

Certificate in Freedom of Information Syllabus

Version 4.0

March 2011

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Change History

Version 4.0 (March 2011)	Section 6 Increased prominence of EIR Rebalance of syllabus timings FOISA no longer forms part of the syllabus or the exam. Change to overall allocation of marks in exam Added Knowledge and Skills Levels Added in trainer criteria, classroom sizes and recommended reading list
Version 3.3 (Dec 2010)	Formatted. Added a change history to the document and added the new logo.
Version 3.2 (Dec 2010)	Changes made following internal review.
Version 3.1 (Oct 2009)	Formatted. Added a change history to the document and added the new logo.

Introduction

There is a need to provide adequate training on the Freedom of Information Act 2000 (FOIA) and its implications for public and private sector organisations, as well as to individuals. The Act contains requirements for the publication of information held by, or held on behalf of, public authorities. These requirements include the publication and maintenance of publication schemes, the need to respond to requests for information and disclose information requested subject to the appropriate application of legal exemptions.

Those experienced in freedom of information issues, as well as those new to the subject, require adequate training in order that their organisations are confident legal compliance is continually addressed. It is necessary to identify issues requiring expert freedom of information advice in good time in order that organisational reputation and credibility is enhanced through relevant information management policies and procedures.

The ISEB Certificate in Freedom of Information provides a qualification that demonstrates a level of practical competence and knowledge obtained by those responsible for dealing with freedom of information within an organisation.

Aims and Objectives

The aim of the syllabus is to promote an understanding of how freedom of information works in practice and to enable the practitioner to gain the skills necessary for analysing and managing freedom of information requests in accordance with the law. The syllabus places compliance with the Act in the context of good information practices within the organisation. On attaining the Certificate, award holders will possess:

- an appreciation of Freedom of Information in its widest context
- an ability to identify information likely to be requested and an understanding of the information likely to be required for publication in a Publication Scheme
- an understanding of the interface between the FOIA with the Data Protection Act 1998 and the Environmental Information Regulations 2004
- an ability to develop procedures for the processing and monitoring of a request for information, from receipt of the request through to the disclosure of information and/or the application of appropriate legal exemptions/exceptions, including the calculation of fees when applicable
- an understanding of the legal exemptions/exceptions from disclosure and the public interest test
- an understanding of the enforcement/legal action procedures enshrined in the legislation

Target Group

The Certificate in Freedom of Information is targeted at Information Managers, FOI practitioners, information governance leads, Data Protection Officers, Solicitors advising on information law issues, Press Officers and all those who have responsibility for managing and responding to requests for information from the public. It is also targeted at those private sector organisations that are either affected directly by freedom of information and environmental information legislation or indirectly by their contractual relationship with a public authority.

Entry Criteria

Candidates wishing to take the examination must have either completed an accredited training course or alternatively meet the criteria for direct entry. It is recommended that candidates prepare for the examination by committing to personal study.

Format of the Examination Syllabus

The syllabus comprises seven parts:

Part 1	Context: Freedom of Information, “Open Government” and the “transparency agenda”
Part 2	Definitions and Scope of the legislation
Part 3	Obligations and Responsibilities – requirements and practices
Part 4	Disclosure/Non-disclosure – exemptions from disclosure including the interpretation of the law and the application of exemptions in key legal decisions and cases
Part 5	Enforcement and Appeals Process
Part 6	Environmental Information Regulations 2004
Part 7	Related legislation

Specific Learning Objectives

Candidates will expect to attain the following objectives:

- They will be able to clearly explain how specific exemptions might apply to requests for information including the application of the public interest test
- They will be able to demonstrate a clear and balanced approach to applying legal judgements in accordance with the law and relevant case law
- They will be able to implement internal management procedures to support freedom of information and environmental information legislation
- They will be able to define the scope of the Act and how it interacts with related legislation, in particular the Environmental Information Regulations 2004 and the Data Protection Act 1998
- They will be able to develop internal procedures to support their authority’s compliance with the FOIA including those relating to internal reviews
- They will be able to apply the legislation in a practical setting relevant to their work
- They will be able to prepare clear advice to colleagues as well as the public

Structure of the examination

The examination is in three parts. Section A consists of 10 multiple choice questions all of which are mandatory. Section B consists of 8 mandatory questions which require brief and succinct answers. Section C consists of 6 essay questions from which the candidate must select two *and* a compulsory Case Study. The essay questions set out a practical or theoretical scenario and need to be answered in a methodical way as though you were briefing your chief executive on an FOI request.

