

**Freedom of Information Act 1997
Freedom of Information (Amendment) Act 2003
Short Guide**

Chapter 1: Introduction

Chapter 2: Publication Requirements

Chapter 3: Processing Requests

Chapter 4: Exemptions

Chapter 5: Restriction of Act

Chapter 6: Review of Decisions

Chapter 7: Charges

Chapter 8: Training and Further Information

**FOI Central Policy Unit
Department of Finance
July 2004**

This guide is not and does not purport to be a legal interpretation of the Freedom of Information Acts

Chapter One - Introduction

1.1 Introduction

The Freedom of Information Act 1997 commenced on 21 April 1998 for Government Departments and Offices and certain other Government bodies and on 21 October 1998 for local authorities and health boards.

Since that time, a substantial number of additional public bodies have been prescribed by regulations of the Minister for Finance. These include universities, institutes of technology and colleges of education, RTE and TG4, major service providers in the intellectual and physical disability fields, voluntary hospitals and bodies in the enterprise/support sector. A full list of public bodies to which the FOI Act applies is available on the FOI Central Policy Unit website at www.foi.gov.ie.

The Freedom of Information (Amendment) Act 2003 came into force on 11 April 2003. This Act introduced a number of important amendments to the 1997 Act notably in relation to Section 19 (Government Records), Section 20 (Deliberations of Public Bodies), Section 24 (Security, Defence and International Relations) and Section 47 (Fees). This guide reflects these amendments. A copy of the Freedom of Information (Amendment) Act 2003, explanatory material on that Act and a range of other materials relating to FOI can be accessed at www.foi.gov.ie.

All FOI requests must be processed under the FOI Act as amended.

1.2 Purpose of FOI

The long title sets out the purpose of the Freedom of Information Act. It asserts the right of members of the public to obtain access to official information to the greatest extent possible consistent with the public interest and the right to privacy.

Freedom of Information derives from the following broad principles:

- decisions by public bodies should be more open to public scrutiny, thus providing greater appreciation of the issues involved in policy decisions and stronger public ownership and acceptance of decisions made;
- those affected by decisions of public bodies should have the right to know the criteria used in making those decisions;
- every individual should have the right:
 - ✓ to know what information is held in government records about him or her, subject to certain exemptions to protect key interests
 - ✓ to have inaccurate personal material on file corrected
 - ✓ to obtain the reasons for a decision which affects them personally.

- citizens, as shareholders in public bodies, should have the right to examine and review the deliberations and processes of public bodies;

1.3 Main Features of the Act

The Act establishes three statutory rights:

- a right to access records held by public bodies;
- a right to have personal information in a record amended where it is incomplete, incorrect or misleading;
- a right to obtain reasons for decisions affecting the person;

In addition, the Act provides for the establishment of an independent Office of Information Commissioner to review most decisions made by public bodies under the Act.

1.4 Overview of the Act: Key Provisions in Each Part

Part I - Preliminary and General

- provisions in relation to short title and commencement (section 1)
- interpretation of various terms used in the Act (section 2)
- provisions for the making of regulations and delegation of functions (sections 3 and 4)

Part II - Access to Records

- establishes a legal right for members of the public to access records held by public bodies (section 6) *
- sets out the practical arrangements for processing requests (sections 6 to 13)
- sets out the procedures for internal review (section 14)
- requires public bodies to publish information about themselves, the information they hold, and the internal rules and guidelines used in decision making (sections 15 and 16)
- establishes a right to have personal information held by a public body amended where such information is incorrect, incomplete or misleading (section 17).*
- establishes a right for members of the public to access reasons for decisions directly affecting them (section 18).*

* *The right to access records, to have personal information amended and to have a statement of reasons for a decision can also be exercised by a parent or guardian in respect of a minor or disabled person and by the next-of-kin or personal representative of a deceased. Any relevant guidelines issued by the Minister for Finance from time to time should be consulted in such cases.*

Part III - Exempt Records

- sets out a series of related measures to protect information relating to key areas of Government activity, third party interests, court and parliamentary matters (sections 19 to 32)
- provides for the issue of Ministerial Certificates in the areas of law enforcement, defence and international relations (section 25)

- enables, where appropriate, one or more exemptions to be invoked to protect a particular interest.
- provides in a number of cases for the release of information in the public interest in exceptional circumstances.

Further information on the exemptions is contained in chapter 4.

Part IV - The Information Commissioner

- establishes the Office of the Information Commissioner (section 33)
- sets out the scope and procedures for review of decisions by the Commissioner under the Act (section 34)
- sets out the functions, duties and powers of the Commissioner (sections 35 - 40)

Part V - Miscellaneous

- provides that a decision is presumed to have been made in the event of failure by a public body to reply to a request within specified times (section 41)
- provides for a right of appeal to the High Court and Supreme Court (section 42 - 43)
- requires stay on certain decisions pending possible appeals (section 44)
- sets out legal protections for the release of information under Freedom of Information (section 45)
- provides for the exclusion of certain records from the Act (section 46)
- sets out charging provisions (section 47)
- amends the Official Secrets Act (section 48).

Chapter Two - Publication Requirements

Under the Act, public bodies are required to publish certain information about themselves and also to make available details of their internal rules, procedures, interpretations, etc. used in decision making. These requirements are contained in sections 15 and 16 of the Act.

Manual under Section 15 (Reference Book)

2.1 Section 15 requires each public body to prepare and publish a manual setting out a general description of:

- structure and organisation
- functions, powers, duties
- services it provides for the public and how these may be availed of
- a general description of the rules and guidelines used in implementing its schemes and programmes (required to be published under section 16)
- classes of records held and the arrangements for enabling the public to access such records
- names and designations of members of the staff of the body responsible for carrying out these arrangements (unless the publication of this information could threaten the physical safety or well being of the person)
- rights of review and appeal against the decisions of the body (including rights of review under this Act)

2.2 Purpose of Manual

The central purpose of the manual is to assist the public in ascertaining the information held by each organisation and how to access it. The content, design and layout of the manual should therefore be determined by reference to this objective. To this end section 15(3) requires bodies to have regard to the needs of the public in ascertaining and exercising their rights when compiling the manual. Such manuals are a standard feature of FOI legislation in other jurisdictions.

Information on the functions, structure and services of public bodies incorporated into strategy statements under the SMI process can serve as a useful foundation for preparation of the manual.

2.3 Exempt Material

The section explicitly provides that the requirement to include certain information in the manual is subject to the protections outlined in Part III (exemptions) and section 46 (excluded matter). If, for example, reference to a particular file title or document reference would disclose the identity of a confidential source, such details may be exempt from the manual.

