



Butterworths LexisNexis™ Presents a one-day conference

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Commercial disclosure under

The Freedom of Information Act

Opportunities and threats posed by the new legislation

Monday 28 February 2005 • Central London

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“The aspect of the Act that has often been overlooked is how commercial organisations can use it for their competitive advantage and how it can be used against them”

Timothy Pitt-Payne, Barrister, 11 Kings Bench Walk

Key issues to be addressed include:

- ◆ Early trends: how commercial organisations have used the Act to their advantage since January 1st 2005
- ◆ The challenges faced: competitors accessing your 'undisclosed' information on a regular basis
- ◆ How to use freedom of information rules as your own business intelligence tool
- ◆ The move away from confidentiality clauses: potential pitfalls for PFI/PPP contractors under the new regime
- ◆ Disputes over requests for private sector information: is consistency being guaranteed across the regions?
- ◆ How public interest groups have been accessing your information to influence decisions that will directly affect you in 2005

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4 CPD points may be claimed according to the regulations of: ILEX • BAR COUNCIL and the LAW SOCIETY

SPEAKERS

Chaired by:



MICHAEL SUPERSTONE QC

11 Kings Bench Walk

TIMOTHY PITT-PAYNE

Barrister
11 Kings Bench Walk

ROSEMARY JAY

Partner
Pinsent Masons

MICHAEL SMYTH

Partner
Clifford Chance

CHRISTOPHER REES

Partner
Herbert Smith

EDUARDO USTARAN

Solicitor
Field Fisher Waterhouse

GORDON QUILTY

Solicitor
Allen & Overy

ANDREW DENNY

Solicitor
Allen & Overy

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020 7347 3500

“We’ll be much more open about procurement processes”

Lord Falconer, The Financial Times, November 26, 2004

“Thousands of companies are ill prepared for new fr

Why this conference, now?

“Under the new regime, one of the first things to change will be the blanket confidentiality clauses that companies have traditionally used to protect information”

The Financial Times, November 15, 2004

“The lack of awareness about the impact of FOI among the majority of providers of services to the public sector is staggering”

Eduardo Ustaran, Solicitor, Field Fisher Waterhouse

The business environment will change on January 1st 2005 when the Freedom of Information Act comes into force. This conference is your first opportunity to fully understand the new law and will help you identify lucrative opportunities and the threats to your business.

6 reasons why you can't afford to miss this event. You will:

- 1 Hear how organisations have been using the act in its earliest stages for their **competitive advantage**
- 2 Identify the key characteristics of the **Government's £125bn** a year procurement process in this new culture of openness
- 3 Ensure that you can bid for public contracts without the fear of rivals accessing your information with **the removal of blanket confidentiality clauses**
- 4 Gain new insights into how the Freedom of Information Act is already being used across the UK as a **business intelligence tool**
- 5 Learn about the **exemptions** being applied on a case-by-case basis at your earliest possible opportunity
- 6 Examine **disputes** over access requests from the private sector and their implications for your overall strategy

Our speakers represent some of leading members of the Bar and the UK's largest law firms. They will help you understand the practical difficulties and opportunities faced by your business. Benefit from their invaluable insights into exactly how you should respond to these new challenges.

Don't miss out. Reserve your place in the conference hall today by calling 020 7347 3500.

Who should attend?

- Commercial, Corporate and IT Lawyers
- Head of Legal, In-house Counsel and Company Solicitor
- Public sector lawyers dealing with the private sector
- Freedom of Information Officers
- Data Protection Managers

9.00 Registration and coffee

9.30 Opening remarks from the chair

Michael Supperstone QC, 11 Kings Bench Walk

Co-author of Butterworths 'Guide to the Freedom of Information Act 2000'

9.50 **How the Freedom of Information Act is affecting the business environment**

- Threats and opportunities for business
- Who is using the Act so far?
- Exemptions: the emerging trends

Timothy Pitt-Payne, Barrister, 11 Kings Bench Walk

Co-author of Butterworths 'Guide to the Freedom of Information Act 2000'

