

**Freedom of Information Implementation Group**

**Review of membership and terms of reference of the Group**

**Purpose**

1. This paper sets out for discussion proposals for revising the membership and terms of reference of the Group. The views of the Group will be taken into account when proposals are put to Ministers for approval.

**Background**

2. At the meeting held on 26 September the Chairman explained that the Group was required to regularly review its membership. Group members were accordingly asked to consider and provide comments on whether the current membership of the group remained appropriate and whether its original remit is still appropriate. A brief summary of the comments received is provided in annex A to this paper. The Secretariat have also contacted a number of stakeholders for their views on the future of the Group and their views will be taken into account before the final proposals are developed.

**Discussion**

3. The general consensus of members who provided comments was that the Group membership should be widened to include representatives from user groups such as the Scottish Consumers Council and the Campaign for Freedom of Information. Of those who commented on the issue there was no objection to the Group meeting in public. With regard to the remit of the Group the comments received pointed towards the Group providing Scottish Public Authorities with best practice guidance or shared knowledge about the Act.

4. These comments are in fact in line with much of the recommendations of the infrastructure sub-group (Paper SFOI(2001)8 – copy attached) which envisaged a reconstituted Implementation group providing best practice guidance. It should be noted however that such a group could not provide such assistance without a supporting infrastructure of sectoral networks. These networks would share experiences and information of FOI from within their sector and this would be fed in to the Implementation Group. The Irish FOI regime has a similar infrastructure framework with an Interdepartmental Working Group which provides advice and guidance on policy areas and supporting sectoral and cross-sectoral networks.

**Proposals for discussion**

5. It is clear that with much of the early work of the Group now achieved there now needs to be some realignment of its structure and the way that it operates. Much of the technical work required in preparation of FOI has been completed (training strategy, Code of Practice on Records Management etc) so perhaps the Group should now be more external

facing and engage with and use the knowledge and expertise of users. Organisations such as the Scottish Consumers Council, Campaign for Freedom of Information, the Scottish Society of Editors, Unison and the CBI would cover most the interests of a wide range of users and can be considered for membership of the Group. Restructuring of the Group's membership might involve shrinking the representation of the Scottish Executive's representation on the Group to 2 or 3 members. We consider it essential that the Scottish Executive representation should include the Department of Health (given the fact that over 90% of public authorities covered by the Act are in the Health sector).

6. The current terms of reference of the Group are set out in Annex B to this paper. This will obviously require amending in view of the fact that some of the original objectives of the Group have now been met. The new remit will also have to reflect the more outward facing nature of the Group and cover the new areas of work suggested above. The Group will also wish to consider whether it could carry out some of its work in different ways such as virtual networking and increased use of sub-groups with co-opted members.

## **Conclusion**

7. **Members are invited to consider and discuss the above proposals in relation to revising the membership of the Group. In particular it would be helpful to have the views of members on the following :**

- **Should the Group's membership be restructured with additional members from user groups, and is there a case for a reduction in the Scottish Executive representation ?**
- **Should the restructured Group be responsible for producing best practice guidance for the public sector or should this be the responsibility of specific sectors, the Scottish Information Commissioner, or the Scottish Executive?**
- **Should the work of Group be carried out partly through virtual networks and sub – groups with co-opted members ? If so, how should this be set up and facilitated?**
- **Should meetings of the Group be held in public ?**

Secretariat  
Scottish Freedom of Information Implementation Group  
December 2003

**Summary of Comments by Group members**

The Group was asked at its meeting in September to consider “whether the current membership and operation of the Group remained appropriate to assist in taking forward implementation of FOI in Scotland”.

The following members submitted comments to the Secretariat. The Scottish Information Commissioner; Hugh Dignon, SE Justice Department; David Mallon, SE Environmental and Rural Affairs Department; Averil Maclachlan, Scottish Enterprise; Alastair Graham, Grampian Police and George Brechin, Chief Executive Fife NHS. These comments are summarised below

***Membership***

There was a general consensus that the membership of the Group should be widened to include representatives from user groups such as the Scottish Consumers Council and the Campaign for FOI in Scotland. It was also suggested that there was no need for individual Departments of the Executive to be represented on the Group. It was also suggested however that SE Agencies and NDPBs should be involved more directly with the work of the Group . Consideration should be given to representation from trade Union or professional bodies.

***Role of Group***

Members saw the Group either producing good practice guidance or providing a forum for the sharing of good practice across sectors. Such a role could help address poor or inconsistent practices by public authorities. A member suggested that alternatively the Group could evolve into two separate groups. There would be a strategic group (with user representatives) and a practitioner’s group with membership drawn from across the public sector.

***Communication by Group***

There was no objections raised to the Group meetings being held in public from those who commented on the issue. Two members thought that the views of the Group on good practice could be communicated through either an electronic exchange system or a web-site on which Questions and Answers could be posted.

## **Current Terms of Reference of Group**

- To prepare and oversee a strategy for the successful implementation of the Scottish freedom of information legislation.
- To prepare and oversee a strategy to foster a culture of openness across the Scottish public sector.
- To develop and oversee a strategy for training staff in the Scottish public sector.
- To report to and advise the Deputy First Minister on the above.

## **Current Membership of Group**

**Michael Lugton, SE: Legal and Parliamentary Services -Chair**

### **Members**

**Lindsey Anderson, Crown Office**

**Peter Anderson, National Archives of Scotland**

**Garrick Smythe, COSLA**

**David Bell, SE: 21<sup>st</sup> Century Government Unit**

**Dr Ann Bisset, SE: Health Department**

**George Brechin, Chief Executive, Fife NHS**

**David Caldwell, Universities Scotland**

**Denise Mattison, Historic Scotland**

**Hugh Dignon, SE: Justice Department**

**Tim Ellis, SE: FOI Unit**

**Sam Ghibaldan, Special Adviser to the Deputy First Minister**

**Geoff Huggins, SE: Development Department**

**Frank Jensen, COSLA**

**Averil MacLachlan, Scottish Enterprise**

**Clive Martlew, SE: Corporate Learning Services**

**David Mallon, SE: Environmental and Rural Affairs Department**

**SE: Education Department**

**SEPA**

**Huw Williams, Scottish Parliamentary Corporate Body**

**Karen Williams, ACPOS**