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# Freedom of Information and Subject Access Requests

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## Outline

- Freedom of Information: what it is and how it works
- Subject access requests
- FOI and SLAPP



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## What is Freedom of Information?

- Confers a legally enforceable right to access information held by public authorities
- Most FOI laws apply to public authorities only, but some apply to private actors when they perform public functions
- Increasingly regarded as a central feature of democratic societies due to its role in enhancing the accountability and transparency of public institutions and supporting public participation

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## What Can I Find Out?

- Documents/Recorded information held by a public authority – recorded in any form, including electronic data and audio or video recordings
- High-profile disclosures, e.g. MPs expenses or correspondence between a UK royal family member and government ministers
- Day-to-day disclosures, e.g. planning applications, minutes from education authority meetings, or council budget information



# How Does FOI Work?

Varies, so be sure to check the particulars of your jurisdiction, but generally:

1. Requests are made in writing to public authorities
2. Public authorities are given time limit to respond (20 working days in Malta)
3. Internal and external complaints procedures if information has been unlawfully withheld



# Subject Access Requests

- Subject access requests allow individuals to find out which personal information an organisation holds about them.
- EU General Data Protection Regulation 2016/679 (GDPR) sets out the principles for the protection of personal data and the rights of data subjects
  - Article 15 GDPR allows data subjects to obtain information from the data controller and protects the right to request erasure of personal data and the right to lodge a complaint



## FOI and SLAPPs

FOI and other information laws can be used defend against vexatious lawsuits, including SLAPPs:

1. Subject access requests give individuals the right to find out whether an organisation is using or storing their personal data
2. Journalists can make FOI requests to prove the truth of a story they have published

However, information laws can and have been used to stifle the public interest. These laws are important tools in challenging SLAPPs, but can also be used by the opposition





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