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Issued on behalf of Sweet & Maxwell

Government refusing ever more Freedom of Information Act requests

- **Fifth anniversary of the Freedom of Information Act**
 - **Cabinet Office refuses 51% but MOD only 8%**

The Government's response rates to Freedom of Information Act (FOIA) requests has deteriorated significantly since the Act was introduced five years ago, says Sweet & Maxwell, the legal information provider. Statistics show that the Government has been refusing to answer an ever higher proportion of Freedom of Information Act requests.

22% of requests for information under the FOIA were refused in Q3 2009 compared to 18% in 2005 when the Act first came into force.¹

6,334 requests for information were withheld in the last 12 months.

The figures also show that the percentage of requests which did not receive a proper response in the 20-day deadline rose from 16% to 18% over the last year.

Sweet & Maxwell says that the performance of some Government bodies differed radically from others in Q3 09. Whilst the Cabinet Office refused 51% of resolvable requests, the Ministry of Defence only refused 8% of requests in the same period.

Top five Government bodies most likely to withhold information

Government body	% of requests withheld Q3 09
Cabinet Office	51%
HM Revenue & Customs	45%
The Office of Fair Trading	45%
The Ministry of Justice	44%
HM Treasury	32%

According to Marcus Turle, author of *Freedom of Information Manual*, published by Sweet & Maxwell, Government departments still have a deeply rooted 'need to know' culture and are struggling to come to terms with the 'right to know' principle enshrined in the FOIA.

Marcus Turle, a Partner at commercial law firm Field Fisher Waterhouse, comments: "Public sector bodies are increasingly refusing to disclose information or dragging their feet over

¹ The Ministry of Justice

dealing with requests as a way of managing their reputations. There is a feeling within some public sector bodies that information on their poor performance which is disclosed is too often used as a stick to beat them with, which is reinforcing this reluctance.”

“The culture within the public sector has always been that information should be disclosed on a ‘need to know’ basis which is at odds with the ‘right to know’ principle enshrined in the Act. Public sector bodies still too often think ‘why does this person want this information?’ when dealing with requests under the Act.”

“What’s worrying is that public sector bodies are actually getting worse at dealing with requests when you would expect them to be improving their performance. The Act has been in force five years now. Rather than becoming faster and more open in dealing with requests, the trend is going in the opposite direction.”

He adds: “If the Ministry of Defence, which has a reputation for secrecy and could justifiably withhold information on national security grounds, only refuses 8% of requests you have to wonder whether departments like HM Revenue & Customs are withholding information on legitimate grounds.”

Top 5 Government bodies least likely to withhold information

Government body	% of requests withheld Q3 09
HM Land Registry	3%
Scotland Office	4%
Treasury Solicitor’s Department	6%
The Ministry of Defence	8%
Department of Health	9%

Marcus Turlle, author of *Freedom of Information Manual*, published by Sweet & Maxwell, says that part of the problem is that there are no penalties if public sector bodies withhold information unjustifiably or fail to disclose information within the 20-day deadline.

He says: “There is very little disincentive for public sector bodies not to comply with the spirit of the Act. They cannot be fined for withholding or taking too much time to disclose information just because it might be embarrassing to them. Too many perfectly valid requests are taking years to process and all too frequently by the time the information is obtained it is out of date.”

The Freedom of Information request to obtain information on MPs expenses was first submitted in January 2005 and it took more than four years before the information was disclosed.

Marcus Turlle says: “One of the most frequently cited reasons for refusing information is that it contains personal details. This is a bit of a catch-all excuse. For example, it was one of the main reasons given for withholding information on MPs expenses.”

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Notes to Editors:

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