



# Open Spaces Society

**THE RIGHT TO KNOW –  
A GUIDE TO THE FREEDOM OF INFORMATION ACT 2000,  
THE ENVIRONMENT INFORMATION REGULATIONS 2004  
AND THE DATA PROTECTION ACT 1998**

Information Sheet B5

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## *The right to know -*

### *A guide to the Freedom of Information Act 2000, the Environment Information Regulations 2004 and the Data Protection Act 1998.*

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1. **The Freedom of Information Act 2000** gives people a general right of access to information held by or on behalf of public authorities. It is intended to promote a culture of openness and accountability among public-sector bodies, and to improve understanding of how public authorities carry out their duties, why they make the decisions they do, and how they spend public money.

2. **The Environmental Information Regulations 2004** give a right of access to information about the environment and factors affecting it. The right applies to information held by or on behalf of public authorities by those bodies carrying out a public function.

3. If an individual makes a request for access to information about him or herself, it must be dealt with according to the rules found in the **Data Protection Act 1998**. If the request is for access to environment information, it must be dealt with according to rules in the Environmental Information Regulations. Access to other sorts of information held by or on behalf of a public authority must be dealt with according to the Freedom of Information Act rules.

4. The new Environment Information Regulations and the Freedom of Information Act both came into force on 1 January 2005.

#### **Your rights**

5. By section 1 of the act, a person requesting information from a public authority is entitled to:

1. be informed whether or not the information requested is held by the authority, and if so
2. have that information communicated to him.

6. These rights must be considered separately and the authority will consider first whether it is right to confirm or deny the existence of information and second whether it should supply that information. It must do so unless the public interest in withholding the information outweighs that of disclosure.

#### **Procedures**

7. A request for information under the Freedom of Information Act must be in writing, with the name and address of the applicant and description of the information required.

8. Unless prohibited by regulations, the authority may levy a fee, which must be determined in accordance with regulations made by the Secretary of State for the Ministry of Justice. So far no regulations have been made. If the fee is not paid within three months, the authority does not have to provide the information. Subject to this, the information requested must be provided within 20 working days or, if a fee is levied, after payment of the fee. Vexatious

and repeated requests do not generally have to be complied with.

9. If the authority refuses a request for information, it must state the reason. Exemptions include national security, criminal investigations, law enforcement, and parliamentary privilege.

### **Enforcement**

10. The act required the establishment of two bodies: the Office of Information Commissioner, with wide powers to enforce the rights created and to promote good practice, and the Information Tribunal. A duty was also placed on the Secretary of State and the Lord Chancellor to promulgate codes of practice for guidance on specific issues.

11. Every public authority must adopt and maintain a scheme which relates to the publication of information by the authority and is approved by the Information Commissioner, and must publish information in accordance with the scheme.

12. Complaints that a request for information has not been dealt with properly or at all are handled by the Information Commissioner, who may issue an enforcement notice if satisfied that the act has been breached. There is provision for an appeal against a decision by the commissioner to the tribunal.

13. Where an authority has failed to comply with a valid enforcement notice, the commissioner may take the matter to the High Court, which may deal with the authority as if it had committed a contempt of court. The main penalties are a fine and sequestration of property.

### **Examples of use**

14. Some members of the society have made use of the provisions, for example they have:

- asked for documents relating to common land management at Hazeley Heath in Hampshire, and to a decision concerning access over common land at Wheeler End Common in Buckinghamshire,
- requested information gathered during mapping under the Countryside and Rights of Way Act 2000, particularly in respect of land at Walton Heath and Bisley Commons in Surrey which already have a right of access under the section 193 of the Law of Property Act 1925,
- called for papers regarding the development and disposal of open space at Dollis Hill in the London Borough of Brent,
- obtained information about covenants which require an open space in Portsmouth to be held for the benefit of the public. There were proposals to develop the land, in contravention of those covenants.

### **Further information**

15. Further information may be obtained from the Office of the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF or from the website <http://www.informationcommissioner.gov.uk>

*The Open Spaces Society is unable to accept liability for any misinterpretation of the law or any other error or omission in the advice in this paper.*