



Freedom of Information

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- NHS Forth Valley testing PFI contract decision, p.14
- Man United FC takeover reports to be released, p.15
- FOI to be extended, p.16

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FSA must name and shame mystery-shopped advisors

The Information Commissioner has recently ruled that the Financial Services Authority ('FSA') must name and shame advisers who performed badly in a mystery-shopping exercise. The decision is based on a complaint to the Commissioner after the FSA rejected a freedom of information request to disclose information.

The FSA initially withheld the names of the seven firms investigated for equity release sales. The FSA also withheld a list of mystery-shopped firms, an example of the questionnaire used, the

identities of seven firms investigated on subsequent investment advice and the results from firms and advisers.

The Commissioner ruled that the FSA needn't disclose the results of every firm that had been mystery-shopped, but that it must reveal the identities and findings of the seven firms which the FSA later investigated in connection with the mystery shopping.

Rosemary Jay, Partner at law firm Pinsent Masons said, "While the Commissioner has accepted that much of

the information originally requested should be withheld under specific exemptions, his ruling that the FSA should disclose the identities of the firms investigated and the nature of the findings will raise grave concerns, not only among the financial community but also for other regulators in specialist fields."

She added, "It marks the increased boldness of the Commissioner's Office in their willingness to make decisions on whether disclosures of particular information are or are not in the public interest,

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Local waste contracts to be disclosed

The first decision by the Information Commissioner relating to local waste contracts has been issued on Brighton and Hove and East Sussex Councils. The Councils have been ordered to make selected details of their joint long-term waste management contract with Veolia available to the public.

A request by Friends of the Earth to disclose full details of the 25 year contract was rejected on grounds of commercial confidentiality. Yet, on

appeal, the Information Commissioner ruled that some of the information about emission levels, planning and development information should be released. The Commissioner also stated that the Councils were permitted to withhold other details of the contract, such as specific technical information and Veolia's costs and profits.

A Veolia spokesman said, "We read and understood the Information Commissioner's decision and for

the most part accept the obligations thereby. We do have issue with the commercial sensitivities and proprietary rights affected by certain aspects of this decision which we are currently reviewing."

Phil Michaels, Head of Legal at Friends of the Earth, has also called on local authorities across the country to publish details of waste contracts on their websites. He said, "As the first decision relating to local

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