

*The Freedom of Information Act 2000
and related rights*

Judicial Studies Board

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Introduction

1. On 1 January 2005 the *Freedom of Information Act 2000* came fully into force. So, too, did its cousin, the *Environmental Information Regulations 2004*.
2. Freedom of information marks an important component in the evolution of the modern relationship between the executive and the individual. The equilibrium of that relationship is in large part maintained by four components.
3. First, a coherent body of principles governing the supervision of the lawfulness of the decision-making process — what we call “judicial review.”¹ Towards the end of his distinguished judicial career, Lord Diplock described this “... as having been the greatest achievement of the English courts in [his] judicial lifetime.”
4. Secondly, the appointment of permanent office holders to investigate maladministration — what we call “ombudsmen.”² The focus here is investigative, rather than coercive.
5. Thirdly, the spread of independent bodies whose remit is to come up with the right decision — “the tribunal system.”³
6. And fourthly, a universal right of access to official information, not confined by subject matter; not confined by the persons who may exercise the right, and not confined by some recognised need to know — what we call “freedom of information.”⁴

¹ *R v. Inland Revenue Commissioners, ex parte National Federation of Self-Employed and Small Businesses Ltd* [1982] AC 617 at 641.

² A term of Swedish derivation, happily imported into the English language. Sweden has had one since 1809, Denmark since 1955 and Norway since 1962. The Parliamentary Commissioner for Administration was first appointed in 1967.

³ Proposals for a coherent merit review tribunal were made in Sir Andrew Leggatt’s *Report of the Review of Tribunals*, 16 August 2001. That report recommended, amongst other things, that “the citizen should be presented with a single, overarching structure giving access to all tribunals” (recommendation 5), the creation of a single tribunal system divided by subject matter into divisions (recommendation 89) and that there be a single route of appeal for all tribunals (recommendation 95). The Government has broadly accepted the Leggatt recommendations, issuing a White Paper, *Transforming Public Services: Complaints, Redress and Tribunals*, 15 July 2004.

⁴ It is frequently suggested that Sweden was the first country to pass freedom of information legislation and that it did so in the late 18th century. It did indeed pass legislation bearing that phrase: or, to be more precise, something like it in Swedish. But it meant something different from what is now understood by the phrase. It was concerned with guaranteeing the freedom to impart information. It was the 1966 US Act that commandeered the phrase to describe a right to elicit official information. Thus, when in the late 1940s the fledgling United Nations asked each member state to report on its guarantees of freedom of expression and on statutory constraints on freedom of expression, it did so under the rubric of “freedom of information.”

7. This afternoon I want to give a brief introduction to this last concept. I will begin by saying something about its rationale. As we will see, its rationale shapes the operation of the regime. Next, I will examine the nature of the right: upon whom is conferred; against whom is it exercisable; and what is the inter-relationship between the Act, the Regulations and the *Data Protection Act 1998*. Then I will give a bird's-eye view of the exemptions. Finally, I will give an overview of the appeal regime.
8. And so to the rationale for the Act.

Rationale for the Act

9. Why, you might ask, should government subject itself to such a regime? At one level, all of us instinctively feel that what we write down is "private;" it is "ours." We decide with whom, if anyone, we will share it. And, if we write it down as part of our work, it is our employer who will decide with whom it should be shared. The notion that a person, with no discernible interest in particular information, should be able to compel a public authority to disclose that information is counter-intuitive.
10. And yet, legislation of this sort has been passed by every major western democracy. It was the USA in 1966 that passed the first such Act.⁵ The timing of the US Act and its background give a clue of the rationale for such legislation. A right of access had, in fact, been included two years earlier in the *Administrative Procedure Act* of 1964. The 1966 Act was little more than a revision of a part of that Act. It is telling that the original right of access was included within a statute intended to codify an individual's right to challenge decisions of the federal administration. It followed a decade's consideration and debate on the issue. It came at a time when in that country, as elsewhere, the basic and now familiar principles of administrative law were being established.

One can still find echoes of that use in certain international instruments: for example, Article 19 of the United Nations Universal Declaration of Human Rights (1948) and Article 10 of the European Convention on Human Rights (1950).

