

Freedom of Information (Scotland) Act 2002 Briefings Series

THE PUBLIC INTEREST TEST

1. Scope of briefing

The Freedom of Information (Scotland) Act 2002¹ introduces a right of access to information held by Scottish public authorities. The Act came into force on 1 January 2005. The Scottish Information Commissioner has produced this briefing as part of a series designed to aid understanding of the Act.

The aim of this briefing is to provide an overview of how the Commissioner views the public interest test. The briefing will be developed over time as the Commissioner determines applications under the Act and the courts make decisions. It is not a comprehensive statement of the public interest test and does not constitute legal advice.

The briefing is referenced throughout and, where appropriate, it will recommend additional sources for further reading.

2. What does the Act say?

Section 1 of the Act sets out the right of any person requesting information from a Scottish public authority:

“A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority.”²

This general right of access to information held by a Scottish public authority is subject to a number of exemptions listed in Part 2 of the Act and there are two main types of exemption: absolute and qualified. The public interest test does not apply to absolute exemptions but it does apply to all qualified exemptions, some of which are also subject to a “harm test.”³

The Act sets out the general terms of the public interest test in relation to the exemptions and states that, where the exemption claimed is not absolute, the information will be considered exempt only to the extent that “in all the circumstances of the case, the public interest in disclosing the information is not outweighed by that in maintaining the exemption”.⁴ An easier way to explain this is by saying that, in relation to most exempt information, the information should only be withheld if the public interest in withholding it is greater than the public interest in releasing it.⁵

When the Freedom of Information Bill was being considered by the Scottish Parliament, the Justice Minister at the time clarified the intention behind the wording in this section:

“...information can be withheld only when the public interest in withholding it is greater than the public interest in disclosing it. The bill specifically

¹ Freedom of Information (Scotland) Act 2002; *hereafter* referred to as “FOI(S)A 2002”.

² FOI(S)A 2002, s.1(1).

³ See section 3 below – “Key concepts and implementation issues”.

⁴ FOI(S)A 2002, s.2(1)(b).

⁵ Scottish Ministers’ Code of Practice on the Discharge of Functions by Public Authorities under the Freedom of Information (Scotland) Act 2002, Part 1, paragraph 1.

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provides that information must be disclosed when there is doubt about where the public interest lies or when the interest in withholding and disclosing the information is equal. The bill provides that if there is doubt about the public interest, information should be disclosed.”⁶

3. Key concepts and implementation issues

The public interest

The “public interest” is not defined within the Act but it has been variously described as “something which is of serious concern and benefit to the public”⁷, not merely something of individual interest.⁸ It has also been held that public interest does not mean “of interest to the public” but “in the interest of the public”⁹, i.e. it serves the interests of the public.

In his 2002 Annual Report, the former Irish Information Commissioner, Kevin Murphy, defined the public interest in the following way:

“In very general terms, I take it that the public interest is that which supports and promotes the good of society as a whole (as opposed to what serves the interests of individual members of society or of sectional interest groups). In this sense I take it that the term ‘public interest’ broadly equates with the term ‘the common good’...”¹⁰

What is held to be in the public interest will change over time and it will also depend on the particular circumstances of each case. Whether to include a set definition of the term within the legislation was considered extensively during the Scottish Parliament debates on the Freedom of Information (Scotland) Bill.¹¹ It was decided that any attempt to define the public interest could limit its effectiveness and its potential application in future cases.

As Scottish Executive officials stated at the time: “Our understanding is that the public interest is defined nowhere in legislation. It is not defined in the UK Bill, and we are not aware that it is defined in any other legislation that refers to requirements to consider the public interest in making a decision or disclosure. That is partly because no single factor can define the public interest. Consideration of the public interest is made case by case.”¹²

Instead, it was suggested that the Scottish Information Commissioner should provide guidance and that such guidance would develop over time as he receives applications under the Act and the courts make decisions.

⁶ Jim Wallace, Scottish Parliament, Justice 1 Committee, 5 February 2002, Freedom of Information (Scotland) Bill, col. 3157.