2.4 Publication Requirements for Manuals

The Act provides that the manual shall be “published” (which may include publication by electronic means) and made available for inspection and for removal or purchase at such places as the head of the body considers appropriate. The head is required to cause notice of such places to be published in such manner as he or she considers adequate. In keeping with the spirit of the Act, such manuals are available in public offices, public libraries and Citizen Information Centres.

Manuals of local authorities and health boards must also be made available to members of the relevant authority or board.

2.5 Revision of Manual

A Manual under section 15 should be available at the time that a public body comes within the scope of the Act. Thereafter, a revised version should be prepared at least every 3 years and as soon as possible after any significant alterations or additions fall to be made to the latest manual.

Manual under Section 16 - Internal Rules and Guidelines
--

2.6 Under **Section 16** of the Act, each public body must publish the following:

- rules, procedures, practices, guidelines and interpretations used by the body
- an index of any precedents kept by the body

which may be used in making decisions, determinations or recommendations under any enactment or scheme administered by the body, with respect to:

1. rights, privileges or benefits to which members of the public are or may be entitled
 2. obligations, penalties or other sanctions to which members of the public are or may be subject
- information in relation to the manner or intended manner of administration of any scheme

2.7 Purpose of Publication of Internal Rules, Guidelines, etc.

The availability of such information is complementary to the general right of access. The objectives of this provision may be broadly summarised as:

- to assist the public in understanding more fully their rights and entitlements in relation to particular schemes
- to enhance public confidence in decision making

- to enable the quality and accuracy of the public body's interpretation and application of statutory provisions to be assessed

2.8 What are rules, guidelines, practices, etc.?

Rules, procedures, practices, guidelines and interpretations refer to a wide range of documents used by a public body in making a decision or recommendation affecting the rights of members of the public. It may include interpretation of legislation, staff circulars, manuals provided for the guidance of staff, statements of policy and decisions which operate as precedent.

Where public bodies have discretionary powers under legislation, it is intended that such discretion would be respected by this provision. They will, however, be required to identify such discretions and to outline the broad criteria by which such decisions are made.

2.9 Index of Precedents

Precedents refer to reasoned decisions previously made by public bodies which are used as standard interpretation in determining similar cases. By their nature, while some precedents will have general application to subsequent decisions, many will deal with very specific points of interpretation which may arise infrequently and only in respect of particular groups or narrow interests. For practical reasons therefore, public bodies are required to publish an index of these precedents only, alerting the public to their existence. In accordance with section 16(6), copies of precedents shall be made available on request.

2.10 Persons not to be Disadvantaged by Non-Publication

Section 16(3) provides that a person shall not be disadvantaged as a result of a public body failing to meet its requirements under this section i.e. if the material is not published or if the published material is incomplete or inaccurate. To avoid any misuse of this provision, it shall not apply where the public body can demonstrate that it has taken necessary action to fulfil its statutory obligations and bring the information to the notice of persons affected by it.

2.11 Publication Requirements for Internal Rules, Guidelines, etc.

As with the manuals, the Act provides that the internal rules and guidelines be "published" (which may include publication by electronic means) and made available for inspection and for removal or purchase at such places as the head of the body considers appropriate. The head is required to cause notice of such places to be published in such manner as he or she considers adequate. Again, in keeping with the spirit of the Act, such publications are available in public offices, public libraries and Citizen Information Centres.

The rules and guidelines of local authorities and health boards must also be made available to members of the relevant authority or board.

2.12 Exempt Material

Section 16(7) clarifies that information need not be published if it comes within an exemption in Part III (e.g. information likely to disclose the precise control or audit procedures used by a public body need not be disclosed) or an exclusion under section 46.

2.13 Revision of Manual

A publication under section 16 should be available at the time that a public body comes within the scope of the Act. Thereafter, a revised version should be prepared at least every 3 years and as soon as possible after any significant alterations or additions fall to be made to the latest manual.

Chapter Three –Processing Requests

3.1 What is a record?

A record is defined as including any papers, memorandum, text or other document, any photograph, film or recording, or any form in which data are held (whether manual, mechanical or electronic), and anything that is a part, or a copy, or a combination of the foregoing. A copy in any form of a record is deemed to have been created at the same time as the original.

3.2 What records can be sought from bodies within the scope of the Act?

The following manual and electronic records may be sought:

- records created from the commencement date of the 1997 Act (21 April 1998; 21 October 1998 for health boards and local authorities)
- all personal records and records relating to personal information of a requester irrespective of when created
- any other records necessary to the understanding of a current record
- personnel records of staff in public bodies created less than 3 years before commencement i.e. from 21 April 1995 Earlier records may be accessed if they are liable to be used in a way that might affect adversely the interests of the member of staff involved.

A record will not come within the scope of the FOI Act where it is:

- i. already publicly available
- ii. available under another enactment (except the Data Protection Act: requests for personal data may be made under either Act).
- iii. excluded under section 46.

3.3 Making an FOI Request

A person who wishes to exercise their right of access to records under the Act can make a request, in writing, to the head of the public body concerned for access to the record concerned:

- stating that the request is made under the FOI Act
- setting out sufficient particulars to enable the record to be identified
- specifying the preferred form of access, if he or she has such a preference (e.g. photocopy or computer disc).
- making payment of the amount of the fee prescribed in regulations under section 47(6A). The standard fee is currently set at €15 with a reduced fee of €10 applying if the requester is covered by a medical card. A request for records containing only personal information related to the requester (including a request made pursuant to section 28(6) by a parent or guardian on behalf of a minor or disabled person or the

next of-kin or personal-representative on behalf of a deceased person) is exempt from this fee.

3.4 Duty to Assist

If the request is unclear or of a general nature, the public body must assist the requester in the preparation of his/her request so as to enable identification of the information sought. A request may not be refused on the grounds of being either voluminous in nature or not sufficiently focused unless the body has first offered to assist the requester. (Sections 6(2)(a) and 10(2) refer). The public body must also have particular regard to the needs of people with a disability (Section 6(2)(b)) and should where appropriate consider relevant guidelines in this area which have been drawn up by the Minister for Finance.

