Contacts



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Winckworth Sherwood is a highly individual law firm, committed to providing a relevant, competitive and professional service. Our diversity is our strength and our lawyers often have deep personal investment in our clients' sectors. We are at the forefront of the private and public sector interface and our collaborative approach enables us to adapt to our clients' individual needs, providing them with pragmatic solutions to a whole range of requirements.

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