⁷ *British Steel Corporation v Granada Television Ltd.* [1981] AC 1096

⁸ *Sinclair v Maryborough Mining Warden* [1975] 132 CLR 473

⁹ *Johansen v City Mutual Life Assurance Society Ltd* [1904] 2 CLR 186

¹⁰ Annual Report of the Information Commissioner, 2002.

¹¹ Freedom of Information (Scotland) Bill, Stage 1 Debates of the Justice 1 Committee. See col. 2733, 30 October 2001; col.2893, 27 November 2001.

¹² Justice and Home Affairs Committee Official Report, Meeting No 6, 16 February 2000, Col 801.

<http://www.scottish.parliament.uk/business/committees/historic/justice/or-00/ju00-0602.htm>.

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Exemptions

Section 2 of the Act details the effect of exemptions where a public authority may refuse a request for information. Information is exempt from the Act where it falls under a particular exemption and there are two main categories of exemption (as listed in Part 2 of the Act):

Absolute exemptions. These exemptions identify instances where there is no legal right under the Act to access the information. These exemptions are not subject to the public interest test:

- Section 25 – Information otherwise accessible;
- Section 26 – Prohibitions on disclosure;
- Section 36(2) – Confidentiality;
- Section 37 – Court records etc;
- Section 38(1)(a),(c),(d) – Personal information.
- Section 38(2)(a)(i) – Personal information (where the data protection principles are not contravened);
- Section 38(2)(b) – Personal information (where disclosure of information would contravene any of the data protection principles if the exemptions in section 33A(1) of the DPA were disregarded).

Qualified exemptions. These exemptions are subject to the public interest test. Where a public authority has identified a possible exemption the authority must consider whether there is a greater public interest in providing the information to the applicant or in maintaining the exemption:

- Section 27(1) – Information intended for future publication;
- Section 27(2) – Information intended for future publication (this exemption is also subject to the harm test);
- Section 28 – Relations within the United Kingdom (this exemption is also subject to the harm test);
- Section 29 – Formulation of Scottish Administration policy;
- Section 30 – Prejudice to effective conduct of public affairs (this exemption is also subject to the harm test);
- Section 31(1) – National security and defence;
- Section 31(4) – National security and defence (this exemption is also subject to the harm test);
- Section 32(1)(a) – International relations (this exemption is also subject to the harm test);
- Section 32(1)(b) – International relations;
- Section 33(1)(a) – Commercial interests and the economy;
- Section 33(1)(b) – Commercial interests and the economy (this exemption is also subject to the harm test);
- Section 33(2) – Commercial interests and the economy (this exemption is also subject to the harm test);
- Section 34 – Investigations by Scottish public authorities and proceedings arising out of such investigations;
- Section 35 – Law enforcement (this exemption is also subject to the harm test);
- Section 36(1) – Confidentiality;

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- Section 38(1)(b) – Personal information (but only where the conditions in s.38(2) or s.38(3) are not satisfied;
- Section 38(2)(a)(ii) – Personal information (where section 10 of the DPA is contravened – right to prevent processing likely to cause damage or distress);
- Section 38(3) – Personal information (where information is not exempt from section 7(1)(c) of the DPA);
- Section 39 – Health, safety and the environment;
- Section 40 – Audit functions (this exemption is also subject to the harm test);
- Section 41 – Communications with Her Majesty etc. and honours.

Where a qualified exemption is claimed under Part 2 of the Act, the public authority must, in addition, consider whether to release the information in view of the public interest. This is best viewed as a two stage test:

Step 1 – Does the information fall under the terms of the exemption? If no, then the information should be released. If yes, go on to consider the public interest test.

Step 2 – Apply the public interest test, and if the public interest in disclosing the information is greater than the public interest in withholding the information, the information must be released. Where competing public interests have to be considered and the public interest in disclosing or not disclosing information is judged to be evenly balanced, public authorities should always decide in favour of disclosure.