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11. It came, moreover, at a time when many of the most important, the most seminal international instruments defining the relationship between individual and state were being drawn. In the soul-searching period immediately after 1945 there was an imperative to define in abstract terms those aspects of that relationship which had been so offended in the preceding decade. The ballot box alone had not provided the individual with the necessary protection. The unqualified subordination of the interests of the individual to those of the State had shown itself to be corrosive. Once sufficiently corroded, it eased the way to a normative free-fall. Then, perhaps more so than now, it was recognised that certain universal principles had to be cast in enduring form. They had to be articulated to provide a yardstick against which to identify deviation. The United States was, at that time, one of the nations ready to identify those principles. And so it was that it took the plunge. It conferred an innovative right of universal access to government information, restricted only by reference to recognised, protected interests. It provided the conceptual model upon which all such legislation has since been based.
12. The real importance of "open government" thus does not lie in feeding Press curiosity or facilitating the embarrassment of government officials. Its greater importance is at once both more mundane and more diffuse. Freedom of information provides the means for ensuring transparent decision-making; it provides the means for greater individual involvement in and understanding of the workings of officialdom as it affects the individual.
13. It is difficult to over-state the significance of this greater individual involvement and understanding. We have seen in the last 60 years a growth in State activity and regulation that has exceeded what many feared. The information held on each of us, both visual and written, and the ability to analyse that information could not rationally have been predicted 60 years ago. And yet for most of us most of the time, the Orwellian dystopia has not come to pass. I do not think that it is through mere acclimatisation that most of us have become reconciled to this state of affairs. Hand-in-hand with greater state involvement, there has been a transformation of the processes by which those same public bodies are held accountable for what they do. That greater accountability has been secured by the fundamental changes in the legal relationship between those governing and those whom they govern. The relationship is a more responsible and responsive one. And rights of access to official information forms a very important part of this relationship.⁶

⁶ Thus, the US Supreme Court, in one of the most important judgments on its Act, put it this way:
"The basic purpose of [the Freedom of Information Act] is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed."

14. I turn, then, to the right itself.

The right

15. Section 1(1) of the FOIA boldly proclaims that any person making a request for information to a public authority is entitled to be told whether the public authority holds that information and, if so, to be given that information.⁷
16. This seemingly unconfined right of access to all information is conventional in freedom of information legislation. It is this which distinguishes it from the rights of access to information that are found in other legislation.⁸ All of these early rights are confined in some significant way: by subject-matter of information; by identity of applicant; by demonstrated need; or by some combination of these.

National Labor Relations Board v. Robbins Tire & Rubber Co., 437 US 214 at 242 (1978). Similarly, the Supreme Court of Canada:

“The [Access to Information] Act is concerned with securing values of participation and accountability in the democratic process. The overarching purpose of access to information legislation is to facilitate democracy by helping to ensure that citizens have the information required to participate meaningfully in the democratic process and that politicians and bureaucrats remain accountable to the citizenry....Rights to state-held information are designed to improve the workings of government; to make it more effective, responsive and accountable.” *Dagg v. Canada (Minister of Finance)* [1997] 2 SCR 403 at 432-433.

In *Kuijjer v. Council of the European Union (No. 2)* [2002] 1 WLR 1941 at [52] the Court of First Instance, dealing with Council Directive 93/731/EC, said: “It is first necessary to point out that the principle of transparency is intended to secure a more significant role for citizens in the decision-making process and to ensure that the administration acts with greater propriety, efficiency and responsibility vis-à-vis the citizens in a democratic system. It helps strengthen the principle of democracy and respect for fundamental rights.”

⁷ Similarly, EIR, r. 5(1).

⁸ To name a few:

- section 7 of the *Data Protection Act 1998*; and
- Part VA of the *Local Government Act 1972*.

The very such right was given by the *Public Bodies (Admission to Meetings) Act 1960* (still in force). It was introduced as a Private Members Bill by the member for Finchley in London, a Mrs Margaret Thatcher. In her maiden speech to Parliament, she introduced what was to become the Public Bodies (Admission to Meetings) Act 1960. In a single provision it gave members of the Press, for the first time, the right to see the reports and documents supplied to members of local authorities in connection with meetings open to the public. In her second reading speech, the Member for Finchley said:

“The public has the right...to know what its elected representatives are doing....Unless the Press, which is to report to the public has some idea from the documents before it what is to be discussed, the business of allowing the Press in becomes wholly abortive....The Press must have some idea from the documents what is the true subject to be discussed at a meeting to which its representatives are entitled to be admitted....I hope that Hon. Members will think fit to give this Bill a Second Reading, and to consider that the paramount function of this distinguished House is to safeguard civil liberties rather than to think that administrative convenience should take first place in law.”

