

Freedom of Information

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Headlines

- Prince Charles letters must be published, p.18
- Local authority begins to publish FOI requests, p.19
- New guide to disclosing employee data, p.20

Contents

| | |
|--|----|
| <i>Expert comment</i> | 2 |
| <i>Post legislative scrutiny and the changes that lie ahead</i> | 3 |
| <i>A shot across the bow?</i> | 7 |
| <i>Freedom of information and the future of the ministerial veto</i> | 8 |
| <i>Recent decisions of the Commissioner and Tribunal</i> | 10 |
| <i>FOI from a commercial perspective — Part 1</i> | 15 |
| <i>FOI News</i> | 17 |

New recording requirements cause consternation

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 came into force on 10th September 2012, bringing in new transparency requirements for all local authority executive decisions.

Amongst the requirements, the Regulations detail new procedures to be carried out prior to meetings held in private, including a requirement to provide a notice 28 days prior to the meeting notifying the intention to hold a private meeting.

The provision that seems set to be the most oner-

ous to implement is the requirement that 'executive decisions' taken by FOI Officers are recorded in a written statement. The statement must include the decision, its date and reasons for it, any alternative options considered and rejected by the Officer, any conflict of interest declared by any Executive Member consulted by the Officer in relation to the decision and any "note of dispensation granted by the relevant authority's head of paid service" in respect of any declared conflict of interest.

Concerns have been raised that as all deci-

sions of an authority could potentially be considered 'executive decisions', the burden may be excessive.

Barrister at 11KBW, Clive Sheldon QC, advises local authorities to implement the recording requirement in relation to decisions that are 'closely connected with' the discharge of an executive function, rather than all decisions including those that are remotely connected. In his view, this would take out purely administrative decisions.

The Association of Council Secretaries and Solicitors

(Continued on page 18)

Scottish Commissioner accuses government of causing rights erosion

Scotland's Information Commissioner has given a grave warning about the "erosion of rights to freedom of information" that is taking place in Scotland.

Rosemary Agnew, who was appointed as Scottish Commissioner in May 2012, identified two factors as causes of the erosion. Firstly, the growth in quangos, not covered by the Freedom of Information

(Scotland) Act 2002 ('FOI (S)A'), which have been taking over the running of cultural and leisure services from councils, and secondly the increase in public services delivered through PFI (private finance initiatives) which are also exempt from the Scottish Act. She said "it is simply not acceptable that citizens' rights continue to be eroded through complex changes in the delivery of services. This must be looked at

as an immediate priority."

Agnew raised her concerns as she published her first Annual Report. The Report shows that the number of appeals to the SIC rose by 24% in the past year, with 77% made by members of the public. The media accounted for 12% of the appeals, 6% were from commercial organisations and 2% from

(Continued on page 18)