Where a public authority decides not to release information because it considers the information to be exempt under Part 2 of the Act, the authority must provide reasons for its decision (including, where applicable, the consideration of the public interest test) in a formal refusal notice to the applicant.¹³ The refusal notice must also tell the applicant about their right to request a review of the authority's decision and then to seek a determination from the Scottish Information Commissioner.

4. Applying the public interest test

As mentioned above, where an authority considers that a qualified exemption applies to information that it holds (e.g. substantial prejudice would result from disclosure of the requested information), the authority will still be required to consider the public interest in making the material available. Authorities will need to make a judgement based on the circumstances of each case and in the light of any emerging guidance or best practice.

¹³ s.16(2) of FOI(S)A states that where a qualified exemption is claimed "the notice must state the authority's reason for claiming that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs that in disclosure of the information."

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Factors which may inform a decision about the public interest include:-

- **the general public interest that information is accessible i.e. whether disclosure would enhance scrutiny of decision-making processes and thereby improve accountability and participation.** This goes to the heart of freedom of information legislation. Without an adequate knowledge of the basis upon which decisions are made, the public will not have an opportunity to call public authorities to account; nor can they hope to participate in the decision-making process and contribute to the formation of policy and legislation if that process is hidden from view. As was stated in a Canadian court case, “The overarching purpose of access to information legislation ... is to facilitate democracy. It does so in two related ways. It helps to ensure first, that citizens have the information required to participate meaningfully in the democratic process, and secondly, that politicians and bureaucrats remain accountable to the citizenry.”¹⁴
- **whether disclosure would contribute to the administration of justice and enforcement of the law including the prevention or detection of crime or the apprehension or prosecution of offenders.** The public interest must be paramount in situations where a person considering whether to withhold or disclose information has reasonable grounds for believing that a failure to make the information available would be likely to prejudice the prevention or detection of crime. In such an instance it is not enough simply to believe that that an individual to whom the information applies may have been involved in fraudulent activity, there must be a substantial chance rather than a mere risk that harm would occur if the information was not disclosed.¹⁵
- **whether disclosure would affect the economic interests of the whole or part of the United Kingdom.** This may include instances where the release of information would impede the financial operations of the Scottish Parliament or where the UK government’s ability to run the economy would be affected. Where it is claimed that the economic interests of the whole or part of the UK would be affected an authority would have to establish a clear and direct link between the disclosure of the specific information and the probable harm that is likely to result from that disclosure. The information could consist of documents that contain sensitive financial details of exchange rates, interest rates or taxes.
- **whether disclosure would contribute to ensuring effective oversight of expenditure of public funds and that the public obtain value for money.** Public authorities should consider the public interest in ensuring maximum openness in relation to the use of public funds. The Irish Information Commissioner has stated, “Such openness is a significant aid to ensuring effective oversight of public expenditure, to ensuring the public obtains value for money, to preventing fraud and corruption and to preventing the waste or misuse of public funds”.¹⁶

¹⁴ Justice LaForest in Dagg v. Canada (Minister of Finance) [1997] 2 S.C.R.

http://www.lexum.umontreal.ca/csc-scc/en/pub/1997/vol2/html/1997scr2_0403.html.

¹⁵ Case No. C.1513/00. Department of social security - Benefits Agency: mishandling of a fraud investigation. http://www.ombudsman.org.uk/pdfs/P111_177.PDF. See also the non-disclosure exemption in the Data Protection Act 1998, sections 29(1)(a) and (b).

¹⁶ Case 98049, 98056, 98057 - Henry Ford & Sons Ltd, Nissan Ireland and Motor Distributors Ltd and The Office of Public Works, 31 March 1999, http://www.oic.gov.ie/2206_3c2.htm.

