

12th Annual

# Freedom of Information Conference

**Keynote Speaker:** Steve Wood - Information Commissioner's Office

**Conference Chair:** Christopher Knight – 11KBW



*“Very useful to learn from other FOI Officers that they are experiencing similar challenges to myself.”*

**David Barlow**  
FOI Officer,  
Appeals Service

*“An extremely well organised and informative event!”*

**James Newman**  
Senior Compliance  
Adviser,  
Transport for London

*“An excellent, well-balanced, thought-provoking conference, which really helps to keep up to date.”*

**Denise Francis**  
Records Manager,  
Science & Technologies  
Facilities Council

*“Very useful practical tips.”*

**Amy Ogborne**  
Information Compliance  
Manager,  
Bath & NE Somerset  
Council

Wine and canapés reception sponsored by



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**12** CPD points

Chair: Christopher Knight – 11KBW

**Keynote Speaker****Steve Wood – Head of Policy Delivery - Information Commissioner's Office****The FOI Commission: the Next Chapter for FOI****Jackie Gray, Bond Dickinson**

Following ten years of FOI and little legislative change, the outcome of the consultation by the Independent FOI Commission defines the next chapter in the development of freedom of information law. This session provides an overview of the themes which emerged from the responses to the consultation and looks at the practical implications for FOI practitioners of the proposed changes to the legal framework.

**Lazy Journalism?****Matt Burgess, Journalist and Author**

Evidence submitted to the Independent Commission on FOI suggested that journalists were lazy for using the Act to lever information from public authorities. This talk looks at the submissions to the Commission that attacked journalists and clarifies some of the myths about how journalists use the legislation. Matt also discusses suggestions that were made by journalists, whether they are realistic, and what could be done without further legislation to bring about effective change.

**Personal Data and Information Requests****Damien Welfare, Cornerstone Barristers**

Information Officers must frequently deal with the definition of 'personal data' when responding to FOI/EIR requests. Following the decision in Edem, the scope has grown beyond the narrow interpretation in Durant, as the ICO has long advised. At the same time, the tensions between demands for transparency, and the increasing concern to protect individuals' privacy, only increase. This session considers the exemption in the context of the latest cases and guidance, as well as the changes that the new Data Protection Regulation will bring.

**Unjustified, Inappropriate or Improper – When is an Information Request Vexatious or Manifestly Unreasonable?****Jon Baines, Network Rail**

There have been several significant developments in the case law and ICO approach regarding section 14 of FOIA and regulation 12(4)(b) of the EIRs. This session considers those changes as well as how the proper use of the provisions helps both to protect the public purse and counter criticism of the FOI regime.

**Divining the Public Interest****Estelle Dehon, Cornerstone Barristers**

Practitioners are often confronted with difficult questions about identifying the public interest in favour of disclosure, including how the public interest can be aggregated, when and whether new elements can be taken into account as a request progresses through the appeal stages, and at what point in time the public interest is to be ascertained. This session considers these issues and provides practical guidance on the relevant case law.

**The Request and the Response: What's New?****Zoe Gannon, 11KBW**

Recent judgments in *Innes v Information Commissioner*, *IPSA v ICO* and *Ghafoor v Information Commissioner* cast new light on the technical and often challenging question of what amounts to a valid request and how a public authority should respond. This talk looks at the key aspects of a valid request (including whether a request on Twitter will ever be valid), what amounts to "information" (including when a copy will be sufficient), and how to respond to a request for communication by a particular means.

**FOI and EIR in a New European Landscape****Liz Fitzsimons, Eversheds LLP**

The UK's relationship with the EU is under scrutiny at the same time as changes driven by European legislation and cases continue to impact our approach to information rights in the UK. With the impending 2016 referendum on 'Brexit', this session explores the potential impact of a vote to leave the EU on the UK's FOI and EIR legislation and practices.