3.5 Motive of the Applicant

Section 8(4) provides that, subject to the provisions of the Act, the interests and motives of a requester should not be taken into account in determining access. This provision reflects the general principle that each person has an equal right to access records under the Act, irrespective of any reasons the requester may give or any opinion the public body may have regarding the motive of the requester. However the interests or motive behind a request may be considered where some *other* provision of the Act requires it. For example, in conducting his review in cases 020375, 020376, 020647, 020648, 020649, 020651, 020652 - *Mr X and RTÉ*, the Information Commissioner found that section 8(4) allowed for the motive of the requester to be taken into account when considering if a request is 'frivolous or vexatious'.

The identity and circumstances of a requester, rather than the reasons for the request, may be relevant in certain cases. The identity of a requester can also have relevance where privacy considerations apply. Similarly, the means of the requester may allow waiver of fees for search and retrieval and photocopying in certain circumstances (section 47).

3.6 Informal Consultation

Cases may arise from time to time where a request under FOI is received by a Department or public body which relates to the activities or functions of another Government Department or public body. While there is no requirement for a public body to consult in such circumstances, it is strongly recommended that the other body should be informed and where possible consulted prior to a final decision being taken on the request.

3.7 Dealing with an FOI Request - Time Limits

- **Acknowledge** receipt of request **within 10 working days**¹ (section 7(2))
- Issue acknowledgement setting out the rights of the requester in the event of the request not being dealt with within the specified time limits. (under section 41 non-reply to a request is deemed to be a refusal thereby allowing the requester to proceed to internal review at no charge).
- **Decide whether to grant or refuse** to grant the request **within 20 working days** (section 8(1))

¹ A working day excludes a Saturday, a Sunday, or a public holiday as defined in the Organisation of Working Time Act 1997.

- ❑ If decision is to grant the request, determine the manner in which access will be offered
- ❑ Cause notification in writing of the decision and determination to be given to the requester

3.8 Extension of Time Limit (section 9)

The head of the public body may **extend the time limit** for dealing with a request **by up to 20 working days**, if the request, or related requests, concern such a large number of records that compliance within the initial 20 working day period is not possible

3.9 Information held by another public body (section 7(3))

The Act makes provision for transfer arrangements where an FOI request is made for a record held by another public body. If, upon receipt of a request, the record is not held by the recipient body, but is known to relate to another public body, the public body should consider recommending to the requester that the request be withdrawn and resubmitted - with the appropriate 'up-front' fee - to the body that holds the record.

Otherwise, a copy of the request must be forwarded to the body that holds the record **within 10 working days of receipt**. The public body should:

- take reasonable steps to acquire knowledge as to the most appropriate body for transfer
- inform the requester that his/her request was transferred
- the "first" public body shall be deemed not to have received the request.

Where a request is received for records, some of which are held by the body concerned and others are known to be held by one or more other public bodies, the requester should be informed of the names of the other bodies.

3.10 Information partly held elsewhere (Section 7(4))

- if part of a record is held by the first public body and the remainder by another public body, the first body must notify the requester of the names of the other public bodies which hold such records. The first body should then process the request insofar as it relates to records which it holds.

3.11 Granting of Access to Records

Procedure re Fees for search/retrieval and photocopying (section 8)

- if no fee for search and retrieval and/or photocopying is due or the amount of the deposit paid covers the fee, access to the record is granted immediately.
- if such a fee is charged, access to the record is granted within 5 working days of receipt of same.

The charging regime under FOI is described in chapter 7.

Form of Access (section 12)

Access may be granted in the following forms:

- a copy of the record
- a transcript of the information concerned
- a computer disk or other electronic device containing the information
- a reasonable opportunity to inspect the record
- if the record is of sound or visual images, a reasonable opportunity to hear or view the record
- if the information is in shorthand or other code, the information in decodified form or written form
- in such other form or manner as may be determined by the Minister for Finance
- in a combination of any two or more of the foregoing

Access to the record should be given in the form requested, unless

- the granting of the record in an alternative form would be significantly more efficient, or
- the granting of access in the form requested would be:
 - ✓ detrimental to the record
 - ✓ involve an infringement of copyright (other than that owned by the State, the Government or the public body concerned)
 - ✓ conflict with a legal duty or obligation of the public body
 - ✓ prejudice, impair or damage any interest protected by Part III (exempt records) or section 46 (records excluded from FOI).

3.12 Refusal to grant requests

Requests to access records may be refused for any of three reasons

1. the record is exempt under Part III of the Act
2. the record is excluded under section 46 (see chapter 5)
3. refusal for administrative reasons (section 10):
 - i. the record does not exist or cannot be found
 - ii. the request does not include sufficient details to identify the record sought
 - iii. the request is of a voluminous nature
 - iv. the information requested is likely to be published within 60 working days
 - v. the request is frivolous or vexatious or forms part of a pattern of manifestly unreasonable requests
 - vi. a fee or deposit for a previous or current request has not been paid

A public body must consult with the requester to ascertain more clearly what information is being sought before refusing a request on the grounds that it does not contain sufficient particulars or is a voluminous request (section 10(2)).

3.13 Deferral of Access to Records (section 11)

Access to a record may be deferred in the following circumstances;

- if the record was prepared solely for the information of both or either Houses of the Oireachtas or a committee of the Houses and will be so provided within a reasonable time
- if the interest to the public generally in disclosure is such that the Minister wishes to inform the Houses of the Oireachtas of, or otherwise make public, the contents prior to its release under FOI. The Minister must do so within 25 working days of receiving the request, subject to payment of fees, etc.
- if the information constitutes that in paragraphs (b), (d) or (e) of section 20(2) and disclosure on or before a particular day would be contrary to the public interest i.e.
 - ✓ (b) factual information (defined as including “*information of a statistical, econometric or empirical nature together with any analysis thereof*”).
 - ✓ (d) a report of an investigation or analysis of the performance, efficiency or effectiveness of a public body in relation to the functions generally or a particular function of the body,
 - ✓ (e) a report, study or analysis of a scientific or technical expert relating to the subject of his or her expertise or a report containing opinions or advice of such an expert. {A deferral of access under section 11 may not be invoked in respect of reports used or commissioned for the purposes of a decision of a public body made pursuant to any enactment or scheme, because exemption for such matter may be sought under section 20(1)}.

A public body is required under section 8(2) to notify the requester of the reasons for the deferral, the period within which the record will be made available and his or her rights of appeal. Deferral of access for the latter two reasons (i.e. Minister informing the Houses or matters relating to section 20) may be appealed directly to the Information Commissioner.