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- **whether disclosure keeps the public adequately informed of any danger to public health or safety, or to the environment.** As always with the consideration of the public interest test, much will depend of the circumstances of the case in question, and this can be seen with two relatively similar Canadian cases. Where a journalist requested records from Transport Canada in relation to violations of the Aeronautics Act and Regulations by commercial pilots, the Commissioner was not convinced that the public interest served by disclosure would be outweighed by the invasion of privacy that would result. He accepted the argument that Transport Canada's regulatory role adequately serves the public interest in airline safety without the need for the public to intrude into the privacy of pilots.¹⁷ On the other hand, when a journalist requested information from the Transportation Safety Board concerning air traffic control tapes and transcripts relating to a plane crash, the Commissioner decided that the Board had not considered the public interest properly and that public interest in air safety outweighed any privacy considerations.¹⁸
- **whether disclosure would impact adversely on safeguarding national security or international relations.** Examples of potential harm to international relations include the risk that disclosure would impede negotiations, undermine frankness and candour in diplomatic communications, and impair confidential communications and candour between governments or international bodies. Where information relates to ongoing activities, some of that information may remain sensitive for many months or years after a particular decision is made.¹⁹ However, it should be recognised that the sensitivity of such information generally reduces over time.²⁰ It should also be noted that the test is one of *adverse* impact.
- **whether disclosure would contribute to ensuring that any public authority with regulatory responsibilities is adequately discharging its functions.** Where disclosure would allow the public to assess the performance and scrutinise the activities of a public authority and there is a risk of danger to public health or safety, such as in the regulation of nuclear power plants, public concerns are unlikely to be allayed by an authority simply advising the public that reviews of operations are conducted against the highest possible standards. The authority should instead provide enough information for the public to assess the adequacy of such a safety program itself in meeting its objectives.²¹ Similarly, the existence of other accountability mechanisms should not be used as an argument for the non-disclosure of information under the Act in relation to the legal responsibilities of a public authority. In Queensland, Australia, an applicant requested information to allow inspection of successful applications for financial assistance under a government scheme. The Queensland Information Commissioner stated:

“I consider that there is a public interest in permitting any interested member

¹⁷ Case 13-98, Annual Report 1997-1998.

¹⁸ Files 3100-14483/001 and 002, Annual Report 2000-2001,
http://www.infocom.gc.ca/reports/section_display-e.asp?intSectionId=141.

¹⁹ Case No: A.10/04, Ministry of Defence and Foreign and Commonwealth Office - Refusal to release a National Audit Office report and other information related to the Al Yamamah project.
http://www.ombudsman.org.uk/improving_services/selected_cases/AOI/aoi04/a10-04.html.

²⁰ Case No: A.12/03, Ministry of Defence – Refusal to release information about accidents involving nuclear weapons, UK Parliamentary Ombudsman.
http://www.ombudsman.org.uk/improving_services/selected_cases/AOI/aoi04/a12-03.html.

²¹ Order P-1190, Appeal P-9500760. Ontario Hydro.
http://www.ipc.on.ca/scripts/index.asp?action=31&U_ID=0&P_ID=7021.

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of the community to have access to information which will allow scrutiny of the payments made under the Scheme, and whether the announced public policy purposes of the Scheme are being met in practice.²²

- **whether disclosure would ensure fairness in relation to applications or complaints, reveal malpractice or enable the correction of misleading claims.** For example, information should be disclosed where it would assist a complainant to understand the steps taken by a public authority in dealing with his or her application or complaint.²³ It is also in the public interest for information to be disclosed which would enhance the accountability of a public authority with respect to the investigation of complaints.²⁴

- **whether disclosure would contribute to a debate on a matter of public interest.** Where the release of information will allow the public to make an informed decision on a subject it will be easier for a public authority to conclude that the public interest in disclosure outweighs the potential harm. In one case involving a public works project the public interest in having access to a small amount of additional analytical material was not held to be strong enough to outweigh the harm that disclosure might have caused to the frankness of discussion.²⁵ However, it has been recognised that where the information requested relates to a high profile issue that has featured heavily in the media and which involves the accountability for public funds, there will be a strong public interest in releasing that information.²⁶

