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# FOI Summit, Manila

5-6 December 2017



**Maurice Frankel**  
**Campaign for Freedom of Information, UK**

# Politicians part of problem?

- “Trust in the government is so low we really need to exclude ministers from the presentation if we are going to build trust in delivery”

Director of Communications, Dept of Health  
Sunday Times 26/9/04

# Consequences of getting it wrong

- Less likely **to take your word**
- Successes **not believed**
- “**Bad faith**” explanations assumed
- **More complaints**, legal challenges, criticism from media / pressure groups

# Just missed the limit...

"For the period April 2004 to March 2005 please confirm the number of fly tipping incidents that were reported to the Council by the public."

By my reckoning 20 working days has now passed. I am disappointed that the Council has not met its own guidelines.

Please tell me:

- how requests are monitored
- is 20 days a guideline or legal requirement
- no of requests since Jan 2005
- no not dealt within in 20 days
- no of complaints about delay
- no of complaints to Commissioner
- no of cases upheld by Commissioner"

# Embed systems

- UK – **good Act**, but political **support reduced**
  - ▶ FOI officials **avoid personal contact**
  - ▶ Literal **narrow interpretation** of request
  - ▶ **Advice** often **formulaic**
  - ▶ **Don't learn** from decisions
- On the other hand
  - ▶ 'why are you **harassing** my colleagues'

# Records management

- Purpose:
  - ▶ **Help find** requested info, or
  - ▶ **Ensure destruction** of unwelcome info?
  - ▶ ‘If you **don’t hold** it, you **can’t disclose** it’
  - ▶ Requesters firing into **black box**
  - ▶ Help them **identify** what exists
  - ▶ Provide **advice** & assistance

# Post FOI stress disorder

"You asked...How many Falklands War Veterans are in receipt of a War Pension on the basis of Post Traumatic Stress Disorder...The War Pensions Computer System that records and runs the War Pensions scheme is unable to identify this particular (Falklands) conflict and therefore no figures are available".

"The response I received is an insult to my intelligence. In addition, I am offended that the responder referred to Falklands War as if she had never heard of it"

# “You should have kept the leaflet”

“The information you requested is being withheld as it falls under exemption 21... the information is already in the public domain.

“Your visit to the woodlands in 2002 was made through an ADAS invitation and information leaflet. This leaflet, used in conjunction with information on our woodlands website enables you to determine the information you seek”



# Finding aids

- Describe contents of **typical files** –**sample files** online
- **Share indexes?**
- **Proactively** publish what is **regularly requested**
- List **information assets**
- Indicate **exemption status**

# Advice & assistance (1)

- **Request:**

- ▶ **As far as records go back, how many -**

**Crimes ignored, erased, screened out, unrecorded**

**999 calls ignored / not responded to, etc**

**Child abuse cases ignored/covered up**

**Officers/staff convicted of offences/serious violent/sexual offences/paedophilia/ corruption / racism –Fabricated/destroyed evidence / traded favours to influence investigation**

**Child bullying ignored & treated as school issue**

- **IC commended quality of assistance**

# Advice & assistance (2)

searches could indeed be made to try and locate information relevant to this request and may indeed be an opportunity to bring some of the requests within cost. I have advised the applicant as follows:-

1) The number of serving MPS employees that received a conviction at court from 1st January 2002 to 31st May 2017. A summary of the nature of each conviction could possibly be provided.

2) The number of police officers and members of police staff recorded on Tribunal that have a substantiated/case to answer allegation for 'irregularity in relation to evidence/perjury' and 'corruption or malpractice'.

3) The number of police officers and members of police staff that have been disciplined for discrimination on the basis of race from 1st January 2014 to 21st May 2017.

4) The number of police officers and members of police staff from 1st January 2014 to 31st December 2016 that have a substantiated/case to answer allegation for fabricating or destroying evidence to incriminate a suspect?

5) The number of police officers and members of police staff from 1st January 2014 to 31st December 2016 that have a substantiated/case to answer allegation for trading favours (whether they be financial, sexual or other) in order to manipulate/influence an investigation?

# Advice & assistance (3)

Q3) As far as records go back, how many 999/101 calls were not responded to by the met police? This question is ambiguous and read in two ways. Firstly the question could relate to calls that were not answered by the MPS. The MPS is able to answer a request based upon the definition of an abandoned call set out within the below linked document. Similar statistics could be provided in respect of a defined period. For example a request for data covering the period of 1st January 2013 to 30th June 2017 could be a possibility.

Secondly, this question could relate to calls to which no MPS asset was deployed. The attendance of a police officer is dictated by the call's grading. The MPS can provide information upon the number of calls received by the MPS, broken down by each call's grading. For example, a request for data covering the period 1st January 2013 to 30th June 2017 could be a possibility.