17. Self evidently, such a broad right must be shaped so as not to harm other interests worthy of protection. Accordingly, subsection 1(2) tells us:

“Subsection (1) has effect subject to the following provisions of this section and to the provisions of sections 2, 9, 12 and 14.”

It will be seen that the subsection giving rise to the entitlement is made subject to other provisions. We can thus say that the entitlement given by section 1(1) is shaped by the provisions referred to in subsection (2).

18. I would make four observations about the right:

(1) It is retrospective. It does not matter that the information pre-dates the *Freedom of Information Act 2000*. Nor does it matter that the information might have been given to a public authority by a person or company at a time when such disclosure was unthinkable.⁹

(2) The right is given to every “person.” It thus includes bodies corporate¹⁰ and any person within the jurisdiction, however fleeting their presence.¹¹ Importantly, the requester is not required to demonstrate a need to know. This is conventional in freedom of information legislation:

“Congress granted the scholar and the scoundrel equal rights of access to agency records.”¹²

The requester is not limited in the number of requests that may be made.

(3) The access right attaches to information held by a *public authority*. Unlike the *Human Rights Act 1998*, the draftsman did not leave any chances in identifying the bodies subject to the Act. Tens of thousands of bodies are identified by name or by class in the Act. The list of public authorities that is subject to the *Freedom of Information Act 2000* and to *The Environmental Information Regulations 2004* is extensive. In addition to applying to every government department, every publicly-owned company, each local authority and its emanations, the national

⁹ Thus, the *Freedom of Information Act 2000* replaces the *Public Records Act 1958* as the means by which access to historical records is secured: see ss. 62-67 and Schedule 5.

¹⁰ *Interpretation Act 1978*, s. 5 and Schedule. This is to be contrasted with the subject-access right given by section 7 of the *Data Protection Act 1998*.

¹¹ Those outside the jurisdiction can, of course, simply ask someone within the jurisdiction to make a request on their behalf without affecting the efficacy of the request.

¹² *Durns v. Bureau of Prisons*, 804 F 2d 701 (DC Cir. 1986). Similarly: *United States Department of Justice v. Reporters Committee for Freedom of the Press*, 489 US 749 (1989); in Australia, *Re Collie and Deputy Commissioner of Taxation* (1997) 45 ALD 556; and in Canada, *Intercontinental Packers Limited v. Canada (Minister of Agriculture)* (1987), 14 FTR 142.

health service and its accretions, maintained schools and other educational institutions, and to the police, the Act also lists hundreds of agencies, authorities, boards, committees, commissions, councils, foundations and other quangos that are all subject to its provisions. In short, with the exception of a few security service bodies, all emanations of government are within the grasp of the Act and Regulations.

- (4) A public authority is only obliged to disclose information *held by it*: s. 1(1).¹³ Thus, a request made of one government department will yield nothing if all the information answering the terms of a request is held by another government department.¹⁴

19. It is, at this point, convenient to mention the *Environmental Information Regulations 2004* and the *Data Protection Act 1998*. You may have thought that, given the extensive right to information conferred by the *FOIA*, there was not much room left for the other two to operate. Not so.
20. As you are probably aware, the *Data Protection Act 1998* includes a right of access to personal information held by a data controller.¹⁵ Most, if not all, public authorities are data controllers. The *Environmental Information Regulations 2004* provide a right of access to 'environmental information' held by public authorities.
21. These rights interlock, rather than overlap. The *Freedom of Information Act 2000*, whilst unrestricted in its breadth, expressly acknowledges the proscriptions and the disclosure regimes of both the *Data Protection Act 1998* and the *Regulations*. Both of these implement European Directives that had to be accommodated by the draftsman of the *Freedom of Information Act 2000*. This requirement was secured by routeing the treatment of requested information through the 1998 Act or the *Regulations* according to whether that information related to the applicant or was 'environmental information' (respectively).
22. So far as personal information is concerned, an applicant's right of access to

¹³ The Act makes specific provision where information is held by a third party on behalf of the public authority: see s. 3(2).