- **whether disclosure would prejudice the protection of an individual's right to privacy.** In a New Zealand case it was decided that where Police held a photograph of an individual committing a crime it should not be disclosed to an applicant who requested it. The reasoning behind this decision was that not only would the disclosure prejudice the individual's privacy but also that matters which may be interesting to the public are not necessarily matters which it may be in the public interest to disclose.²⁷ In a Canadian case where a government employee "blew the whistle" on alleged contracting irregularities and misuse of government funds it was held that there was a public interest in exposing cases where there was misappropriation of public money and that this clearly outweighed any invasion of privacy.²⁸ The Canadian Commissioner noted the comments in a case from the Federal Court:

"It is always in the public interest to dispel rumours of corruption or just plain mismanagement of the taxpayers' money and property. Naturally if there has been negligence, somnolence or wrongdoing in the conduct of a

²² FN Albeitz in Decision 99008, Pearce and Queensland Rural Adjustment Authority, 4 Nov 1999, para.42. <http://www.infocomm.qld.gov.au/indexed/decisions/html/99008.htm>.

²³ Re Villanueva and Queensland Nursing Council, (02/2000). <http://www.infocomm.qld.gov.au/indexed/decisions/html/02-2000.htm>.

²⁴ Case 04/2001, Gill and Brisbane City Council (2001) 6 QAR 45. <http://www.infocomm.qld.gov.au/indexed/decisions/html/04-2001.htm>.

²⁵ Case A.2/98, Refusal to release details of an internal review of the Cardiff Bay Barrage project. Cited in Cook (2003), see Further reading section below.

²⁶ Case A.26/01, Refusal to provide copies of correspondence between FCO and DTI relating to human rights issues and the Ilisu Dam. <http://www.ombudsman.org.uk/pdfs/par01.pdf>.

²⁷ Case W42789. Cited in Cook (2003), see Further reading section below.

²⁸ Case 16-95, Annual Report 1994-95, http://www.infocom.gc.ca/reports/pdf/OIC94_5E.PDF.

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government institution's operations it is by virtual definition, in the public interest to disclose it and not to cover it up in wraps of secrecy."²⁹

In deciding whether disclosure is in the public interest, authorities should not take into account:

- **possible embarrassment of government or other public authority officials.** On this point the former Irish Information Commissioner stated: "... open government and greater accountability by definition involve greater scrutiny of decision making; while this may from time to time result in embarrassment for public servants or politicians, the common good of safeguarding against wrong-doing, at whatever level, must take precedence."³⁰
- **the seniority of persons involved in the subject matter.** Public interest in accountability has also been held to extend to senior public officers, including Ministers of the Crown, since it would help to promote more informed public debate about the standards of conduct or the performance of public representatives. Simply because a person holds a high office is not, of itself, sufficient to weigh against disclosure. In fact, it is likely to be the opposite. For example, electors have a right to expect high standards of propriety or ethical conduct from elected representatives holding senior positions of public trust.³¹
- **the risk of the applicant misinterpreting the information.** It is not an acceptable argument for a public authority to claim that information should be withheld because it could be misinterpreted by the recipient or the public at large. The Queensland Information Commissioner has argued that such a standpoint is "... based on rather elitist and paternalistic assumptions that government officials and external review authorities can judge what information should be withheld from the public for fear of confusing it, and can judge what is necessary or unnecessary in democratic society. I consider that it is best left to the judgment of individuals and the public generally as to whether information is too confusing to be of benefit or whether debate is necessary."³²
- **possible loss of confidence in government or other public authority.** A public authority must release information that has been requested regardless of whether it portrays that authority in a positive or negative light. Only by opening up the day to day operations and decision-making processes of public bodies to general scrutiny will the public sector be able to engender the trust and confidence of the public. In the UK government's White Paper on freedom of information the benefits of transparency and openness in government and the public sector were discussed:

"Unnecessary secrecy in government leads to arrogance in governance and defective decision-making. The perception of excessive secrecy has become a corrosive influence in the decline of public confidence in

²⁹ Justice Muldoon in *Bland v. Canada* (National Capital Commission) [1993] 1 F.C. 541, <http://reports.fja.gc.ca/fc/src/shtml/1993/pub/v1/1993fca0410.shtml>.