Q7) Bullying is not a criminal offence and as such, there is no call out reason upon the Computer Aided Despatch (CAD) system – (the system used to dispatch MPS assets to 999 calls) for bullying. There is also no Home Office offence code or category for bullying upon the MPS Crime Report Information System (the system

used by the MPS to record and investigate allegations of crime). Whilst 'bullying' is not a criminal offence, there are other offences recorded that the MPS has produced information in relation too. Please see below disclosure that is relevant to this part of the request:-

Notifiable offences and people proceeded against on crime reports marked with a hate crime flag where the location was a school/nursery:-

# University courses

## Information Rights Law and Practice

### Course details

**choose from »** [course details](#) | [institution information](#) | [glossary of terms](#)

<b>University name</b>	Northumbria University
<b>Department</b>	School of Law
<b>Course Title</b>	Information Rights Law and Practice
<b>Qualification, duration, mode</b>	LLM 24DL*PGDip 18DL*PGCert 9DL
<b>Months of entry</b>	September
<b>Entry requirements</b>	An appropriate degree; a comparable professional qualification. Candidates without a degree or equivalent, but with suitable work experience, may also be considered for admission to the programme.
<b>International student info</b>	Students whose first language is not English must be able to demonstrate their ability to study in the English language. Entry requires a standard score of 570 in TOEFL or 6.5 IELTS or the equivalent in other tests of English.
<b>Course description</b>	The Information Rights programme developed by Northumbria University <b>in conjunction with the Ministry of Justice</b> . This programme aims to respond to the specific needs of information rights practitioners, providing a structured framework within which they can acquire and update knowledge whilst gaining a qualification that recognises their specialist expertise. It also recognises the importance of effective records management and information handling. This programme is therefore likely to be attractive both to practitioners specifically charged with processing information and other professionals working in environments where information is held, including central and local government, health and education.

# Applying exemptions

X Not: What exemption can we apply?

Will disclosure be **damaging**?

Even so is it in the **public interest**?









# ICO guidance

## Exemptions – freedom of information

- [Section 21: information reasonably accessible to the applicant by other means](#) 
- [Sections 22 and 22A: Information intended for future publication and research information](#) 
- [Section 23: security bodies](#) 
- [Section 24: safeguarding national security](#) 
- [How Section 23 and 24 interact](#) 
- [Section 26: defence](#) 
- [Section 27: international relations](#) 
- [Section 28: relations within the UK](#) 
- [Section 29: the economy](#) 
- [Section 30: Investigations and proceedings](#) 
- [Section 31: law enforcement](#) 
- [Section 32: information contained in court records](#) 
- [Section 32: information contained in court transcripts](#) 
- [Section 33: public audit](#) 

# MOJ guidance (archived)

**Detailed exemptions guidance:** These documents provide detailed advice on the interpretation and application of each of the exemptions.

-  Section 21: information available by other means (PDF 0.08mb 7 pages)
-  Section 22: information intended for future publication (PDF 0.09mb 6 pages)
-  Section 22a: Research (prejudice based qualified exemption) (PDF 0.06mb 2 pages)
-  Section 23: information supplied by, or related to, bodies dealing with security matters (PDF 0.08mb 6 pages)
-  Section 24: national security (PDF 0.10mb 11 pages)
-  Section 26: defence (PDF 0.08mb 8 pages)
-  Section 27: international relations (PDF 0.10mb 10 pages)
-  Section 28: relations within the United Kingdom (PDF 0.14mb 14 pages)

<http://webarchive.nationalarchives.gov.uk/20150730125042/http://www.justice.gov.uk/information-access-rights/foi-guidance-for-practitioners/exemptions-guidance>



# Search for ICO decisions

## By case reference or keyword




## By ICO decision




- Not upheld 18
- Partly upheld 5
- Upheld 18

## By date

- All 36
- Last year 4
- From


dd/mm/yyyy 

To

dd/mm/yyyy 

[Fewer filters](#) 

## By authority

Camden Council 

## Camden Council

21 January 2016, Local government (District council)

The complainant has requested information concerning the contract(s) between the London Borough of Camden (the "Council") and a named contractor regarding the draught proofing of windows in street properties in Camden. The Council has refused the request as vexatious under section 14(1) of the FOIA. The Commissioner's decision is that the Council has correctly applied section 14(1) to this request. There are no further steps to be taken.

FOI 14: **Not upheld**

 [Decision notice FS50610423](#)  
PDF

## Camden Council

9 December 2015, Local government (District council)

The complainant has contacted the London Borough of Camden (the Council) and requested information relating to bus shelters carrying advertising. The Commissioner has been asked to consider the Council's reliance on the 'commercial interests' (section 43(2)) exemption in FOIA to refuse to comply with one request. This asked for the financial benefits the Council accrues from the advertising annually and over the life of the contract with a third party. The Commissioner has determined that the exemption is not engaged and therefore requires the Council to disclose the requested information to ensure compliance with the legislation.

FOI 43: **Upheld**

 [Decision notice FS50590962](#)

# Search for Tribunal decisions

Jurisdictional area	Case Title and Reference	Date	Case Summary	Appeal
Freedom of Information Act 2000 Freedom of Information Act 2000	Mr John Brace v Information Commissioner <b>Additional Party</b> Meryside Fire and Rescue Authority EA.2016.0054	22/09/2016		Consent Order
Freedom of Information Act 2000	Michael John Abbott v Information Commissioner <b>Additional Party</b> Department for Business Innovation and Skills EA/2015/0189	22/09/2016		Part Allowed
Freedom of Information Act 2000	SIMON PRICE v THE INFORMATION COMMISSIONER <b>Additional Party</b> EA/2016/0123	19/09/2016		Allowed
Freedom of Information Act 2000	SIMON PRICE v THE INFORMATION COMMISSIONER <b>Additional Party</b> EA/2016/0138	19/09/2016		Allowed
Freedom of Information Act 2000 Freedom of Information Act 2000	AHMED HERSI v INFORMATION COMMISSIONER <b>Additional Party</b> MINISTRY OF JUSTICE EA.2016.0010	15/09/2016		Dismissed
Freedom of Information Act 2000	Marie Campbell v IC <b>Additional Party</b> EA/2016/0101	13/09/2016		Dismissed



[www.cfoi.org.uk](http://www.cfoi.org.uk)



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