

## Freedom of Information – What it Means in Practice

The Freedom of Information Act (FOIA) 2000 came fully into force on 1 January 2005 and it has serious implications for businesses trading with public sector organisations. This is because one of the aims of the Act is to engender greater transparency and to this end it gives the public the right to obtain a huge amount of information from public bodies. This in turn will affect companies which supply public bodies, as items such as tender documents, contracts and even invoices may be required to be disclosed.

A request under the FOIA creates a requirement to provide the information requested (unless it is covered by an exemption) within 20 days. If the public body does not choose to exercise an exemption, then the requested information will have to be disclosed. This could cause particular problems where the information is actually held by the supplier. Furthermore, there is no requirement for the public body to consult with the supplier before complying with a disclosure request under the FOIA.

There is an exemption for companies where disclosure may damage their commercial interests or where the information is confidential. However, such exemptions can be overridden where it is in the public interest to do so.

“Companies doing business with the public sector should consider modifying their contracts for supply to require their public sector customers to consult with them before acceding to a FOIA request involving their contracts,” says <<CONTACT DETAILS>>. “Providing a customer with a list of information which the company considers to be exempt from disclosure might be a good place to start. The alternative, of allowing the disclosure to happen and suing for any consequential loss or obtaining an injunction, is unpalatable.”

Contact us if you are concerned about the effect of the new legislation on your business.