

BCS Certificate in Freedom of Information Syllabus

Version 5.4
December 2016

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Change History

Any changes made to the syllabus shall be clearly documented with a change history log. This shall include the latest version number, date of the amendment and changes made. The purpose is to identify quickly what changes have been made.

Version Number and Date	Changes Made
Version 5.4 December 2016	Strapline regarding regulated statement has been added
Version 5.3 March 2015	Updated language requirements for extra time and use of dictionaries. Standardised trainer requirements
Version 5.2 October 2013	Trainer requirements updated to include minimum experience.
Version 5.1 September 2012	Added Reasonable Adjustments section and updated trainer requirements details and added a section to cover excerpts from BCS books
Version 5.0 May 2012	Removed reference to ISEB and replaced with BCS. Updated Examination Details section.
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 December 2010	Formatted. Added a change history to the document and added the new logo.
Version 3.2 December 2010	Changes made following internal review.
Version 3.1 October 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 BCS 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 for the Course and Examination

There are no mandatory requirements for candidates taking the course or examination although candidates will need a good standard of written English. The course is quite a demanding and candidates who have an advantage if they already have some grasp of freedom of information law, particularly experience of applying it in a work context.

Candidates are likely to find the course very challenging unless they have had some legal training, or experience of, or an aptitude for, applying the law.

Candidates are strongly recommended to have completed an accredited training course. It is also recommended that candidates prepare for the course and examination by committing to personal study before and during the course.

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.

Guidelines for Accredited Training Organisations

This qualification is subject to the accreditation guidelines applied to all BCS qualifications. It is required that all courses accredited for the Certificate in Freedom of Information will provide a minimum of 40 study hours.

Additional time for candidates requiring Reasonable Adjustments due to a disability

Candidates may request additional time if they require reasonable adjustments. Please refer to the [reasonable adjustments policy](#) for detailed information on how and when to apply.

Additional time for candidates whose language is not the language of the examination

If the examination is taken in a language that is not the candidate's native / official language then they are entitled to 25% extra time.

If the examination is taken in a language that is not the candidate's native / official language then they are entitled to use their own **paper** language dictionary (whose purpose is translation between the examination language and another national language) during the examination. Electronic versions of dictionaries will **not** be allowed into the examination room.

The candidate registration form asks for the candidate's business language, if this is not English then BCS will automatically allocate additional time.

Excerpts from BCS Books

Accredited Training Organisations may include excerpts from BCS books in the course materials. If you wish to use excerpts from the books you will need a license from BCS to do this. If you are interested in taking out a licence to use BCS published material you should contact the Head of Publishing at BCS outlining the material you wish to copy and the use to which it will be put.

Levels of Skill and Responsibility / SFIA Levels

The course will provide candidates with the levels of difficulty, knowledge and skill highlighted within the following table, enabling them to develop the skills to operate at the levels of responsibility indicated.

The levels of knowledge and SFIA levels are explained on the website www.bcs.org/levels.

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

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

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 corporate body)

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

Type:	20% multiple choice; 40% short bullet point answers; 50% discursive essays.
Duration:	3 Hours. Candidates will be entitled to an additional 45 minutes if they are sitting the examination in a language that is not their native language.
Invigilated/Proctored:	Yes
Closed Book (No reading materials allowed into the examination room).	Closed book.
Learning Hours	40 hours of direct contact training time
Pass Mark	50/100 (50%)
Distinction Score	80/100 (80%)
Calculators	Calculators cannot be used during this examination
Course Delivery	Either classroom based tuition or distance learning
Exam Delivery:	Paper based examination only

Trainer Criteria

Criteria:	<ul style="list-style-type: none">• Hold the BCS Certificate in Freedom of Information• Have 10 days training experience or hold the train the trainer qualification• Have a minimum of 3 years practical experience in the area of freedom of information
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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 Organisations 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 candidates are advised to check to ensure that they are referring to the current version.

Legislation

- [Freedom of Information Act 2000](#)
- [Local Government Records Act 1962](#)
- [Local Government \(Access to Information\) Act 1985](#)
- [Environmental Information Regulations 2004](#)
- [Data Protection Act 1998](#)
- [Local Government Act 2010](#)
- [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 1 of the Freedom of Information Act 2000](#)
- [Code of Practice on the Management of Records under Section 46 of the Freedom of Information Act 2000](#)
- [Code of Practice on the discharge of the obligations of public authorities under the Environmental Information Regulations](#)

Guidance

- The Information Commissioner, Publication Schemes Guidance and Methodology www.ico.org.uk
- [Guide to Section 46](#) Freedom of Information Act
- [Guide to the Environmental Regulations](#)

Websites

- The Information Commissioner Office www.ico.org.uk
- [Ministry of Justice Guidance to the Freedom of Information Act](#)
- [First tier Information Tribunal \(Information Rights\)](#)
- [FOIA Blog Spot](#)
- [Campaign for Freedom of Information](#)
- [The Constitution Unit](#)

Books

Title [Freedom of Information, the Law, the Practice and the Ideal](#)
Author Patrick Birkinshaw
Publication Date April 2010 (4th Edition)
Publisher Cambridge University Press

Title [Government & Information, the Law Relating to Access, Disclosure and their Regulation](#)
Author Patrick Birkinshaw
Publication Date December 2011 (4th Edition)
Publisher Bloomsbury Professional

Title [The Law of Freedom of Information](#)
Author John Macdonald QC and Clive H Jones
Publication Date March 2009 (2nd Edition)
Publisher Oxford University Press

Title [Blackstone's Guide to the Freedom of Information Act 2000](#)
Author John Wadham, Kelly Harris and Eric Metcalfe
Publication Date December 2013 (5th Edition)
Publisher Oxford University Press

Title [Information Rights, Law and Practice](#)
Author Philip Coppel
Publication Date March 2014 (4th Edition)
Publisher Hart Publishing