Syllabus

Part 1 Context: origins and background – 1 hour of course work

The objective is to ensure an understanding of the purpose of the legislation.

It is recommended that only one hour of study is spent on this topic. This depth of study can only serve as an overview of this topic. However, it should develop an appreciation of the intentions of Government to promote openness and transparency in public institutions which are relevant to the consideration of the public interest in disclosure decisions.

Part 2 Definitions and Scope of the Legislation - 5 hours of course work

A. What the legislation does:

- imposes a duty to adopt and maintain a Publication Scheme
- provides a right of access to recorded information held by public authorities, without the need to mention, or even know about, the Act
- imposes the obligation, in most cases, to confirm or deny whether the information is held by the public authority
- creates exemptions from the duty to disclose information
- establishes the arrangements for enforcement and appeal
- requires Ministers to publish Codes of Practice

B. Application of the FOIA:

- bodies included in Schedule 1 of the Act itself
- by order amending Schedule 1. Provision of available examples
- by order adding any person that exercises functions of a public nature or is providing under a contract with a public authority any service whose provision is a function of that authority
- publicly owned company (including any body corporate)

C. FOIA and the private sector:

- information held on behalf of a public authority
- organisations designated as exercising a public function
- private companies whose information is held by a public authority

D. Who may apply and for what?

- the applicant - any natural or legal person of any nationality, living anywhere, for any reason
- recorded information “held” by a public authority
- to be supplied in a “preferred” format

Part 3 Obligations and Responsibilities - 10 hours of course work

- A. Good Practice:
 - Discharge of Functions Code of Practice (s45 FOIA)
 - Records Management Code of Practice (s46 FOIA)

- B. Publication Schemes:
 - Duty to adopt and maintain an approved Publication Scheme
 - Model schemes and bespoke schemes
 - Charging policy
 - Duty to publish information in accordance with that Scheme (printed publications, public registers, web pages)
 - Duty to review the Scheme

- C. Access rights:
 - Criteria for a valid request
 - Giving advice and assistance
 - Clarification of requests
 - Vexatious or repeated requests
 - Consulting third parties
 - Transferring requests
 - Duty to confirm or deny
 - Duty to provide information subject to application of exemptions from disclosure
 - Responses – supplying requested information and refusals
 - Historical records
 - Copyright/intellectual property rights

- D. Fees Regulations/Costs under FOIA
 - Fees Regulations made under the Act;
 - Fees Notices and prepayment

- E. Time deadlines
 - Regulations made under the Act
 - Variations and extensions under the Act

Part 4 Disclosure/Non-disclosure – 12 hours of course work

Exemptions from disclosure

- Absolute versus non absolute exemptions
- Class based exemptions
- Prejudice tests
- Public interest test
- Ministerial certificates (under section 24, 25 and 53 of the FOIA)
- Common law duty of confidence
- Removal of exemptions: historical records

Part 5 Enforcement and Appeals - 2 hours of course work

- Enforcement powers:
 - Role and powers of the Information Commissioner
 - Information, Decision and Enforcement notices
 - Practice Recommendations
- Offences:
 - Offence of altering etc. records with intent to prevent disclosure
 - Offences of obstruction, execution and warrant
- Appeals
 - Internal review
 - Appeal to ICO
 - Appeal against notices of the ICO
 - Appeal to First Tier Tribunal (Information Rights)
 - Roles and powers of the First Tier Tribunal (Information Rights)
 - Appeals to the High Court

Part 6 Environmental Information Regulations – 6 Hours of course work

- Scope of the Regulations (in England, Wales and Northern Ireland)
- Definition of environmental information
- Code of Practice relating to the Regulations
- Interface with Freedom of Information and Data Protection legislation
- Obligations imposed by the Regulations
- Access rights: who may apply and for what
- Time deadlines and related provisions
- Charges for provision of environmental information
- Exceptions from disclosure
- Enforcement

Part 7 Related Legislation – 4 hours of course work

- A. Data Protection Act 1998
- Definition of personal data
 - Sections 7 and 10 of the Data Protection Act 1998
 - Interface between Data Protection Act 1998 and FOIA
 - Amendments to Data Protection Act 1998 that relate to FOIA
- B. Basic awareness and outline knowledge of the following, including their, impact on FOIA:
- Official Secrets Act 1989
 - Local Government (Access to Information) Act 1985
 - Local Government Act 1972
 - Local Government Act 2000
 - Access to Health Records Act 1990
 - The Re-use of Public Sector Information Regulations 2005

Examination Details

Prior to examination, all candidates will be required to either follow a recognised course by an accredited Training Provider or satisfy the direct entry criteria of ISEB.