## Morning Workshops ( 9.30 am - 12.45 pm )

## Afternoon Workshops ( 2.00 pm - 5.15 pm )

**A Confidentiality: What Does it Mean, and When Should You Disclose Confidential Information?****Damien Welfare** - Cornerstone Barristers

Whether information is confidential, and whether confidential information should on occasion be disclosed, can be a tricky issue. This Workshop looks at how the differences in the definition, scope and available exemptions can affect the position in practice, in relation to:

- environmental information, which can be declared confidential by both parties to a transaction, but only if it is commercial or industrial
- FOI information, which can only be confidential if imparted to the public authority on those terms, but is not restricted as to subject matter
- confidential personal data of third parties in subject access requests, and FOI/EIR requests
- information held confidentially under various statutory regimes, and requests under the FOI, EIR and DPA

**B Third Party Information: Handling Complex Requests****Jackie Gray** - Bond Dickinson

Public authorities hold a large amount of information about their staff, customers, suppliers, citizens and those with whom they do business, which will often be the subject of FOI and EIR requests. This session looks at the impact of FOI and EIR on third party information and provides practical guidance and tips on handling complex third party information requests as well as exemptions and exceptions including:

- third party procurement information
- information held by contractors on behalf of a public authority under contracts
- planning information, including requests for developer viability information
- personal information about staff (and staff of contractors and suppliers)

**C IFOI Following the FOI Commission: Legal and Practical Impacts****Liz Fitzsimons** - Eversheds

Ten years on from the commencement of FOIA 2000, the Independent FOI Commission has been reviewing feedback following its public consultation on the public interest balance between transparency, accountability and the protection of sensitive information. This Workshop considers legal and practical impacts and implications for public authorities and those working with them. Key topics include:

- "safe space" protection for the internal deliberations of public bodies
- protection for public bodies' internal assessments of risk
- the Commission's approach to the burden of FOI on public bodies
- FOI enforcement and the appeal process
- the Information Commissioner's views

**D Managing the Burden - Using Cost, Vexatiousness and Other Provisions to Manage the Increasing Flow of FOI Requests****Paul Gibbons** - FOI Man

Public authorities continue to receive increasing numbers of freedom of information requests more than ten years after the right of access was introduced. This Workshop explores existing mechanisms under the legislation to refuse the more unreasonable requests that public authorities receive, and also looks at the proposals made by the FOI Commission in relation to the cost of FOI. Topics include:

- how to correctly apply the fees regulations to refuse requests that will cost more than the appropriate limit
- the application of the vexatious requests provision in s.14 of the Act, and how it can be used successfully to turn down manifestly unreasonable requests, including an analysis of recent cases and guidance
- dealing with expensive and vexatious requests for environmental information under the Environmental Information Regulations
- other key ways to manage the flow of requests
- an exploration of the proposals made by the FOI Commission and the government and how they are likely to affect handling of FOI requests in practice

**E FOI, EIR or Same Difference? Understanding the Application of the Environmental Information Regulations****Anna Condliffe** - Transport for London

Whilst there are many similarities between the FOI and EIR regimes, there are also some significant differences and these can raise tricky issues for public authorities handling requests for environmental and non-environmental information. This Workshop looks at the key differences between the regimes and their practical impact on the way in which public authorities deal with requests, including:

- how to assess what information should be treated under which regime
- how to deal with requests which fall under both regimes
- key exceptions and how to use them
- recent significant cases and their effect on how we handle requests

**F When is data personal enough to be protected from disclosure?****Rachael Annear** - Freshfields

Individuals can seek other people's personal data under FOIA and the EIRs, and they can ask for their own personal data under the DPA. This Workshop explores the practical difficulties that arise when dealing with these types of requests, as well as a discussion of key recent developments, and provides in-depth look at the section 40 exemption including:

- what is 'personal' when it comes to personal data in the context of disclosure under FOI
- how to approach FOI issues in a project that will use a large amount of personal data
- managing FOI requests for personal data
- the data protection principles, conditions for processing and exemptions that are relevant to FOI requests
- the impact of the European Data Protection Regulation

**Anna Condliffe** is Principal Lawyer in the public and regulatory law team at Transport for London, having previously been a senior Professional Support Lawyer at Herbert Smith Freehills, specialising in freedom of information and all other aspects of public law. She recently co-authored the latest edition of the Law Society's *Freedom of Information Handbook*.