10.25 **How public interest groups now access company information**

- Parallel rules of Freedom of Information and the Environmental Information Regulations
- The lack of awareness by business
- The new regime for environmental information and its strengthening of consumer influence
- The impact of greater right of access to date
- What the future holds for business

Rosemary Jay, Partner, Pinsent Masons

11.00 Morning Coffee

11.20 **Reducing undue risk: practical solutions to comply with the law**

- The traditional method of protecting information
- The problem of the law being fully retrospective: previous contracts now subject to 'open access'
- Reviewing the information you supply to public authorities
- Suggested steps to address freedom of information issues

Michael Smyth, Partner, Clifford Chance *Content subject to emerging trends

11.55 **Using the act as a business intelligence tool**

- Taking advantage of the new regime
- What to look for when searching for useful information
- How to overcome exemptions
- The early indications in the UK: comparative analysis with the lessons from abroad

Eduardo Ustaran, Solicitor, Field Fisher Waterhouse

12.30 **The impact of the Freedom of Information Act on the PFI/PPP sector**

- The problems that have arisen in the PFI/PPP area
- The confidentiality, trade secrets and effective conduct of public affairs exemptions
- Confidentiality in PFI contracts: the attitude of the Government and the Information Commissioner
- Office of Government Commerce model
- How to draft confidentiality clauses
- Practical steps which parties involved in PFI contracts should consider taking

Gordon Quilty, Solicitor, Allen & Overy

Andrew Denny, Solicitor, Allen & Overy

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... that deal with the public sector "Freedom of information rules"

The Financial Times, November 15, 2004



13.10 Lunch

14.30 Comparing requests under the Data Protection and Freedom of Information Acts

- The aims of and interaction between the Data Protection and Freedom of Information
- Which Act are you subject to when you receive an information request?
- What disclosure obligations are imposed by the two Acts and what exemptions apply?
- Practical steps organisations should now be taking

Christopher Rees, Partner, **Herbert Smith**

15.00 The story so far: practical advice on achieving best practice

- Which companies are the benchmarks?
- What organisations should be doing
- How best to implement an effective policy

Speakers participating include:

Timothy Pitt-Payne, Barrister, **11 Kings Bench Walk**
Rosemary Jay, Partner, **Pinsent Masons**

To get the most out of the day, email your questions for the panel session to ian.pitt@lexisnexis.co.uk in advance, so that we can put them to the speakers and allow them to prepare full answers

15.40 Chairman's closing remarks

16.00 Close of conference

Chaired by

MICHAEL SUPPERSTONE QC started in practice at the Bar in 1974 and took silk in 1991. He sits as a Deputy High Court Judge (QBD and Administrative Court) and as a Recorder and has chaired Tribunals of Inquiry concerned with employment and public law issues. Michael's practice covers the whole range of local government, public and administrative and employment law. His practice embraces all employment-related litigation in the High Court and Employment Tribunals, in particular discrimination claims, restrictive covenants and disciplinary cases. He is the General Editor of the latest edition of the Administrative Law title of Halsbury's Laws of England; General Editor of Administrative Court Practice: Judicial Review (2002); Co-editor of Supperstone and Goudie on Judicial Review; Co-editor and author of Supperstone, Goudie and Coppel on Local Authorities and the Human Rights Act 1998; and co-author of The Freedom of Information Act 2000. He is a contributor to Butterworths Local Government Law; and is a Consulting Editor of Butterworths Local Government Reports. Michael was Chairman of the Administrative Law Bar Association (1996-98) and is on the Editorial Board of Public Law. Michael is a Bencher of the Inner Temple.

Don't miss this opportunity to meet and question leading practitioners in the complex area of freedom of information. You can book your place for this event and receive further information today by:

Calling: **020 7347 3500**

Emailing: conferences@lexisnexis.co.uk

or Faxing: **020 7347 3588**

Who are the Speakers?