³⁰ Kevin Murphy, Freedom of Information Annual Conference, Dublin Castle, 10 October 2002. http://www.oic.gov.ie/2402_3c2.htm.

³¹ Graham Richardson and Queensland Police Service, (Information Commissioner of Queensland, Decision No. 07/2001, 13 August 2001), <http://infocom.staging.bigbridge.com.au/indexed/decisions/html/07-2001.htm>.

³² Eccleston and Department of Family Services and Aboriginal and Islander Affairs [1993] QICmr 2 (30 June 1993); (1993) 1 QAR 60, <http://www.infocomm.qld.gov.au/indexed/decisions/html/93002.htm>.

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government. Moreover, the climate of public opinion has changed: people expect much greater openness and accountability from government than they used to.”³³

These examples are not exhaustive and are illustrative of the considerations that will need to be employed by an authority rather than suggestive of what the Scottish Information Commissioner will find in any particular case. Many factors are likely to have to be considered on a case by case basis, depending on the request for information.

The public interest test must be applied not as a whole but to the specific use of each qualified exemption. Where authorities seek to rely on such an exemption they must provide their reasons to the applicant for claiming that the public interest does not outweigh the application of the exemption.³⁴ A detailed record of decision-making processes should be kept at every step when considering exemptions, so that if the applicant requests a review or subsequently appeals to the Commissioner for a decision, there is a clear record of the arguments considered regarding the public interest test.

Public authorities must be able to provide evidence of all of the factors that have been taken into consideration when the public interest test is applied to any qualified exemption that they cite. It will not be enough simply to list all the factors which are thought to be contrary to the public interest. Instead, the authority should provide all of the public interest factors, both for and against disclosure, which were taken into account in applying the test. They must be able to show that a specific detriment will occur because of the disclosure.³⁵

A detailed and objective analysis of the factors considered under the public interest test is not only important in assisting applicants to assess whether an application for review is justified, but also to allay unwarranted criticism of the view that the public body has taken, even where the original decision is subsequently overturned on review. In a recent decision under the now defunct Code of Practice on Access to Scottish Executive Information, the Scottish Information Commissioner underlined the importance of the requirement for public authorities to provide detailed reasoning when claiming exemptions:

“Authorities must be mindful of the need to justify their decisions to withhold information such that the applicant can consider whether the authority has acted reasonably and can understand the basis on which their request has been refused [...] I believe it is in the interests of the authority to do so as a full explanation is more likely to satisfy applicants and may then lead to fewer requests for review and appeals.”³⁶

³³ Your Right to Know: The Government's proposals for a Freedom of Information Act, 1997.

<http://www.archive.official-documents.co.uk/document/caboff/foi/foi.htm>

³⁴ This is subject to s.16(3) of FOI(S)A 2002 which states that an authority is not obliged to state why the exemption applies if the statement would disclose information which would itself be exempt information.

³⁵ Australian Attorney-General's Department Freedom of Information Memorandum No.98 – Exemption Sections in the FOI Act. Para.1.6.3.1.7.

³⁶ Decision of the Scottish Information Commissioner in Response to an Appeal under the Code of Practice on Access to Scottish Executive Information: Refusal to Release Details of a Contract relating to Prison Escort Services, Case No: 02/04, 24 November 2004.

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5. Summary

The concept of “the public interest” is central to the Freedom of Information (Scotland) Act 2002. The term is not defined within the Act but it has been variously described as “something which is of serious concern and benefit to the public”, not merely something of individual interest. It has also been held that public interest does not mean “of interest to the public” but “in the interest of the public”, i.e. it serves the interests of the public.

Whenever a Scottish public authority receives a request for information that is not covered by an absolute exemption it must take into account the public interest when deciding whether or not that information should be disclosed. Where a public authority decides not to release information because it considers that information to be exempt, the authority must provide a reason for its decision. Section 2(1)(b) of the Act states that information to which such an exemption applies can be withheld only to the extent that:

“in all the circumstances of the case, the public interest in disclosing the information is not outweighed by that in maintaining the exemption.”