3.14 Access to Parts of Records (section 13)

- If part of a record contains exempt material, where practical, access may be offered to part of the record only. In some instances, deletion may be impractical if the information to be deleted forms an integral or large part of the original document.
- The public body must ensure that an edited copy is not misleading or falsely representing the contents of the entire document.
- The public body is obliged to inform the requester that the information offered has been edited and to indicate the nature of the information deleted. This requirement does not apply if the public body is entitled not to disclose whether or not certain records exist, as permitted in sections 19 *Government Records*, 22 *Legal Professional Privilege*, 23 *Law Enforcement and Public Safety*, 24 *Security, Defence and International Relations*, 26 *Information Obtained in Confidence*, 27 *Commercially Sensitive Information* and 28 *Personal Information*.

3.15 Reasons for refusal of FOI Requests (whether in whole or in part)

Section 8(2)(d) requires reasons for refusal to be given together with findings on any material issues relevant to the decision and particulars of any matter relating to the public

interest taken into consideration for the purposes of the decision. Again, this requirement does not apply if the public body is entitled not to disclose whether or not certain information exists.

The reasons requirement is designed to:

1. give an applicant the underlying reasons for a decision as opposed to merely quoting a section of the Act
2. enable the applicant to make an informed decision about an appeal
3. encourage public bodies not to invoke an exemption unless good grounds exist for so doing

3.16 Notification of Decisions on Requests (Section 8(2))

- The following details should be included in the notification of a decision on an FOI request:-
 - ✓ the decision and date on which it was made
 - ✓ name and designation of officer dealing with request (unless disclosure of this information could prejudice the safety or well being of the person concerned)
 - ✓ a schedule of records covered by the request
 - ✓ **if request is to be granted** - the form and manner of access, the period during which the record will be kept available and the amount of any fees for search and retrieval and/or photocopying due
 - ✓ **if the request is to be refused** - the reasons for the refusal, findings on any material issues relevant to the decision (**including details of any public interest factors taken into account**) and the section of the Act upon which the refusal is based;
 - ✓ **if access to the record is deferred** - the reasons for the deferral and the period of its deferral
 - ✓ particulars of rights of review and appeal, including procedures, fees and time limits involved.

Right to have Personal Information Amended

3.17 Section 17 of the Act confers a legal right on each member of the public to have personal information held by a public body amended, where it is incomplete, incorrect or misleading. It complements the right of access to personal information and is analogous to the right under the Data Protection Act (section 6) which allows individuals to seek amendment of personal data.

This right can also be exercised on behalf of a certain persons who are unable to invoke section 17 directly i.e. by the parents or guardians of minors or disabled persons or relatives or personal representative of a deceased. Any guidelines published by the Minister for Finance should be considered in relation to such applications.

Time Limits

The **time limits** applying to applications for correction of information are similar to those applying to access requests. Applications must be processed by the public body **within 20 working days**.

If the Public Body does not Agree

Where a public body does not agree that the information in question is incorrect, it must append to the record a copy of the application. This requirement does not apply where the application is considered by the head to be defamatory or where the alterations or additions would be unnecessarily voluminous.

Electronic Records

Section 17 recognises that some electronically stored records would be impossible to append. It provides therefore that a notation may, instead, be added to the record indicating the existence of the application, where it is not practicable to append the actual application.

Amended Record to be Furnished to Others

Details of the amended record must be furnished to any other person or public body to whom the record was given in the previous 12 months. This provision is consistent with the requirements of the Data Protection Act (section 6(2)(b)).

Right to Reasons for Decisions

3.18 *Section 18* confers a legal right on each person to obtain:

- reasons for a decision on *any* matter particularly affecting that person
- findings on any material issues of fact relevant to the decision.

This right can also be exercised on behalf of a person unable to invoke section 18 directly i.e. by the parents or guardians of minors or disabled persons or the relatives or personal representative of a deceased. Any guidelines published by the Minister for Finance should be considered in relation to such applications.

Findings on any material issues of fact refer to matters taken into account in making the decision. They may include:

- all the steps of reasoning linking the facts to the ultimate decision
- the criteria relevant to the decision, the weighting attached to each criterion and the conclusion reached on each
- any internal rules and guidelines used as part of the decision making process
- details of any recommendations, reports or investigations carried out by subordinate officers or experts and considered in the decision making process

Chapter Four - Exemptions

4.1 General Principles

Part III of the Act sets out a series of related measures to protect information relating to key areas of Government activity, parliamentary and court matters as well as third party information of a personal, commercial or confidential nature. Such exemptions feature one or more of the following aspects:

injury test: many exemptions require that an injury or harm test be satisfied before material can be withheld. This test requires consideration to be given to whether disclosure would have an adverse or harmful effect on a specific interest (e.g. *section 31* requires consideration of whether disclosure could reasonably be expected to have a serious adverse affect on the financial interests of the State).

public interest test: many exemptions contain an overriding public interest test. This requires consideration to be given to whether the public interest in disclosure of a particular record is better served and outweighs the potential harm or injury arising from such disclosure.

class test: a record may be exempt because it falls into a particular class. Relevant exemptions include *section 19* (Government Records), a record covered by legal professional privilege, a record which a Secretary General has certified under *section 20(1A)* as relating to a deliberative process of a Government Department and records related to security and international relations to which *section 24(2)* applies.

mandatory & discretionary exemptions: some exemptions, such as *section 19* (government records), *section 20(1A)* (records certified by a Secretary General as relating to a deliberative process in a Department) and *section 24(2)* (certain records related to international relations and security) *require* a request for a record meeting the relevant conditions to be refused. Other exemptions allow for a certain amount of discretion to be exercised in providing that a request *may* be refused where the terms of the exemption are met.

protection of third party interests: the Act protects information given to public bodies which is of a personal, commercially sensitive or confidential nature. Such information may be disclosed in the public interest but only following the consultation procedures contained in *section 29*.

certificates:

Ministerial:- a matter in the area of Law Enforcement, Security and International Relations which is exempt and also of sufficient sensitivity or seriousness may be the subject of a Ministerial Certificate. Such a decision may not be reviewed by the Information Commissioner but is instead subject to review by the Taoiseach and other members of the Government, or on a point of law by the courts. (*Sections 25 and 42*).

By a Secretary General:- a Secretary General of a Department has the power to certify a record as relating to a deliberative process in a Department of State and to revoke such a certificate when h/she is satisfied that the deliberative process has concluded. A certificate establishes conclusively that the record is exempt i.e. a request for the record must be refused and an application under *section 14 or 34* for a review of that decision cannot lie (*Section 20(1A)*).

