

Book Review

Freedom of Information Law in Ireland

by Maeve McDonagh, Round Hall, Sweet & Maxwell, Dublin, 1998, 454 pp. ISBN 1-8899738-979-97.

Any jurisdiction embarking on the journey towards open government ought to be equipped with two essential items. The first is legislation that is designed to ensure positive administrative and political compliance with the letter and spirit of the new legislation. The second is an academic treatise that gathers together in one place the insight, key lessons from other jurisdictions, and a vision of how the legislation ought to be applied after its implementation.

It is debatable to what extent the Irish have achieved the first requirement. However they are far better served with Maeve McDonagh's text *Freedom of Information Law in Ireland*, than any other jurisdiction has been in the past. Peter Bayne's Australian text *Freedom of Information: An Analysis of the Freedom of Information Act (Cth) and a Synopsis of the Freedom of Information Act (Vic)*, The Law Book Company, Sydney 1984 was a pioneering and critical work given the relative absence of prior Commonwealth experience with Fol. The New Zealand text by Eagles, Taggart and Liddell *Freedom of Information in New Zealand*, Oxford University Press, Auckland, 1992 was a comprehensive snapshot of the interpretation and application of the *Official Information Act* several years after its implementation. McDonagh has built on the legacy of these two texts and established a template, which could well serve Fol authors in the future as other jurisdictions pass access to information legislation.

Mr Justice Brian McCracken of the Irish High Court, in the forward to this book, provides a succinct evaluation of its value when he writes:

Although written by a university lecturer, this is not a student's textbook to be put away as soon as the examinations are over and the degree obtained. It is a serious work which is obviously the culmination of a great deal of research on an international level.

Refreshingly the author has gone beyond a mere listing of the provisions of the *Freedom of Information Act 1997* and a simple cataloguing of key cases in various jurisdictions. She has probed at the tensions and developments that lay beneath the administration of access legislation. Indeed it is clear both from her acknowledgments and the text that the author has spent a great deal of time querying administrators in many jurisdictions, not only in Ireland, as to the practical operations and bureaucratic implementation and reasoning used in relation to Fol.

The first chapter, concentrates on the background and context of Fol both in Ireland and internationally, sets the general tone and a significant threshold of critical analysis, which the rest of the book sustains. In that first chapter the author links not only the development but also the prospects of the new legislation to the political milieu and heritage of Ireland. She contemplates the prospective response of interest groups, traditional political parties and a bureaucratic elite comfortable in dealing with a high level of clientilism towards legislation that implements a regime of open government.

The first chapter also explores the development of freedom of information at an international level and in terms of its potential as a human right. To this end the

author's interest and expertise in human rights and data protection bring valuable insights to her analysis.

The second chapter contains a very useful summary of the development and progress towards the final version of the *Freedom of Information Act 1997*. It would have been interesting to have the author apply her knowledge and critical insight more fully to this lead up to the final passage of the legislation. However, works of this magnitude, that have as their primary aim a mission to help those charged with administering the final accepted version of the legislation, cannot be all things to all readers. In addition, this part of the text is a useful update to the themes and developments outlined in the excellent 1995 special edition of *Ireland: A Journal of History and Society*, 'Irish Democracy and the Right to Freedom of Information', Dermott Keogh (ed.).

The rest of the book until the last chapter is a comprehensive and critical examination and operational guide to the *Freedom of Information Act 1997*. Every chapter contains an analysis not only of the provisions of the Irish legislation but also carefully chosen examples and helpful insights from other jurisdictions. I have found this to be a very useful feature of the work not only when looking at the recently decided Information Commissioner decisions (available on the web at <http://www.irlgov.ie/oic/>) but when considering freedom of information issues in jurisdictions like Australia, Canada, the United States and New Zealand.

The last chapter is a very useful guide and analysis of the intersection, interaction and relationship between the *Fol Act* and other legal provisions governing access to information in Ireland including the *Data Protection Act*, *Archives Act* and the Environment Regulations. It is a testimony to the author's scholarship and appreciation of the demands of practice that she has included such an essential and practical end piece. This chapter provides a vital navigational tool for those involved in issues that involve the interface between these various legislative provisions. As the author makes clear the final implementation of the *Fol Act* did not address exactly how this interface was to be managed. Instead of leaving the reader, or user, none the wiser the author has attempted to chart this largely unmapped and difficult statutory landscape.

No reference library, in any jurisdiction, ought to be without this impressive, insightful and excellent work. In the final words of Mr Justice McCracken in the foreword: 'This book will be an invaluable guide to all those who seek information for whatever reason'.

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