Assessment will be by a three hour closed book written exam, comprising of three sections:

Section A: 10 compulsory multiple-choice questions - 1 mark each

Section B: 8 compulsory short answer questions - 5 marks each

Section C: 6 questions. Candidates to answer a compulsory Case Study (20 marks) plus any two other essay questions (15 marks each)

The pass mark for the exam is 50%.

Distinctions awarded for scores of 80% or more.

For further information on course format and availability, please contact an accredited FOIA Training Provider or speak to BCS.

Additional Information

Levels of Skill and Responsibility (SFIA Levels)

The levels of knowledge above will enable candidates to develop the following levels of skill to be able to operate at the following levels of responsibility (as defined within the SFIA framework) within their workplace:

Level 1: Follow

Work under close supervision to perform routine activities in a structured environment. They will require assistance in resolving unexpected problems, but will be able to demonstrate an organised approach to work and learn new skills and applies newly acquired knowledge.

Level 2: Assist

Works under routine supervision and uses minor discretion in resolving problems or enquiries. Works without frequent reference to others and may have influence within their own domain. They are able to perform a range of varied work activities in a variety of structured environments and can identify and negotiate their own development opportunities. They can also monitor their own work within short time horizons and absorb technical information when it is presented systematically and apply it effectively.

Level 3: Apply

Works under general supervision and uses discretion in identifying and resolving complex problems and assignments. They usually require specific instructions with their work being reviewed at frequent milestones, but can determine when issues should be escalated to a higher level. Interacts with and influences department/project team members. In a predictable and structured environment they may supervise others. They can perform a broad range of work, sometimes complex and non-routine, in a variety of environments. They understand and use appropriate methods, tools and applications and can demonstrate an analytical and systematic approach to problem solving. They can take the initiative in identifying and negotiating appropriate development opportunities and demonstrate effective communication skills, sometimes planning, scheduling and monitoring their own work. They can absorb and apply technical information, works to required standards and understand and uses appropriate methods, tools and applications.

Level 4: Enable

Works under general direction within clear framework of accountability and can exercise substantial personal responsibility and autonomy. They can plan their own work to meet given objectives and processes and can influence their team and specialist peers internally. They can have some responsibility for the work of others and for the allocation of resources. They can make decisions which influence the success of projects and team objectives and perform a broad range of complex technical or professional work activities, in a variety of contexts. They are capable of selecting appropriately from applicable standards, methods, tools and applications and demonstrate an analytical and systematic approach to problem solving, communicating fluently orally and in writing, and can present complex technical information to both technical and non-technical audiences. They plan, schedule and monitor their work to meet time and quality targets and in accordance with relevant legislation and procedures, rapidly absorbing new technical information and applying it effectively. They have a good appreciation of the wider field of information systems, their use in relevant employment areas and how they relate to the business activities of the employer or client.

Level 5: Ensure and advise

Works under broad direction, being fully accountable for their own technical work and/or project/supervisory responsibilities, receiving assignments in the form of objectives. Their work is often self-initiated and they can establish their own milestones, team objectives, and candidates responsibilities. They have significant responsibility for the work of others and for the allocation of resources, making decisions which impact on the success of assigned projects i.e. results, deadlines and budget. They can also develop business relationships with customers, perform a challenging range and variety of complex technical or professional work activities and undertake work which requires the application of fundamental principles in a wide and often unpredictable range of contexts. They can advise on the available standards, methods, tools and applications relevant to own specialism and can make correct choices from alternatives. They can also analyse, diagnose, design, plan, execute and evaluate work to time, cost and quality targets, communicating effectively, formally and informally, with colleagues, subordinates and customers. They can demonstrate leadership, mentor more junior colleagues and take the initiative in keeping their skills up to date. Takes customer requirements into account and demonstrates creativity and innovation in applying solutions for the benefit of the customer.