¹⁴ The Code of Practice (version 2) issued by the Secretary of State for Constitutional Affairs under section 45 of the Act (November 2004) provides that if the public authority to whom a request is made believes that some or all of the information sought is held by another public authority, the recipient public authority (as part of its section 16 duty to give assistance) may be required to tell the applicant that the information requested is held by another public authority or to transfer the request: see paras 16-24 of the Code of Practice.

¹⁵ Section 7.

information of which he is the data subject is governed by section 7 of the *Data Protection Act 1998*. Where an applicant seeks personal information of which he is not the data subject, then the applicant's right of access is governed by the Freedom of Information Act. In this case, however, disclosure under the Act will constitute a "processing" of personal data. Processing of personal data is a matter that is governed by the *Data Protection Act 1998*. The legislative regime reconciles the competing interests of the applicant and the subject of the personal information by importing into the Freedom of Information Act 2000 the protection given by the data protection principles.

23. Where a request is for "environmental information", the request is governed by the *Environmental Information Regulations 2004*. This routing is necessary in order to implement the more generous disclosure regime applicable to environmental information under European Parliament's Directive 2003/4/EC. I shall not attempt to embark on a consideration of what is meant by "environmental information." It is enough if I say that it is very broadly defined. Most information relating to land, to utilities, to transport and so forth will be covered. The Regulations are a powerful tool for anyone who practises in the area of planning or environmental law.
24. I turn now to the exemptions. Having mentioned the Environmental Information Regulations and the DPA, I shall at this point put them to one side. They have their own exemptions. There are similarities with those in the FOIA; but there are differences. Some of those differences are significant. A person requesting the information may not be concerned as to the provenance of his right. But the public authority answering that request must properly identify the regime that applies to each item of information caught by the terms of the request.

The exemptions

25. The exemptions are set out in Part II (ss. 21 - 44) of the Act. The exemptions may be grouped into two broad types:
 - (1) Those that the Act terms "absolute exemptions."¹⁶
 - (2) The rest, which the Act does not give any name but which we may usefully call "qualified exemptions."

If information falls within the terms of a provision conferring "absolute exemption," then the access right is thereby disappplied: see s. 2(2)(a). If information falls within the terms of a provision conferring what I term "qualified exemption", then the access right will be disappplied only if the public interest in maintaining that exemption

¹⁶ Section 2(3).

outweighs the public interest in disclosure of the information: see s. 2(2)(b).

26. The provisions conferring absolute exemption are exhaustively listed in section 2(3). Of greater interest, and occasional surprise, are those provisions in Part II that do *not* confer absolute exemption:

- Section 24, which renders information “exempt information” where that is required “for the purposes of safeguarding national security.”
- Section 26, which renders information “exempt information” where its disclosure would, or would be likely to, prejudice the defence of the British Isles or the capability of the armed forces.¹⁷
- Section 27, which renders information “exempt information” where its disclosure would, or would be likely to, prejudice relations between the United Kingdom and another country, an international organisation and so forth.
- Section 31, which renders information “exempt information” where its disclosure would, or would be likely to prejudice the prevention or detection of crime, the administration of justice, the assessment or collection of tax and so forth.
- Section 35, which renders information “exempt information” where it relates to the formulation or development of government policy or Ministerial communications and so forth.
- Section 36, which (in most circumstances) renders information “exempt information” where, in a senior official’s reasonable opinion, its disclosure would, or would be likely to, prejudice Cabinet secrecy or inhibit the free and frank provision of advice or would otherwise prejudice the effective conduct of public affairs.
- Section 42, which renders “exempt information” information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- Section 43, which renders information that constitutes a trade secret “exempt information.”

These are not the only “qualified exemptions”: but they should be enough to illustrate the significance of the public interest test in section 2(2).

27. Implicit in this additional requirement is that mere satisfaction of the exempting provision cannot always suffice. Real thought must be given to the operation of the public interest test. The notion of “the public interest,” though easily stated, is

¹⁷ The provision is more sophisticated than my paraphrasing permits. The same comment applies to all of my paraphrasing.

notoriously difficult to identify. It is not an invitation for the decision-maker to determine a person's rights by reference to the idiosyncratic views of what is or is not in the interest of the public. Rather, the decision-maker is required to consider what is the public interest that is encapsulated within the exemption, and weigh the extent to which that public interest outweighs the public interest in disclosure. As I have said, the rationale of the Act shapes its operation.

