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Freedom of Information

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Headlines

- Bristol City Council's FOI backlog appeal rejected, p.19
- HMRC ordered to disclose AI use in R&D tax credit decisions, p.19
- NHS Fife's FOI compliance under scrutiny amidst Peggie Tribunal, p.20

Contents

Expert comment 2

Hidden data in documents — what are the risks and solutions? 4

ICO Decision Notices 7

Recent decisions of the Commissioner and Tribunals 11

News & Views 19

ICO's appeal dismissed in public interest aggregation case

The UK Supreme Court has ruled in *Department for Business and Trade v The Information Commissioner* ([2025] UKSC 27), clarifying the approach public authorities must take when applying the public interest test under the Freedom of Information Act 2000 ('FOIA') in cases involving multiple qualified exemptions.

The case centered on a request for information related to post-Brexit trade negotiations, which the Department for Business and Trade ('DBT') withheld, citing two qualified exemptions: section 27 (international relations) and section 35 (formulation of government policy). The Information Commissioner contended that each exemption should be assessed independently.

However, the Supreme Court ruled in favour of the DBT, determining that when more than one qualified exemption applies, the public interest factors for and against disclosure can be considered cumulatively.

The Court found that this approach better reflects the statutory language of section 2(2)(b) of FOIA, which requires balancing the public interest in maintaining the exemption against the public interest in disclosure.

This ruling has practical implications for FOI Officers. When assessing requests involving multiple qualified exemptions, they should aggregate the public interest factors for and against disclosure across all applicable exemptions, rather than evaluating each exemption in isolation.

This cumulative approach aims to provide a more accurate and holistic as-

(Continued on page 19)

New guidance on disclosing documents

The Information Commissioner's Office has issued new guidance to help organisations securely disclose documents to the public, aiming to prevent accidental data breaches involving hidden personal information.

The guidance includes practical steps and how-to videos to assist organisations in checking documents, including spreadsheets, for hidden personal information and reducing the risk of a data breach. It covers topics such as deciding an appropriate format for disclosure, finding various types of hidden personal information, converting documents to simpler formats to reveal hidden data, and using software tools designed to help identify hidden personal information. The guidance also addresses removing and redacting personal information effectively.

The ICO has engaged directly with key stakeholders, including the government, to increase visibility of the guidance among those who need it.

While the guidance is designed to support organisations with disclosing documents to the public, the practical advice will also help all organisations avoid accidental data breaches in any situation where they are dis-

(Continued on page 19)