

Freedom of Information

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Headlines

- ICO to investigate itself over disclosure of staff pay, p.17
- FOI Code will not be updated to include private contractors, p.18
- Police body 'bans' FOI requests, p.19

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Network Rail to be within FOI regime by end of March 2015

UK Justice Minister, Simon Hughes, has announced that Network Rail will officially join 100 other companies which have been brought within the scope of the Freedom of Information Act by the coalition government.

Network Rail was reclassified as a 'public body' in FOI terms on 1st September 2014 and an FOI Order was put before Parliament in February 2015.

The Order will be in force at the end of March, and will act retrospectively, meaning that requests can be made for information from the start of Network Rail's operation

on 28th October 2002.

The Minister said that, while the ICO has been lobbying for contractors to be included, there is currently no agreement within government on this point. Mr Hughes said that in his view, all contracted out national and local services should be covered by FOIA.

The government expects that Network Rail will receive between 3,600 and 5,600 FOI requests per year. If the rail organisation receives anywhere near this number, it will be among the most received by any public authority in one year.

The Department for Work and Pensions received 5,600 FOI requests during the whole of 2013, which was more than any other central government authority.

The company itself has said that it expects the figure to be at the upper end of the range suggested by the MoJ.

Network Rail's Head of Transparency, Mark Farrow, has spoken with government departments as well as Transport For London to help produce its own forecasts.

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Water companies with 'special powers' subject to EIRs

The Upper Tribunal has decided in *Fish Legal v Information Commissioner and others* [2015] UKUT 0052 that private water companies are public authorities for the purposes of the Environmental Information Regulations 2004.

The Tribunal's decision is based on the fact that water companies have 'special powers' which are more than private law rights. Decisions as to

whether a particularly water company is covered will still need to be made on a case-by-case basis.

The Tribunal also decided that Tribunals (not the High Court) have jurisdiction to decide the question whether or not bodies are public authorities.

The sixty page judgment, which is complex and lengthy, has important implications for other private organisations

running public utilities or services, who should now expect to provide environmental information to the public. It could have widespread implications for other private organisations that are running public services, such as the electricity, gas, rail and telecommunications industries.

However, the Upper Tribunal failed to lay

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