pdp JOURNALS

ISSN 2049-5315

Freedom of Information

Volume 21, Issue 4 March / April 2025

Headlines

- FOI used to show how government profits from divorce fees, p.19
- Trump administration terminates FOI officials at agency overseeing government hires, p.20
- Two significant FOI cases now being heard, p.20

Contents

Expert comment 2

Applying section 40 — when will disclosure breach the first data protection principle? 5

Recent decisions of the Commissioner and Tribunals 11

FOI news 18

Latest PR includes guidance on the 'Responsible Authority'

The Public Records Office for Northern Ireland ('PRONI') has been issued with a Practice Recommendation ('PR') after accumulating a significant backlog of overdue information requests for transferred public records.

The backlog happened partly due to the absence of a devolved government in Northern Ireland during two separate periods in recent years.

However, the oldest unanswered requests dated from before the periods of absence, and 40 requests were more than five years old at the end of December 2024.

Despite issuing the PR, the Commissioner commented on PRONI's positive and constructive approach and how the authority "prioritised the public interest in transparency".

In the 'other matters' section, PR contains some interesting reflections on the role of the 'Responsible Authority'.

On receipt of a request for information, PRONI is required to identify and consult with a Responsible Authority ('RA') before determining whether any exemption from disclosure (or exclusion from the duty to confirm or deny that the requested information is held) applies. PRONI told the Commissioner it was having difficulties in identifying and consulting the RA in a significant number of cases.

The PR states that the responsibility for identifying the RA within the meaning of section 15(5) of FOIA rests solely with the appropriate Northern Ireland Minister, i.e. the Minister for Communities.

(Continued on page 18)

SIC encourages use of AI to make FOI responses more accessible

The Scottish Information Commissioner ('SIC') has said that he welcomes the use of 'assistive technology' in providing the public with information.

The SIC, who at the start of the year called for the urgent reform of key elements of Scotland's FOI law after the government said it will delay plans to take forward the extension of FOI to social care providers due to delays to the National Care Service Bill, said the AI-powered tool Chat GPT actually made some 'legalistic' FOI answers more explainable and 'human' in the language that it used.

Addressing a Standards, Procedures and Public Appointments Committee, David Hamilton, who took up the post in October 2023, said:

"Often, the responses to freedom of information requests are very legalistic, and I have asked the authorities to review that to make the information more accessible to young people and others, so that they can understand it clearly. Sometimes, as an adult, I struggle to understand what on earth a response means, so it needs that review."

He went on to describe an experiment his Office

(Continued on page 18)