**Christopher Knight** has a wide-ranging information law and data protection practice. He regularly advises public and private sector clients on data protection issues and recently successfully assisted a local authority defend two potentially serious data breach allegations. He is currently acting in *Reactiv Media Ltd v ICO* defending a monetary penalty notice made under PECR against a cold-calling business. He has appeared in FOI cases in the Supreme Court, Information Tribunal and Upper Tribunal.

**Damien Welfare** came to the Bar in 2001 after a career in Local Government. He specialises in freedom of information, data protection and the Environmental Information Regulations. He appears in the Information Tribunal, advising on all aspects of information law. He is a member of the Editorial Board of Freedom of Information Journal, and is a Head of the Examination Board for the Practitioner Certificate in Freedom of Information.

**Estelle Dehon** is a public law barrister practising at Cornerstone Barristers. She works across a wide range of areas (including information law, community care, and planning and environmental law), and is a member of the Attorney-General's C Panel. Estelle's information law practice entails providing advice and advocacy in matters concerning freedom of information, data protection and environmental information. She has experience of appearing before the First-Tier Tribunal (Information Rights) and experience of pursuing and resisting damages claims in the High Court alleging breaches of the Data Protection Act.

Estelle is a contributor to Coppel's Information Rights (4th edn), having co-authored the chapter on "The Influence of the European Convention on Human Rights".

**Jackie Gray** is Managing Associate at Bond Dickinson LLP. Jackie specialises in freedom of information and data protection, public law and procurement, PPP projects and public sector commercial work. Jackie has advised a wide range of public authorities on FOI & EIR issues including the application of exemptions to specific requests, re-use and licensing of datasets, data protection issues, assisting with internal reviews and advising on appeals to the Information Commissioner and Tribunal. She has also provided a wide range of training and guidance on FOI and EIR and previously presented FOI Essential Knowledge and Exemptions workshops for PDP. She has also worked with a number of public authorities to implement internal procedures for handling requests and reviews. Jackie is a member of the Editorial Board of Freedom of Information Journal and was previously the Head of the Examination Board for the Practitioner Certificate in Freedom of Information. She has also written a chapter in the 3rd edition of the Law Society Freedom of Information Handbook.

**Jonathan Baines** advises Network Rail on various information governance issues. He handles internal reviews of Freedom of Information Act 2000 and Environmental Information Regulations 2004 requests, as well as complaints about the Data Protection Act 1998 and the Regulation of Investigatory Powers Act 2000. Jonathan acts as a Special Adviser to the Editorial Board of PDP's

Freedom of Information Journal. In his spare time Jonathan miserably fails to leave the subject alone, and is a prolific blogger and tweeter (in a private capacity) on all matters related to information rights.

**Liz Fitzsimons** is a Legal Director at Eversheds specialising in data protection and freedom of information and EIR.

She works for a wide range of clients, both public and private sector, including in the education, health, transport, energy and government arenas. Liz has experience in helping clients with complex and sensitive information requests, internal appeals, defending complaints to the ICO and working on appeals in the Information Tribunal. She has advised on publication schemes, FOI planning and strategy, contractual provisions and negotiations, confidentiality arrangements and related data rooms, policies and procedures, including transparency agreements and policies.

Liz is also a Member of the Examination Board for the Practitioner Certificate in Freedom of Information.

**Matthew Burgess** is a digital journalist who has experience writing for all the national newspapers. He runs the FOI Directory website which publicises Freedom of Information contact details, media stories reported from use of the Act and blogs on FOI news. Matt has also written the book, *Freedom of Information: A practical guide for UK journalists*, which is due to be published by Routledge in June 2015. The book covers case law, practical advice for the media making requests, and also interviews with more than 50 journalists and FOI professionals.

