

Freedom of Information Implementation Group

**Code of Practice under section 60 of the Freedom of Information (Scotland) Act
2002**

Purpose

1. The Implementation Group is invited to endorse the final draft version of the Code of Practice under section 60 of the Act (attached). Should the Group be content with the draft, it would then be submitted to Ministers to seek agreement to release the draft for public consultation.

Background

2. At its meeting on 4 October, the Group agreed to the formation of a sub-group to take forward development of the Code of Practice under section 60 of the Act. John McNairney and Karen Martin were appointed to the sub-group as Chairman and Secretary respectively. Membership of the sub-group comprised representatives from SOLAR, ACPOS, Universities Scotland, Historic Scotland and Scottish Executive Education Department. Representatives from Scottish Consumer Council and Citizen's Advice Bureaux Scotland were also enlisted to provide a user perspective to development of the Code.

3. Prior to the first meeting of the sub-group, Mr McNairney and Ms Martin held preliminary discussions on the Code with a cross-section of interest groups dealing with equality issues, including the Disability Rights Commission, the Royal National Institute for the Blind, the Commission for Racial Equality, Age Concern and Update. The FOI Unit has continued to engage with upwards of 20 equality groups, fulfilling a Ministerial commitment to consult on equality issues.

Content

4. The Act stipulates that the Code should provide guidance on -:
- the provision of advice and assistance by the authorities to persons who propose to make, or have made, requests for information;
 - the transfer of requests by one of the authorities to another by which the information requested is or may be held;
 - consultation with persons to whom information requested relates or with persons whose interests are likely to be affected by the disclosure of such information;
 - the inclusion in contracts entered into by the authorities of terms relating to the disclosure of information; and
 - the collection and recording by the authorities of statistics as respects the discharge by them of their functions under this Act.

The draft Code reflects all of the above.

5. The sub-group have developed a draft which is significantly different from the equivalent Code of Practice issued under section 45 of the Freedom of Information Act 2000. The section 60 draft includes guidance on issues such as vexatious or repeated requests, the factors that may inform a decision on the public interest, and the relationship between the functions of the FOI Act and the duties on public authorities arising from the Disability Discrimination Act 1995. Drafting covering the transfer of requests for information reflects more closely the legal position whilst still adhering to the spirit of the Act.

Conclusion

6. **Members are invited to:**

- **endorse the final draft version of the Code and,**
- **if content, formally dissolve the section 60 Code sub-group.**

Secretariat
Scottish Freedom of Information Implementation Group
June 2003