What constitutes the public interest will change over time and any consideration of the public interest must be made on a case by case basis in order to take into account the particular circumstances surrounding each case. Where competing public interests have to be considered and the public interest in disclosing or not disclosing information is judged to be evenly balanced, public authorities should always decide in favour of disclosure.

6. Updates

The guidance in this briefing may be amended following any decisions by the Scottish Information Commissioner on appeals involving the public interest test, should his decisions provide further guidance on the interpretation of this aspect of the Freedom of Information (Scotland) Act 2002. Updates to this briefing and the others in this series will be publicised on the Commissioner’s website and in his monthly newsletter.

May 2005

7. Sources:

1. Freedom of Information (Scotland) Act 2002
2. Scottish Ministers’ Code of Practice on the Discharge of Functions by Public Authorities under the Freedom of Information (Scotland) Act 2002
3. J MacDonald and C H Jones, *The Law of Freedom of Information*, OUP 2003
4. Scottish Parliament, Justice 1 Committee Official Reports
5. Annual Report of the Information Commissioner, 2002
http://www.oic.gov.ie/report02/2216_20A.htm
6. Freedom of Information (Scotland) Bill, Stage 1 Debates of the Justice 1 Committee
7. Australian Attorney-General’s Department Freedom of Information Memorandum No.98.
[http://www.ag.gov.au/agd/WWW/securitylawHome.nsf/Page/Freedom_of_Information_Publications_Memoranda_FOI_Memo_No._98_\(31_December_2003\)](http://www.ag.gov.au/agd/WWW/securitylawHome.nsf/Page/Freedom_of_Information_Publications_Memoranda_FOI_Memo_No._98_(31_December_2003))

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8. Decision of the Scottish Information Commissioner in Response to an Appeal under the Code of Practice on Access to Scottish Executive Information: Refusal to Release Details of a Contract relating to Prison Escort Services, Case 02/04, 24 November 2004
9. The Parliamentary Ombudsman, Second Report Session 1998-99, Volume 2 - Access to Official Information, http://www.ombudsman.org.uk/improving_services/selected_cases/
10. The Parliamentary Ombudsman, Investigations Completed April - October 1999, 2nd Report Session 1999-2000, http://www.ombudsman.org.uk/improving_services/selected_cases/
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14. Freedom of Information (Amendment) Act 2003, http://www.oic.gov.ie/2546_3c2.htm
15. Federal Access to Information Act 1982, Canada, <http://www.infocom.gc.ca/acts/pdfs/accessact.pdf>
16. Freedom of Information Act 1982, Australia, http://www.austlii.edu.au/au/legis/cth/consol_act/foia1982222/
17. Canadian Information Commissioner, Annual Report 1997-1998, http://www.infocom.gc.ca/reports/pdf/OIC97_8E.PDF

Further reading:

1. *Balancing the Public Interest: Applying the public interest test to exemptions in the UK Freedom of Information Act 2000*. Meredith Cook, August 2003, The Constitution Unit: www.ucl.ac.uk/constitution-unit/publications/index.php
2. *The Law of Freedom of Information*. Macdonald, J. and Jones, C.H. (2003). Oxford University Press
3. *Freedom of Information Memorandum No.98 – Exemption Sections in the FOI Act*. Australian Attorney-General's Department. [http://www.ag.gov.au/agd/WWW/securitylawHome.nsf/Page/Freedom_of_Information_Publications_Memoranda_FOI_Memo_No._98_\(31_December_2003\)](http://www.ag.gov.au/agd/WWW/securitylawHome.nsf/Page/Freedom_of_Information_Publications_Memoranda_FOI_Memo_No._98_(31_December_2003))
4. Freedom of Information Act Awareness Guidance No. 3: The Public Interest Test, UK Information Commissioner, <http://www.informationcommissioner.gov.uk/cms/DocumentUploads/AG%203%20-%20Pub%20Int%20reform.pdf>
5. Open government: a review of the federal Freedom of Information Act 1982. The Australian Law Reform Commission (1995). <http://www.austlii.edu.au/au/other/alrc/publications/reports/77/ALRC77.html>