



Freedom of Information

Volume 4, Issue 6

July / August 2008

Headlines:

- Secret Stansted data to be made public, p.15
- New Northern Ireland Assistant Commissioner, p.15
- Force to disclose, p.16
- Hostels kept secret, p.16

Inside this issue:

Editorial	2
Proposed revisions of Regulation 1049/2001 — a step too far?	3
The commercial prejudice exemption — coming into its own?	7
Recent decisions of the Information Commissioner	10
FOI News	15

Scotland FOI Act could be widened

Scottish ministers are considering the possibility of extending the scope of the Freedom of Information (Scotland) Act 2002, to encompass housing associations, private finance projects and private prisons in Scotland.

The proposed amendments, endorsed by Information Commissioner Kevin Dunion, have the aim of increasing accountability.

Possible additions to the regime would include registered social landlords, contractors who provide public services,

and bodies set up by local authorities.

It is understood that if the proposed additions are implemented, private prisons may be required to publish contract details, such as penalty clauses, if a prisoner escapes.

The Act could also see housing associations having to divulge information about tenancy matters.

A final decision on widening the Act is subject to formal and public consultation.

Minister for Parliamentary Business Bruce Crawford said he would be having discussions with “interested parties” about extending the Act.

“The organisations we are looking at in terms of coverage have not been chosen at random,” he said.

“They [housing associations, private finance projects and private prisons] are bodies about whom concerns over a lack of coverage have consistently been raised with us.”

(Continued on page 15)

Tribunal resolves BERR v Information Commissioner case

In its recent decision, *BERR v Information Commissioner and Friends of the Earth*, the Information Tribunal decided that names of individuals attending meetings would qualify for the section 40 exemption on personal data.

The decision came about after Friends of the Earth requested details of correspondence between the Department for Business, Enterprise & Regulatory Reform (‘BERR’), and

lobby groups, including the Confederation of British Industry.

The Tribunal considered the applicability of a number of exemptions under FOIA and EIR. In its application of the Section 40 exemption, the Tribunal categorised the names of individuals attending meetings as being ‘personal data’ (in contrast to *Harcup v Information Commissioner* where names of event attendees were not per-

sonal data). However, senior officials of both the public authority and the lobby group could have no expectation of privacy.

Rhian Hill from Bird & Bird commented that, in respect of government dealings with influential lobbyists, “The public interest in openness is likely to outweigh any arguments about a potential ‘chilling effect’ of disclosing discussions.”

(Continued on page 15)