4.2 Brief Description of the Exemption Provisions

Meetings of the Government (Section 19)

Subsection (1) of Section 19 protects Government records, records prepared for a member of the Government for the purpose of a Government meeting and records very closely related to such meetings, including a record consisting of a communication between two or more members of the Government concerning a matter that at the time of creation of the record was before or was expected to come before Government. “Government” is defined for the purpose of section 19 as including a committee consisting of members of the Government, the Attorney General or Ministers of State and a committee of officials certified by the Secretary General to the Government as having been established in direct support of Government deliberations.

This protection does not apply:

- where **ten** or more years have elapsed since the Government decision to which the record relates or communication between members of the Government was made
- where the information constitutes factual material and the decision to which it relates has been published. “Factual information” is defined in the Act as “*including information of a statistical, econometric or empirical nature together with any analysis thereof*”.

Section 19(1) is a mandatory exemption i.e. a head has no discretion to release information to which section 19(1) applies prior to the expiry of 10 years.

Subsection (2) of Section 19 is also mandatory and protects a record that contains the whole or part of a statement made at a meeting of the Government or information that reveals, or from which may be inferred, such a statement. A request for **any** record that is subject to section 19(2) must be refused i.e. the protection applies regardless of the date of creation of the record or the date of the Government meeting/decision.

Deliberations of Public Bodies (Section 20)

Subsection (1) of Section 20 provides that access to a record relating to the deliberative processes of a public body *may* be refused. This subsection does not apply where the public interest would, on balance, be better served by releasing than by refusing to release the record. This subsection does not offer protection to factual information, technical reports or reports on the performance or effectiveness of public bodies. Internal rules and guidelines and reasons for decisions are also excluded.

Subsection (1A) of Section 20 provides that a record *shall* be refused if the record has been certified by a Secretary General as relating to a deliberative process in a Department of State.

There is no discretion where such a certificate is in force: the certificate establishes conclusively that the record is exempt. An application for internal review under section 14 or review by the Information Commissioner under section 34 cannot lie in relation to a decision to refuse a request for a record that is covered by a certificate in force. A certificate must be revoked when the Secretary General concerned is satisfied that the deliberative process has concluded by issuing another certificate as to that fact. Commencing in 2004, each Secretary General must furnish an annual report to the Information Commissioner specifying the number of certificates and the number of revoking certificates issued in the preceding year.

Functions and Negotiations of Public Bodies (Section 21)

Under *section 21* records *may* be protected where disclosure could harm certain operations of a public body i.e. information which could:

- prejudice the effectiveness of test, audit, control, examination or investigative functions of a public body
- have a significant adverse effect on the performance of functions relating to management, including industrial relations and personnel management
- disclose negotiating positions of Government or state agencies.

This exemption does not apply if, in the opinion of the head, the public interest would, on balance, be better served by granting than by refusing the request.

Parliamentary, Court and Certain Other Matters (Section 22)

Section 22 is a mandatory exemption protecting:

- opinion and advice relating to the proceedings of the Oireachtas
- records which would be exempt from production in court either on grounds of contempt or legal professional privilege, or
- the private papers of elected representatives of the European Parliament or of Local or Regional Authorities or Health Boards*.
- records relating to the appointment, or proposed appointment, or business or proceedings of tribunals and inquiries as defined in the section.

(*The private papers of Oireachtas members are excluded under *section 46*).

Law Enforcement and Public Safety (Section 23)

Section 23 provides that information *may* be protected where its disclosure could prejudice or impair law enforcement functions or public safety. This protection includes information which could reasonably be expected to endanger the life or safety of any person.

Certain information related to certain law enforcement investigations, the performance of public bodies whose functions include law enforcement functions and the merits or demerits of programmes, schemes or policies for the purpose of law enforcement is excluded from section 23 where the head is satisfied that the public interest would, on balance, be better served by granting than by refusing to grant a request for such information.

Security, Defence and International Relations (Section 24)

Subsection (1) of Section 24 provides that information *may* be withheld where its disclosure could adversely affect defence, security, international relations, matters relating to Northern Ireland or matters relating to the functions of the Independent Commission for the Location of Victims' Remains.

Subsection (2) of Section 24 provides that information *shall* be withheld if it is within one or more of paragraphs (a) – (f) of that subsection. These relate to certain confidential diplomatic communications, a record of an EU or international body containing information the release of which is prohibited by the body, intelligence, records related to subversive activity or the tactics, strategy or operations of the Defence Forces and the functions of the Independent Commission for the Location of Victims' Remains.

Ministerial Certificates (Section 25)

Matters coming within the scope of the exemptions in sections 23 or 24 may be the subject of a Ministerial Certificate. Where a Minister is satisfied that information sought is exempt by reference to prejudicing interests in *sections 23 or 24*, and that the information is of exceptional sensitivity or seriousness, he or she may sign a certificate confirming that the material is exempt. *Section 25* outlines procedures to be followed in relation to the issuing of Ministerial certificates. In such cases, periodic review of each certificate is undertaken by other members of the Government rather than by the Information Commissioner (see chapter 6).

A certificate must be withdrawn where such a review finds insufficient grounds for its use. Where a certificate is withdrawn, the refusal to grant access to the information in question may then be subject to review by the Commissioner.

Information Obtained in Confidence (Section 26)

Subsection (1)(a) of Section 26 provides that information *shall* be protected if (i) it is held on the basis of a mutual understanding of confidence (ii) the information is important and (iii) releasing it would jeopardise the future supply of similar information. However the head has discretion to consider release of the information if on balance, he or she is of the opinion that it is in the public interest to do so. Prior to making a decision on such release, the consultation procedures in section 29 must be followed.

Subsection (1)(b) of Section 26 that information *shall* be protected if disclosure would constitute a breach of a duty of confidence provided by an agreement, by an enactment that is not specified in the third schedule or otherwise by law. There is no public interest test for such information and the consultation procedure under section 29 does not apply. The term "otherwise by law" would apply to a common law duty of confidence.

Neither Subsection (1)(a) nor (1)(b) of section 26 applies to a record prepared by a head or member of staff in the course of the performance of their official functions unless disclosure of the information would constitute a breach of a duty of confidence provided by an agreement or enactment or otherwise by law AND the duty is owed to a person other than a

public body, head or director or member of staff of a public body or a person who is providing a service for a public body under a contract for services.

Commercially Sensitive Information (Section 27)

Section 27 provides that a public body *shall* refuse to grant access to commercially sensitive information to persons other than the individual or company to whom the information relates. The head has discretion to consider release of the information only in exceptional circumstances where, on balance, he or she is of the opinion that it is in the public interest to do so. Again, the consultation procedures in *section 29* must be followed before making a decision on disclosure.

