



# Freedom of Information

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- ICO publishes new FOI policy, p.17
- Academy proprietors within FOI Act, p.18
- Royal Mail to disclose complaints details, p.19
- Government's bid to maintain secrecy surrounding Heseltine resignation, p.20

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## ICO is appealing landmark ruling on late exemptions

The Information Commissioner's Office is appealing a decision by the First-Tier Tribunal, calling into question the Tribunal's role under the Freedom of Information Act.

As part of a recent landmark decision, the First-Tier Tribunal (Information Rights) ruled that it was obliged to consider exemptions raised by a public authority for the first time before the Tribunal.

The ruling, in June, involved a case brought by the Home Office to maintain the secrecy of

evidence which the UK Border Agency relied upon when section 12 of the Asylum and Immigration (Treatment of Claimants) Act, 2004 was presented to Parliament.

The Home Office had cited sections 12 and 35 of the Freedom of Information Act 2000 in its refusal to supply the information. Subsequently, the Information Commissioner ruled that the exemptions could not be relied on by the Home Office. On appeal to the Tribunal, the Home Office invoked, for the first time,

section 40 (personal data exemption) and section 42 (legal professional privilege), despite not raising these at the time of the ICO's investigation.

The Tribunal found that it was obliged to consider the exemptions, even though they had not been raised at an earlier stage.

A spokesperson for the ICO told *Freedom of Information* "I can confirm that the ICO is appealing this."

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## Water company being investigated for FOI compliance

Northern Ireland Water is being investigated by the Information Commissioner over its compliance with the Freedom of Information Act.

The ICO will not give details of the probe, which began in July, in case it prejudices its investigation. But a spokesperson for NI Water told *Freedom of Information* "NI Water has received a complaint in which the Information

Commissioner is investigating. NI Water cannot give further details on this in case it prejudices the investigation."

Northern Ireland Water has been the focus of media attention in recent months following the dismissal of four of its directors and an investigation by the Northern Ireland Assembly.

A Public Accounts Committee looked into

both the dismissals and Northern Ireland Water's failure to ensure competition when handing out contracts.

Most recently, the most senior civil servant in the Department of Regional Development, Paul Priestly, was suspended pending a related investigation by the PAC. Apparently, the suspension was to facilitate the probe and was not a disciplinary