

FREEDOM OF INFORMATION IMPLEMENTATION GROUP

DEVELOPMENT OF SECTION 60 CODE OF PRACTICE (DISCHARGE OF FUNCTIONS)

Purpose

1. This paper proposes that the Group assists in the development of the S.60 code of practice on discharge of functions. A copy of an early working draft of the code (as sent to the Justice 1 Committee) is attached to this paper.

Background

2. Under section 60 of the Freedom of Information (Scotland) Act 2002 a code of practice providing guidance to Scottish public authorities on how they should discharge their functions under the Act has to be issued by the Scottish Ministers. Before the code is issued the Scottish Ministers are required to consult the Scottish Information Commissioner, who will be responsible for ensuring that public authorities observe the provisions of the Act and conform to this Code of Practice.

Discussion

3. There are a number of issues with regard to the development of the code which will require detailed consideration. These include issues such as the transfer of requests from one public authority to another (where an authority does not hold the requested information but knows of another authority which does) and also the relationship between the functions of the FOI Act and the duties on public authorities arising from the Disability Discrimination Act 1995. Subject to the views of the Group it is suggested that the detailed work on development of the Code would be best carried out by a sub-group. It is envisaged that the sub-group would report back to the main group early next year.

4. The views of the Group are sought on the following points:-

- Is it agreed that a sub-group be established to take forward work on the development of the section 60 Code ? and, if so,
- Should the remit of the sub-group be limited to look at specific issues or should it simply ask the group to consider the whole code?
- Should the membership of the sub-group include representatives of user groups or alternatively should the group be tasked with obtaining the views of such groups?

5. If it is agreed that a sub-group be established we shall seek nominations for membership of the sub-group from Group members. The sub-group should contain no more than 8 members (including the Chairman) and should include representatives of all of the main sectors.

Secretariat

Scottish Freedom of Information Implementation Group
October 2002