Personal Information (Section 28)

Section 28 protects the privacy of individuals by allowing the withholding of personal information held by a public body from third party access. A definition of “personal information” is contained in *section 2* of the Act.

Sensitive Medical Information: Particular procedures must be followed in respect of medical information where the head of the body is of the opinion that its disclosure to the person concerned may be prejudicial to his or her health or emotional well-being. In these circumstances, if requested to do so by the person concerned, the public body shall, instead release the record to an appropriate health professional nominated by the requester.

The head has discretion to consider release of personal information to a third party only in exceptional circumstances where, on balance, he or she is of the opinion that

- the public interest in disclosure outweighs the right to privacy of the individual concerned, or
- where release of the information would benefit the individual.

As with the previous two areas of information, the consultation procedures in *section 29* must be followed when a head is contemplating release of personal information on either of these grounds.

Formal Consultation Procedures (Section 29)

Section 29 outlines consultation procedures that must be followed if a public body proposes to release, in the public interest, information to which *sections 26(3), 27(3) or 28(5)* applies i.e. where it proposes to release information obtained in confidence (as defined in *section 26(1)(a)*), commercially sensitive information (as defined in *section 27(1)*) or personal information (as defined in *section 28(1)*) on the grounds that the public interest would, on balance, be better served in granting the request, and/or in the case of personal information, where the release of the information would benefit the individual. In such a case, the public body is obliged to:

- (i) in the case of information obtained in confidence, advise the person who provided the information and, if the head considers it appropriate, the person to whom the information relates, of the intention to release and the public interest grounds involved

- (ii) in the case of commercially sensitive or personal information, advise the person to whom the information relates of the intention to release the information and the public interest grounds involved,
- (iii) consider the response of the person(s) concerned prior to deciding on disclosure,
and
- (iv) allow the person(s) the opportunity for direct appeal to the Information Commissioner if the decision of the public body following consideration of any submissions received is still to release the information (if the decision at that stage is to refuse the request the requester should be advised of his or her right of appeal to the Information Commissioner).

Where a public body is unable to comply with these steps, the consent of the Information Commissioner must be sought prior to finalising the decision.

The normal period for initiating consultation under section 29 is 10 working days from the date of receipt of the request. However this can be extended by a further 10 working days if there are a significant number of records involved or if there is a large number of third parties that must be consulted under this section and invited to make submissions. In all cases, a period of 15 working days is allowed for the person(s) to whom the information relates to make a submission. A final decision on the request must be made within 10 working days of the date of receipt of the submission or the expiry of the 15 working day period for a submission to be made, whichever is the sooner.

Research and Natural Resources (Section 30)

Research: Section 30 provides that information in relation to research *may* be withheld if premature disclosure of the information would be likely to expose the body concerned or the persons engaged in the research to serious disadvantage.

Natural Resources: Section 30 also provides that information which could reasonably be expected to prejudice the well-being of a cultural, heritage or natural resource or the habitat or species of flora or fauna *may* be withheld.

Information relating to either category may be released where the public interest would, on balance, be better served by granting than by refusing the request.

Financial and Economic Interests of the State and of Public Bodies (Section 31)

Section 31 provides that information *may* be protected where

- its disclosure could reasonably be expected to have serious adverse effects for the financial interests of the State or the ability of the Government to manage the economy
- premature disclosure could result in undue disturbance of the ordinary course of business of the community
- access to the record could result in undue benefit or loss to any person.

Information may be released where the public interest would, on balance, be better served by granting than by refusing the request.

Secrecy Provisions in other Legislation (Section 32)

Section 32(1) is a mandatory exemption upholding the operation of specific secrecy provisions in other enactments. However, general “catch-all” secrecy provisions, listed in the Third Schedule to the FOI Act, are set aside, for the purposes of FOI, in favour of the provisions of the FOI Act.

This section also provides for periodic review of secrecy provisions in other enactments by a committee of the Oireachtas.

Disclosing the Existence or Non-Existence of Information

Certain exemptions contain provisions enabling a head to refuse to disclose the existence or non-existence of information. These provisions are found in *section 23* (Law Enforcement and Public Safety), *section 24* (Security, Defence and International Relations), where disclosure of its existence or non-existence would be likely to prejudice the interests protected by those subsections and in *sections 19* (Government records) and *22* (Parliamentary, Court, etc.) where confirmation of the existence or non-existence of the information would be contrary to the public interest.

Similar provisions are contained in *section 26* (Information Obtained in Confidence), *section 27* (Commercially Sensitive Information) and *section 28* (Personal Information) where the information (if it existed) satisfies the terms of the exemption (including the public interest test) and confirmation of its existence or non-existence would have the effect specified in the exemptions i.e. of breaching a duty of confidence or of revealing information obtained in confidence, commercially sensitive information or personal information.

Section 8(5) of the Act (Decisions on Requests and Notification of Decisions) contains additional protection against the disclosure of exempt information in a decision on a request.

Chapter Five –Restriction of Act

Section 46 excludes certain records from the scope of the FOI Act. There is no requirement to consider harm or public interest in relation to a record within Section 46. A decision to refuse a request for a record to which section 46 applies is, however, subject to review both internally and by the Information Commissioner. The records excluded by Section 46 include:-

- With limited exceptions, a record held by the courts or a tribunal to which the Tribunals of Inquiry (Evidence) Act 1921 is applied (other than a record relating to general administration).
- A record held or created by the Attorney General or Director of Public Prosecutions or their respective Offices (other than a record relating to general administration).
- A record relating to a review or investigation carried out by the Information Commissioner.
- A record relating to an audit, inspection or examination carried out by the Comptroller and Auditor General.
- A record relating to an investigation carried out by the Ombudsman, the Ombudsman for Children and the Pensions Ombudsman.
- A record relating to the President.
- A record relating to the costing, assessment or consideration of a proposal of a political party.
- A record given to a member of the Government or a Minister of State for use by him or her or for the purposes of proceedings in either House of the Oireachtas (including a Committee of either House) including briefing provided in relation to oral and written Parliamentary Questions.
- A record relating to private papers of a member of a TD or Senator or an official document of either House of the Oireachtas that is required by the rules or standing orders of either such Houses to be treated as confidential
- A record relating to information provided in confidence to a public body in relation to the enforcement of criminal law.
- A record that is already available whether on payment of a fee or free of charge to members of the public.