TIMOTHY PITT-PAYNE practises in employment law and public law, and in related aspects of commercial, European and human rights law. He has a broad-based employment law practice covering all aspects of employment litigation before the Employment Tribunals, Employment Appeal Tribunal, High Court, County Court and higher appellate courts. He is listed as a leading employment law barrister in the current editions of both Chambers and Partners Directory and Legal 500. Special areas of interest within the employment field include discrimination, TUPE, and privacy and data protection issues in the workplace. In 2000 he acted for the Attorney-General of Malawi in litigation about the validity of the 1999 Malawian Presidential Election (he was admitted to the Malawi Bar for this purpose). Tim has trained a number of government departments and other public bodies on the Human Rights Act 1998 (in conjunction with JUSTICE) and on the Data Protection Act 1998. He has contributed to Supperstone and Goudie on Judicial Review (Butterworths, 1st edition 1992, 2nd edition 1997) and to Butterworths Local Government Handbook. He is the joint author (with Michael Supperstone QC) of Guide to the Freedom of Information Act 2000 (Butterworths 2001).

MICHAEL SMYTH has overall responsibility for the firm's public policy and government affairs practice. Also has extensive experience of commercial litigation and dispute avoidance including media litigation and public law. Runs 24-hour global pre-publication unit. Writes and lectures regularly and publishes, in conjunction with the Periodical Publishers Association, the firm's Media Law Review. Highly recommended in industry surveys for his defamation, administrative law and public policy expertise and cited in International Commercial Litigation survey of top practitioners. Author of Business and Human Rights Act (2000). Consulting Editor of UK Human Rights Reports and Chairman of Public Concern at Work, the whistleblowing charity.

ROSEMARY JAY joined Masons IT Group in 1999 from the Office of the UK Data Protection Registrar where she was chief legal adviser. She became a partner in 2003. Rosemary works in the area of privacy, freedom of information, access rights, data protection, and associated areas. She advises UK and international clients on data transfers, privacy and confidentiality and public bodies on privacy and access rights and freedom of information. She has worked for many leading organisations in the public and private sectors, including the European Commission. Rosemary has written and spoken widely on data protection and access rights nationally and internationally. She has acted as an independent legal expert to the Council of Europe in respect of the Convention on Data Protection. She is the main author of Data Protection Law and Practice published by Sweet & Maxwell (second edition published August 2003).

ANDREW DENNY is a senior associate in the Litigation Department of Allen & Overy LLP, specialising in public and administrative law. He has significant experience in advising public sector bodies on their powers and obligations as well as preventing and defending judicial review claims. His public sector clients include the Strategic Rail Authority and Arts Council England. Andrew is ranked by Chambers & Partners legal directory 2004/5 as a "leading individual" in the area of Administrative and Public Law and is described as "highly skilled".

GORDON QUILTY is a senior associate in the Litigation Department of Allen & Overy LLP, specialising in Intellectual Property law. He has experience in advising on a range of IP issues including trade marks, patents, passing-off, copyright, confidentiality, data protection and related contractual disputes.

CHRISTOPHER REES is a partner and Head of the IT Group at Herbert Smith. He has 25 years' experience of the law gained in private practice, as an in-house lawyer and as a main board director of one of Europe's leading system houses. His practice covers systems development, outsourcing and M&A for IT-based companies. Christopher has been involved with data protection since the passing of the 1984 Act and was responsible for filing the eleventh registration made under that Act. A client request for a change to be made to the Data Protection Bill meant that he was involved in drafting one of the Schedules to what became the 1998 Act. Christopher is the co-editor of "Database Law" and is on the editorial board for "IT Law Today" and "Data Protection Law & Policy". He contributed the chapter on privacy audits to the "Data Protection Handbook" (2004). In Euromoney's survey of the world's top IT lawyers Christopher was placed in the top three in 2000 and again in 2002. He was a speaker at the 2004 International Conference of Information Commissioners held in Poland. Christopher is Chairman of the International Bar Association's Computer and Database committee.

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