The Basic FOI Right

s.1(1)(a) – right to be informed in writing whether public authority holds the information requested

s.1(1)(b) – right to have that information communicated to the requester

Scope of the right

• Request for information widely defined (s.8)
• Limit to resources that must be expended (s.12)
• Duty to advise and assist requesters (s.16 and s.45 Code of Practice)
Freedom of information in practice

In 2009:
• 17,822 requests
• information disclosed in full – 59%
• information withheld in full – 23%
• most often used exemption – personal data (three times as often as the nearest other)

Policy formulation and ministerial communication (s.35)

Interests protected:
• “thinking space”
• ministerial collective responsibility
• uninhibited discussion between ministers in a formal setting
• DfES v IC & Evening Standard (UKIT EA/2006/0006)
• Cabinet Office v IC (UKIT EA/2010/0031)
Private information about individuals (s.40)

Interests protected:
- privacy
- unfair release of personal information
- sensitive personal data

Release can be justifiable where there is a pressing social need


Legally privileged information (s.42)

Interests protected:
- confidentiality of communications between lawyers and clients
- administration of justice
- ability of clients to seek legal advice
- *BERR v O’Brien & ICO [2009] EWHC 164*

Disclosure may serve the public interest where there has been wrongdoing