Chapter Six - Review of Decisions

Under the Freedom of Information Act, a person generally has a right to appeal a decision taken by a public body. The appeal is to a higher authority within the body and/or to the Information Commissioner. The rights to internal review and procedures for review by the Information Commissioner are set out in sections 14 and 34 respectively.

Unless the application for review constitutes an appeal concerning personal information, a decision under section 17 or 18 or a decision in relation to the charging of fees or deposits, the following fees must be paid by the applicant before a review can proceed:

Application for Internal Review:

€75 (reduced to €25 if the applicant is covered by a medical card)

Application for Review by Information Commissioner:

€150 (reduced to €50 if the applicant is covered by a medical card or is a third party appellant whose information a public body proposes to release on public interest grounds or on the grounds that release of personal information would benefit the requester).

Further details on FOI charges are provided in chapter 7.

Internal Review (section 14)

6.1 Section 14 provides for internal review of initial decisions made by a public body. Internal review must normally be undertaken before an appeal may be made to the Information Commissioner.

For public bodies, internal review provides an opportunity to consider new arguments put forward by the applicant. It also gives bodies an opportunity to monitor the quality of their primary decisions and to identify and correct problems or inconsistencies with their decision making process. The Act requires that internal review be completed **within 15 working days**.

6.2 What Decisions are Subject to Internal Review?

- The following decisions may be addressed by internal review:
 - ✓ decision to refuse all or part of a request.
 - ✓ decision to defer access to records prepared solely for the Oireachtas
 - ✓ decision to grant access in a form other than that requested
 - ✓ decisions to delete certain exempt material from a record
 - ✓ decisions refusing the correction of personal information which the requester believes is incomplete, incorrect or misleading
 - ✓ decisions relating to the rights of a person to obtain reasons for decisions on acts of the public body affecting that person
 - ✓ decisions relating to the charging of a fee or deposit.

6.3 Decisions which Bypass Internal Review

The following are decisions which are referred directly to the Information Commissioner without going through the process of internal review:

- section 29 matters i.e. where the public body is required to consult with a third party.
- any initial decision made by a head of a public body
- deferral of access under section 11(1)(b) and (c)
- extension of time limit for deciding on a request (section 9)

6.4 Delegation (section 4)

The delegation of functions relating to initial decisions is essential for the conduct of effective internal review procedures. Delegation provisions are set out at section 4 of the Act.

6.5 Procedures on Internal Review

- the review must:
 - be undertaken at a higher level than that at which the original decision was taken
 - be completed within 15 working days from receipt of the request for a review
 - uphold, annul or vary the original decision.

Following review, the public body is required to:

- issue details in writing, etc. of its decision to the requester. The notice must include details of:
 - ✓ date of decision
 - ✓ if decision is to grant request – form or manner of access and any fees payable
 - ✓ if access is refused, reasons for refusal unless public body is entitled to refuse to confirm or deny existence of material (sections 19(5), 22(2), 23(3), 24(4), 26(4), 27(4), (28(5A))
 - ✓ relevant material issues
 - ✓ if access is deferred, reasons for deferral
 - ✓ details of rights of appeal to Information Commissioner, High Court and Supreme Court.

An application for internal review must be made within 20 working days of the initial decision, but head of public body has discretion to extend this period. If no decision is made within 15 working days, non-reply is deemed to be a refusal and the applicant may proceed with an appeal to the Information Commissioner.

Review by Information Commissioner

6.6 Section 33 of the Act establishes the Office of Information Commissioner. The Office reflects key features of the independent appeals system under FOI in terms of:

- independence
- powers to seek documents and compel witnesses
- a mandate to operate informally
- decisions binding, subject to review by the High Court and Supreme Court
- specific time limits
- a mandate to review operation of the Act (including the operation of particular provisions) and compliance by public bodies
- reporting directly to the Houses of the Oireachtas

The Information Commissioner is bound by the Act to start from the position that a decision to refuse a request for information was unjustified. The onus is therefore on a public body to document and explain fully the basis for a decision to refuse a request **by reference to the provisions of the Act**. If a decision to refuse a request is appealed to the Information Commissioner, the public body will be invited to make a submission. **The importance of cogent, well argued submissions, clearly identifying the basis for exemptions and harm and/or public interest considerations, where relevant, cannot be overemphasised.**

6.7 What Decisions can the Commissioner Review?

The Commissioner may review the following:

- decisions made on internal review under section 14
- initial decisions on requests made personally by a head of a public body
- decisions on charges
- decisions to extend the time for consideration of requests under section 9
- decisions to defer the provision of access to a record falling within section 20(2) or a matter of such public interest that the Minister first wishes to inform the Houses of the Oireachtas
- decisions to which the consultation procedures outlined in section 29 apply
- decisions to refuse a request for a record on the grounds that section 46 (restriction of Act) applies

The Commissioner may not review under section 34:

- initial decisions taken by a member of staff acting under a delegation (internal review must first be completed)
- a decision to refuse a request for a record that is the subject of a certificate of a Secretary General under section 20(1A).
- matters subject to a ministerial certificate under section 25 (review is instead undertaken by the Taoiseach and other Ministers)

- FOI decisions in respect of a record relating to the Office of the Information Commissioner, or where the Ombudsman is also the incumbent of that office, the Office of Ombudsman (section 42 provides a direct right of appeal to the courts in this case).

6.8 Binding Powers

Decisions of the Information Commissioner are binding on the parties concerned (section 34(14)), subject to appeal to the High Court on a point of law under section 42. A decision of the High Court may be subsequently appealed to the Supreme Court.

6.9 Powers of the Commissioner (Section 37)

The Act confers on the Commissioner sufficient powers to enable effective discharge of his/her mandate both in relation to reviews and investigations. These include powers:

- to require the provision of information on the basis that it is relevant to a review or investigation
- to require the attendance of witnesses
- to remove records and retain them for a reasonable period
- to enter any premises occupied by a public body

Failure to comply with such requirements or the hindering of the Commissioner is an offence.

6.10 Informal Mandate

Section 37(6) promotes, where practicable, an informal approach to reviews by the Commissioner, rather than a highly structured and quasi-judicial approach.

6.11 Investigations, Commentaries and Reports by the Commissioner

Section 36 requires the Commissioner to keep the operation of the FOI Act under review and permits him/her to investigate and report on the practices and procedures adopted by public bodies generally, or by a particular public body, in complying with the Act generally or with particular provisions.