**Paul Gibbons** is the creator of the foiman.com website. Beginning his career in records management, Paul has worked in the pharmaceutical industry, local government and the Houses of Parliament. In 2003, he was recruited by the Greater London Authority to prepare the Mayor of London's City Hall for FOI. After 6 years and two Mayors, Paul moved to the School of Oriental and African Studies (SOAS) to become their Information Compliance Manager. Recently, he set up his own Information Rights Consultancy.

Paul has a regular column in Freedom of Information Journal.

**Zoe Gannon** is a barrister at 11KBW. Zoe joined Chambers in 2015 following her successful completion of pupillage. She has a particular interest in public, regulatory, employment, and commercial law and accepts instruction in all of Chambers' main areas of practice including Freedom of Information.

**Rachael Annear** is a London-based senior associate at Freshfields in the firm's IP practice. Rachael's experience covers a broad range of intellectual property and information law advisory, contentious, transactional and commercial experience, with a particular emphasis on trade mark, copyright, data protection and matters of the Freedom of Information Act.

**Steve Wood** is Head of the ICO's Policy Delivery department. He is responsible for overseeing the development of the ICO's codes of practice, guidance, technology policy and research related to Data Protection and Freedom of Information legislation. This includes sign-off responsibility for key FOI decision notices. Previously he was Assistant Commissioner with responsibility for FOI Policy at the ICO. Before joining the ICO Steve was a Senior Lecturer in Information Management at Liverpool John Moores University.

Please fill in the form below and fax or post it to book your place/s:

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 Workshops - Morning: A  B  C  Afternoon: D  E  F

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**Fees**

**Public Sector Rate\***

Whole Conference (Speakers' Presentations Day plus two Workshops)	£795 plus VAT
Speakers' Presentations Day plus one Workshop	£645 plus VAT
Speakers' Presentations Day only	£495 plus VAT
Two Workshops only	£495 plus VAT
One Workshop only	£350 plus VAT

**Standard Rate**

Whole Conference (Speakers' Presentations Day plus two Workshops)	£995 plus VAT
Speakers' Presentations Day plus one Workshop	£845 plus VAT
Speakers' Presentations Day only	£695 plus VAT
Two Workshops only	£695 plus VAT
One Workshop only	£450 plus VAT

VAT will be charged at the prevailing rate at the time of booking.  
 \*Public Sector Rates not available to delegates based outside the European Union.

This booking is made subject to the terms and conditions available at [www.pdpconferences.com/terms](http://www.pdpconferences.com/terms)

**Workshop choices:**

**Morning Workshops**  
( 9.30 am - 12.45 pm ):

- A** - Confidentiality: What Does it Mean, and When Should You Disclose Confidential Information?
- B** - Third Party Information: Handling Complex Requests
- C** - FOI Following the FOI Commission: Legal and Practical Impacts

**Afternoon Workshops**  
( 2.00 pm - 5.15 pm ):

- D** - Managing the Burden - Using Cost, Vexatiousness and Other Provisions to Manage the Increasing Flow of FOI Requests
- E** - FOI, EIR or Same Difference? Understanding the Application of the Environmental Information Regulations
- F** - When is data personal enough to be protected from disclosure?

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# PDP Professional Training Courses

## Data Protection

- Data Protection Essential Knowledge - Level 1
- Data Protection Essential Knowledge - Level 2
- Data Security• Handling Subject Access Requests
- Training Staff in Data Protection
- Creating Data Protection Policies
- How to Conduct a Data Protection Audit
- Conducting Privacy Impact Assessments
- Data Sharing in the Public Sector
- Data Protection in the Workplace
- Direct Marketing
- Data Protection Compliance for Charities
- FOI and Data Protection - How They Work Together

## Freedom of Information

- FOI Practical Training - Level 1
- FOI Practical Training - Level 2
- FOI and Data Protection - How They Work Together

## FOI Qualification

- Practitioner Certificate in Freedom of Information

## Environmental Information

- Understanding the EIRs

## Records Management

- Records Management 1
- Records Management 2

All training courses are available in various cities throughout the UK.  
See the website for more details and to make a booking.  
All courses are available as in-house options.

[www.pdptraining.com](http://www.pdptraining.com)



## Practitioner Certificate in Freedom of Information

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