28. The exemptions may also be divided into:
- (1) Those that merely look to the characteristics of the information itself – what may be termed “purely class-based exemptions”; and
 - (2) Those that also require harm or a likelihood of harm to result from the disclosure of the information – what may be termed “prejudice-based exemptions.”

Conclusive certificates

29. The Act also provides for conclusive certificates in relation to particular heads of exemption.¹⁸ A conclusive certificate stands as conclusive evidence of the “facts” certified in it, irrespective of the reality. In so doing, a certificate effectively ousts merit review of any refusal to disclose.

Practical aspects

30. Once a request for information has been received, a public authority essentially has 20 working days to answer the request: s. 10(1).¹⁹ If and to the extent that a public authority relies on a qualified exemption, then extra time is allowed for the public interest balancing exercise to be carried out: s. 10(3).
31. A public authority is not obliged to comply with a request for information if it estimates that the cost of complying with the request would exceed £450.²⁰ The public

¹⁸ Sections 23(2), 24(3), 25, 34(3) and 36(7).

¹⁹ Additional time in certain circumstances is allowed by the *Freedom of Information (Time for Compliance with Request) Regulations 2004*, SI 2004/3364.

²⁰ Section 12 and *Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004*, SI 2004/3244, r. 3. In the case of a public authority listed in part 1 of Schedule 1, the figure is £600. The manner of calculating this amount is subtle. In estimating whether the cost of complying with a request would exceed the limit, the public authority must confine itself to the extent to which the request is a “relevant request.” - see r. 4. A relevant request is a request for information to which “section 1(1)...would...to any extent apply.” Section 1(1) is, by section 1(2), made subject to certain provisions, most notably section 2. The upshot of all this, it would seem to be, is that in estimating the cost of compliance for the purpose of section 12, the public authority cannot take into account the costs associated with information that is exempted from disclosure. Even in relation to this information, there are only certain activities that may be taken into account in making the assessment of the cost of compliance: basically, it is the cost of finding and retrieving the information sought, charged at the rate of £25 per hour see r. 4(3)-(4).

authority may issue a fees notice, so as to defray the cost of communicating the information that it is obliged to disclose: s. 9.²¹

The appeal structure

32. Finally, the Act includes a four-tiered review structure:

- (1) The first stage is an internal reconsideration of the decision.²²
- (2) If, after that, the applicant (who now gets called a “complainant”²³) remains dissatisfied, an application can be made to the Information Commissioner under section 50(1) of the Act. The Commissioner is given a wide remit to deal with refusals, the level of fee charged, the time taken and so forth. Unless a conclusive certificate has been issued, the Commissioner will undertake a merit review of the public authority’s decision. The upshot of the Commissioner’s review is what is termed a “decision notice.”
- (3) If a person is dissatisfied with a decision notice, that person may appeal to the Information Tribunal: s. 57(1). It is not just the complainant who may appeal to the Information Tribunal: if a public authority does not care for the decision of the Information Commissioner, it too may appeal to the Tribunal. The Information Tribunal must allow the appeal if the notice is “not in accordance with the law.” If the Information Commissioner’s decision involved the exercise of discretion, the Tribunal can interfere if it takes the view that the Commissioner should have exercised his discretion differently: s. 58(1).
- (4) If a party is still unhappy, it may appeal to the High Court on a point of law: s. 59.

33. Somewhat surprisingly, there is no statutory right of consultation or appeal right for any third party affected by a proposed disclosure under the Act. In comparative

²¹ A fees notice has the effect of freezing the clock so far as answering the terms of the request is concerned. The level of the fee is set by the *Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004*, SI 2004/3244.

²² The Code of Practice (version 2 - November 2004) issued under section 45 requires public authorities to provide internal procedures for dealing with complaints: see generally paras 36-46 of the Code. Although the Act itself does not provide for internal review, under s. 50(2)(a) the Information Commissioner should not deal with a complaint if it appears to him that the complainant has not exhausted any complaints procedure.