Level 6: Initiate and influence

Have a defined authority and responsibility for a significant area of work, including technical, financial and quality aspects. They can establish organisational objectives and candidates responsibilities, being accountable for actions and decisions taken by them self and their subordinates. They can influence policy formation within their own specialism to business objectives, influencing a significant part of their own organisation and customers/suppliers and the industry at senior management level. They make decisions which impact the work of employing organisations, achievement of organisational objectives and financial performance, developing high-level relationships with customers, suppliers and industry leaders. They can perform highly complex work activities covering technical, financial and quality aspects. They contribute to the formulation of IT strategy, creatively applying a wide range of technical and/or management principles. They absorb complex technical information and communicate effectively at all levels to both technical and non-technical audiences, assesses and evaluates risk and understand the implications of new technologies. They demonstrate clear leadership and the ability to influence and persuade others, with a broad understanding of all aspects of IT and deep understanding of their own specialism(s). They take the initiative in keeping both their own and subordinates' skills up to date and to maintain an awareness of developments in the IT industry.

Level 7: Set strategy, inspire and mobilise

Have the authority and responsibility for all aspects of a significant area of work, including policy formation and application. They are fully accountable for actions taken and decisions made, by both them self and their subordinates. They make decisions critical to organisational success and influence developments within the IT industry at the highest levels, advancing the knowledge and/or exploitation of IT within one or more organisations. They develop long-term strategic relationships with customers and industry leaders, leading on the formulation and application of strategy. They apply the highest level of management and leadership skills, having a deep understanding of the IT industry and the implications of emerging technologies for the wider business environment. They have a full range of strategic management and leadership skills and can understand, explain and present complex technical ideas to both technical and non-technical audiences at all levels up to the highest in a persuasive and convincing manner. They have a broad and deep IT knowledge coupled with equivalent knowledge of the activities of those businesses and other organisations that use and exploit IT. Communicates the potential impact of emerging technologies on organisations and individuals and analyses the risks of using or not using such technologies. They also assess the impact of legislation, and actively promote compliance.

Levels of Knowledge (K Levels)

The following levels of knowledge shall be defined and applied for syllabus creation. Each topic in the syllabus shall be examined according to the learning objectives defined in the section devoted to that topic. Each learning objective has a level of knowledge (K level) associated with it and this K level by association defines the nature of any examination questions related to that topic.

Note that each K level subsumes lower levels. For example, a K4 level topic is one for which a candidate must be able to analyse a situation and extract relevant information. A question on a K4 topic could be at any level up to and including K4. As an example, a scenario requiring a candidate to analyse a scenario and select the best risk identification method would be at K4, but questions could also be asked about this topic at K3 and a question at K3 for this topic might require a candidate to apply one of the risk identification methods to a situation.

Level 1: Remember (K1)

The candidate should be able to recognise, remember and recall a term or concept but not necessarily be able to use or explain. Typical questions would use: define, duplicate, list, memorise, recall, repeat, reproduce, state.

Level 2: Understand (K2)

The candidate should be able to explain a topic or classify information or make comparisons. The candidate should be able to explain ideas or concepts. Typical questions would use: classify, describe, discuss, explain, identify, locate, recognise, report, select, translate, paraphrase.

Level 3: Apply (K3)

The candidate should be able apply a topic in a practical setting. The candidate should be able to use the information in a new way. Typical questions would use: choose, demonstrate, employ, illustrate, interpret, operate, schedule, sketch, solve, use, write.

Level 4: Analyse (K4)

The candidate should be able to distinguish/separate information related to a concept or technique into its constituent parts for better understanding, and can distinguish between facts and inferences. Typical questions would use: appraise, compare, contrast, criticise, differentiate, discriminate, distinguish, examiner, question, test.

Level 5: Synthesise (K5)

The candidate should be able to justify a decision and can identify and build patterns in facts and information related to a concept or technique, they can create new meaning or structure from parts of a concept. Typical questions would use: appraise, argue, defend, judge, select, support, value, evaluate.

Level 6: Evaluate (K6)

The candidate should be able to provide a new point of view and can judge the value of information and decide on its applicability in a given situation. Typical questions would use: assemble, contract, create, design, develop, formulate, write.

Learning objectives are given indicators from K1-K6. These are based on Bloom's taxonomy of knowledge in the cognitive domain (ref Taxonomy of Educational Objectives, Handbook 1 – The Cognitive Domain, Bloom et al., New York 1956), and can be broadly interpreted as follows: K1 – Remember; K2 – Understand; K3 – Apply; K4 – Analyse; K5 – Synthesise; K6 – Evaluate. Bloom's taxonomy is explained in greater detail in Section 5.1. All topics shall have learning objectives associated with them, each of which has an associated K level. The language used must, as far as possible, mirror the language used in defining Bloom's taxonomy to provide candidates with consistent pointers to the expected level of knowledge and a consistent way of expressing that level in words.