Under this section, the Commissioner was required to undertake a general review of the operation of the Act within 3 years of its commencement. The Commissioner's report "*The Freedom of Information Act - Compliance by Public Bodies*" was published in 2001 and is available along with other publications of the Commissioner on the OIC website at www.oic.ie. A follow-up "Action Plan" for public bodies prepared on foot of this report by the FOI Inter-Departmental Working Group in 2002 is available at www.foi.gov.ie

Under section 36, the Information Commissioner may also investigate the practices and procedures adopted by public bodies, or by a particular body, for the purpose of enabling persons to exercise the rights conferred by the FOI Act.

Under section 39 of the Act, the Commissioner may publish commentaries on the practical application and operation of the provisions, or of particular provisions, of the FOI Act,

including commentaries based on the experience of holders of the office of Commissioner in relation to reviews by his/her office under section 34.

Under section 40 of the Act, the Commissioner is required to prepare an annual report on his or her activities, to which must be appended a copy of any report furnished to the Commissioner under section 25(11) by a Minister in relation to the number of ministerial certificates issued under section 25. The Commissioner may also decide in the public interest to publish a report in relation to any investigation or review carried out or other function performed under the Act or a particular matter arising in the course of the performance of his/her functions.

6.12 Promote Information Giving

In line with the role of the Commissioner in promoting and encouraging the release of official information generally, section 38 requires the incumbent to foster and encourage the publication of additional information by public bodies over and above that specified in section 15 and 16 of the FOI Act.

6.13 How to contact the Information Commissioner

The Office of Information Commissioner may be contacted at the following address:

Office of the Information Commissioner
18 Lower Leeson Street
Dublin 2

Telephone: 01- 6395689

Contact details for each member of staff in the Commissioner's Office are contained on the OIC website at www.oic.ie

Chapter Seven - Charges

7.1 General

Section 47 sets out the charging regime for information requested and released under the FOI Act. There are two types of charges that apply:- (i) “up-front” fees that must accompany a request for a non-personal record under section 7 (or a subsequent application for review) and (ii) fees/deposits in relation to search and retrieval and reproduction costs of records released to a requester. Full details of all FOI charges are contained in CPU Notice 11, a copy of which is available on the FOI website at www.foi.gov.ie. A summary of FOI fees is set out below.

‘Up-Front’ Fees

Type of Request/Application	<u>Standard Fee*</u>	<u>Reduced Fee * **</u>
<u>Request for a non-personal record</u>	€15	€10
Initial Request	€75	€25
Internal Review	€150	€50
Review by Information Commissioner	€150	€50
<u>Request for a personal record</u>	No charge	No charge
<u>Application under section 17 for amendment of a record containing incorrect, incomplete or misleading personal information</u>	No charge	No charge
<u>Application under section 18 for the reasons for a decision affecting the individual</u>	No charge	No charge

* Fee will not apply where a person appeals a decision to charge a fee or deposit, or a fee or deposit of a particular amount.

** Reduced fee will apply in respect of persons covered by a medical card and third parties who appeal a decision of a public body to release their information on public interest grounds

Fees for search and retrieval and copying of records released

- Search and retrieval: €20.95 per hour*
- Copying charges **
 - Photocopy per sheet: €0.04
 - Floppy disk: €0.51
 - CD Rom: €10.16
 - Radiograph: €6.35

* Disregarded if only personal information is contained in the record except where the grant of the request relates to a significant amount of records.

** Disregarded if only personal information is contained in recorded and it would not be reasonable, having regard to the means of the requester, to apply a charge.

Chapter Eight – Training and Further Information

FOI Training

It is essential that public bodies give priority to ensuring that those charged with operating the FOI Act in their organisations are properly equipped to do so. With the passage of time since the FOI Act was introduced, and in the light of changes introduced by the Freedom of Information (Amendment) Act 2003, public bodies need to redouble their efforts to ensure that decision makers and reviewers are fully briefed and trained in the legislation. This is particularly important where experienced staff have moved to other positions in organisations.

Courses are run throughout the year for FOI decision makers in the civil service by the Centre for Organisation, Management and Development in the Department of Finance. Non-civil service bodies may opt to source decision-maker training for their staff from external providers or to provide such training directly by a suitably qualified member of staff. The Central Policy Unit in the Department of Finance provides training throughout the year at advanced level for staff in all public bodies.

Further Information

FOI Officers

A person should be available to handle queries from members of the public in each organisation. Such officers/Units will also have a particular responsibility to promote awareness of FOI in their organisations and to encourage key practitioners to avail of available training opportunities. Queries from FOI practitioners or other staff in a public body or from members of the public in relation to the application of FOI in the body should be addressed to the FOI Officer/unit in the organisation concerned in the first instance.

FOI Central Policy Unit

The FOI Central Policy Unit (CPU) in the Department of Finance supports FOI Officers and public bodies in their work and provides advice, advanced training and guidance to practitioners in public bodies. The Central Policy Unit also chairs a number of information sharing and advisory groups including the FOI Inter-Departmental Working Group and the Public Service Users Network at which FOI Officers representing key areas of the civil and public service are represented. The CPU can be contacted by telephone on (01) 676 7571.

User Networks

A number of other user networks of FOI Officers in the civil and public service exist to support the implementation of FOI in their respective areas. These include the Civil Service Users Network chaired by the Department of Enterprise, Trade and Employment and networks in the local authority, health and enterprise sectors.

FOI Website

A website containing this guide and other materials, including explanatory material on the FOI (Amendment) Act 2003 , Annual Reports of the Minister for Finance and a range of guidelines can be accessed at www.foi.gov.ie. FOI practitioners should have particular regard to the FOI Decision-Makers Manual, CPU Notices, regulations that have been made by the Minister for Finance since 1998 under the FOI Act, disability guidelines and guidelines prepared under section 28(6) in relation to the release of personal information of persons unable to exercise their rights directly under the Act. A copy of the FOI Leaflet - *Your Right to Know* - containing essential information for members of the public on FOI and on how to go about using the Act is also available.

Information Commissioner's Website

The Information Commissioner's website contains a range of other relevant materials on FOI, including reports and commentaries prepared by the Information Commissioner in accordance with his/her statutory remit. FOI Officers and decision-makers/reviewers should have regard to the index of decisions of the Information Commissioner published on this website. The website can be accessed at www.oic.ie

Section 15 and 16 Manuals

Each public body is required to prepare and publish manuals under section 15 and 16 of the Act containing details of the organisation's structures, records and rules and arrangements to facilitate members of the public in using the FOI Act. Further information on these publications is contained in chapter 2 of this guide.