²³ Section 50(1).

jurisdictions, this is often called “reverse FOI.”²⁴ What for one person is “freedom of information” may, for another person, represent a breach of confidence or otherwise affect that person’s interests. The preoccupation of the Act is a two-way struggle between a public authority’s power not to disclose certain information and the right of an applicant to see whatever a public authority holds. The legitimate interests of a third person who may be affected by a public authority’s release of information are not reflected in any rights given by the Act to such persons.²⁵

Conclusion

34. That, then, is my thumbnail sketch of the Act and its statutory cousins. But before I leave, a parting word.
35. In the lead-up to commencement day, much was made of the importance of cultural change within public authorities. Repeatedly it was said that the Act would break down the traditional culture of secrecy said to exist within public authorities.²⁶

²⁴ In the USA a third party can bring proceedings to prevent an agency releasing documents under the FOI Act on the basis that the applicant has no entitlement under that Act, even though the agency either is of the view that the applicant does have an entitlement or does not wish to invoke the exemption. These proceedings are not based upon the *Freedom of Information Act* but upon the *Administrative Procedures Act* (5 USC §§ 701-06). See generally *Chrysler Corp. v. Brown* 441 US 281 (1979). Elsewhere, specific statutory provision is made to enable a third party to participate either in the original decision or in an appeal.

²⁵ There is a non-statutory statement of expectation that a third party whose interests may be affected by disclosure under the Act be consulted before any such disclosure: see the Secretary of State for Constitutional Affairs’ *Code of Practice on the discharge of public authorities’ functions under part I of the Freedom of Information Act 2000*, 20 November 2002. In brief, the Code advises that:

- (1) where the third party’s consent is required (e.g. because otherwise disclosure would be an actionable breach of confidence), public authorities should consult the third party unless that would be impracticable - para. 32;
- (2) where the third party’s consent is not required, consultation may be appropriate - para. 34;
- (3) public authorities should consult affected third parties where the third parties’ views may assist in determining whether an exemption applies or where the public interest lies - para. 35; and
- (4) however, public authorities may consider that consultation would not be appropriate where its cost would be “disproportionate” - para. 36.

²⁶ In the preface to the White Paper, the Prime Minister stated that:

“The traditional culture of secrecy will only be broken down by giving people in the United Kingdom the legal right to know. This fundamental and vital change in the relationship between government and governed is at the heart of this White Paper.”

When the Bill was given its second reading speech, the Minister stated:

“The Bill will lead to cultural change throughout the public sector. There will be more information about how health authorities, local councils and the police deliver services. It will give citizens a right to know and a right to appeal to the commissioner if they do not get the information that they have sought. That is a fundamental change in the relationship between the citizens and the state.”

36. This expectation was at once both attainable and over-ambitious. It is quite correct that the Act confers rights. But, so far as central government bodies are concerned, compulsion is in fact the only significant difference between the Act and the voluntary code that had existed since 1994.
37. The 1994 code was the first true attempt at a comprehensive scheme for the release of official information in the United Kingdom. However, it was voluntary in nature, making loud exhortatory noises but bestowing no enforceable rights.²⁷ It was after six years of its operation that Ministers were still speaking of the need for a culture change. Implicit in that was a recognition that exhortation alone does not produce that cultural change.
38. It is, I would suggest, unreal to think that any official confronted with an embarrassing request will do otherwise than scour the wardrobe of exemptions for anything that might fit.
39. The official may harbour a personal view as to the disclosure of that information. That private view may have been shaped by the ethos of the Act. But faced with the choice between professional future and his or her personal view, it is in the nature of officialdom to avoid risk, to banish the personal view and to invoke the exemption.
40. To say this is to do no more than to identify the origins of the culture. By identifying the origins of the culture, we recognise the importance of the right. It is for that reason that those adjudicating on disputes, most notably the Commissioner, the Tribunal and ultimately the Courts, play a critical role in the ultimate efficacy of the Act. It is their intellectual rigour and their independence which will provide the lead for those dealing with requests. And it is through them, and only through them, that enduring culture change will be secured.

²⁷ In the final report of the Parliamentary Ombudsman, Ann Abraham, on the operation of the Code, she said.
"During the decade or so of its existence the Code, and the Ombudsman's policing of it, resulted in a significant enlargement in the kind of information that was routinely released into the public domain. ... But it was not a smooth process and, although the Ombudsman frequently dragged departments to water, departments often showed a marked reluctance (or outright refusal) to drink. This manifested itself most noticeably through delays in responding to the Ombudsman; very often this was in response to statements of complaint and draft reports but sometimes showed itself in a refusal to even provide the Ombudsman with relevant papers."