This course will provide candidates with the levels of knowledge highlighted within the following table, enabling them to develop the skills to operate at the levels of responsibility indicated. The levels of knowledge, skill and responsibility are explained in the following text:

Level	Levels of knowledge	Levels of skill and responsibility
7		Set strategy, inspire and mobilise
6	Evaluate	Initiate and influence
5	Synthesise	Ensure and advise
4	Analyse	Enable
3	Apply	Apply
2	Understand	Assist
1	Remember	Follow

Trainer Qualification Criteria

Criteria:	Trainers must usually hold the ISEB FOI Certificate though dispensation can be given. All course directors and lead tutor must be individually accredited and are required to meet any other the ISEB criteria
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Classroom Size

Trainer to candidate ratio:	1:16 ratio
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FOIA Reading and Resource List

This section lists some of the published material available on Freedom of Information and associated subjects. Candidates are not expected to study all of this material, but should use selected publications to enhance their knowledge. Accredited Training Providers should recommend appropriate material to supplement their course materials to meet syllabus requirements where necessary.

IMPORTANT: Legislation, Codes of Practice and other material is subject to change. There is no guarantee that the information referred to below is the latest version and students are advised to check to ensure that they are referring to the current version.

Legislation

- Freedom of Information Act 2000 www.legislation.gov.uk
- Local Government (Records) Act 1962 www.legislation.gov.uk
- Local Government (Access to Information) Act 1985 www.legislation.gov.uk
- The Environmental Information Regulations 2004 www.legislation.gov.uk
- Data Protection Act 1998 www.legislation.gov.uk
- Local Government Act 2000 www.legislation.gov.uk
- The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004

Codes of Practice

- Code of Practice on the discharge of public authorities' functions under Part I of the Freedom of Information Act 2000 Issued under section 45 of the FOIA www.justice.gov.uk/guidance/foi-guidance-codes-practice.htm
- Code of Practice on the Management of Records under Section 46 of the Freedom of Information Act 2000, Revised July 2009. <http://www.justice.gov.uk/guidance/docs/foi-section-46-code-of-practice.pdf>
- Code of Practice on the discharge of the obligations of public authorities under the Environmental Information Regulations 2004 (SI 2004 No. 3391) Issued under Regulation 16 of the EIR, February 2005 www.defra.gov.uk/corporate/policy/opengov/eir/pdf/cop-eir.pdf

Books

- Patrick Birkinshaw, Freedom of Information, the Law, the Practice and the Ideal 3rd Edition, Law in Context Series, 2001, Butterworths
- Patrick Birkinshaw, Government and Information, the Law Relating to Access, Disclosure and their Regulation, 3rd Edition, June 2005, Tottel Publishing
- John Macdonald QC & Clive H Jones, The Law of Freedom of Information, May 2009 2nd Edition, Oxford University Press
- John Wadham et al, Blackstone's Guide to the Freedom of Information Act 2000, May 2011 Oxford University Press
- Philip Coppel, Information Rights, 2007, Sweet & Maxwell

Guidance

- The Information Commissioner, Publication Schemes Guidance and Methodology www.ico.gov.uk
- Guide to Section 46 FOIA: <http://www.nationalarchives.gov.uk/information-management/projects-and-work/assessing-rm-public-authorities.htm>
- DEFRA Guidance to The Environmental Information Regulations 2004 – updated 2010
www.defra.gov.uk/corporate/policy/opengov/eir/guidance/full-guidance/index.htm

Websites

- The Information Commissioner www.ico.gov.uk
- The Ministry of Justice Guidance to the Freedom of Information Act 2000
www.justice.gov.uk/guidance/freedom-of-information.htm
- First –tier Tribunal (Information Rights) www.informationtribunal.gov.uk/
- Freedom of Information Open Government Blog www.foia.blogspot.com
- Guidance and other material relating to The Environmental Information Regulations 2004 published by Department of Environment, Food and Rural Affairs www2.defra.gov.uk
- The Campaign for Freedom of Information www.cfoi.org.uk
- The Constitution Unit UCL www.ucl.ac.uk/constitution-unit