

SFOI (2004) (Min 1st Meeting)

**SCOTTISH FREEDOM OF INFORMATION IMPLEMENTATION GROUP
ELEVENTH MEETING: FRIDAY 2 APRIL 2004**

Those Present

Michael Lugton (Chair)

Members

Peter Anderson, National Archives of Scotland

Chris Bartter, Unison

George Brechin, Fife NHS Board

Jim Clifford, SOLAR

Kevin Dunion, Scottish Information Commissioner

Tim Ellis, SE: FOI Unit

David Goldberg, Campaign for Freedom of Information in Scotland

Sarah Hutchison, Office of the Scottish Information Commissioner

Margaret Keyse, Office of the Scottish Information Commissioner

Alison Mackinnon, SEPA

Averil MacLachlan, Scottish Enterprise

Margaret Macleod, Universities Scotland

Bill Magee, Audit Scotland

Denise Mattison, Historic Scotland

Sarah O'Neill, Scottish Consumer Council

Geoff Owenson, Scottish Parliament

Rowena Simpson, SE: Corporate Learning Services

Garrick Smythe, COSLA

Karen Williams, ACPOS

Deirdre Watt, SE Education

Secretariat

John McNairney, FOI Unit

Morag Jones, FOI Unit

Item 1: Apologies for absence

Michael Lugton welcomed new members Chris Bartter of Unison, David Goldberg of the Campaign for Freedom of Information in Scotland and Sarah O'Neill of the Scottish Consumer Council and reported that Gordon Smith, of CBI, had joined the Group but had sent his apologies for absence from this meeting.

Michael Lugton also reported apologies for absence from Clive Martlew (CLS) replaced by Rowena Simpson (attending for first time), Andy Smith (HD), David Bell (21st Century Government), Huw Williams (Scottish Parliament) replaced by Geoff Owenson, Lindsey Anderson, (Crown Office); Inspector Alastair Graham (Grampian Police), David Mallon (SE: ERAD) and Sam Ghibaldan (Special Adviser to the Deputy First Minister).

Item 2: Minutes of Previous Meeting (12 December 2003) and matters arising

Michael Lugton reported that the minutes of the meeting of 12 December 2003 had been published on the Scottish Executive's website.

On matters arising from the previous meeting, Tim Ellis reported that members of the FoI Unit and staff from the Information Commissioner's office had met with CoSLA in February to discuss Scottish local authorities' preparations for implementation of FoI. Kevin Dunion reported that all local authorities had met the deadline for submission of publication schemes for approval.

Action

The FoI Unit to consider a similar meeting with representatives of bodies listed in Part 7 of Schedule 1 to the Act.

Other matters arising were covered under agenda items 3 (review of remit and membership of Group) and 8 (arrangements for 1st public meeting of Group)

Item 3: Recent Developments – Oral Update

- Review of remit and membership of Group

Michael Lugton reported that Tavish Scott, Minister for Finance and Public Services had agreed that the membership of the Group should be widened, that there be a revised remit for the Group (set out in the draft annual report circulated to members) and that meetings of the Group be held in public. Three of the new members of the Group were present at the meeting and future meetings of the Group will be held in public.

- Fees regulation – consultation

John McNairney told the group that the draft fees regulations and guidance were out for consultation for 12 weeks and that following the consultation period the regulations

would be laid before Parliament before summer recess. He explained that the regulations were in two parts due to the parliamentary procedures required to approve them and provided the Group with a brief summary of the proposed fees structure.

George Brechin asked if more simplified, non-statutory guidance on charging in relation to FoI could be produced.

David Goldberg asked if the timescale for preparation of the fees regulations was realistic and asked how the amounts and percentages in the fees structure were decided upon.

John McNairney told the Group that the FoI Unit was committed to a 12 week consultation period and intended to have the regulations laid before the Parliament before the start of the summer recess on 5 July. He explained that the figures used in the proposed charging structure were based on the Deputy First Minister's comments during the passage of the Bill. £600 is currently the upper-cost limit for answering Parliamentary Questions and using this amount as the upper cost limit for FoI requests provided a level of consistency.

Karen Williams and Sarah O'Neill welcomed the draft regulations and accompanying guidance and Ms Williams said that she hoped public authorities would use the consultation as a spur to discuss charging regimes in relation to FoI.

Averil MacLachlan asked why the proposed fees structure made a distinction between establishing possession of information and the retrieval of information. Tim Ellis said that the distinction was made as public authorities will not be able to charge for time spent determining whether or not they hold the information requested.

Alison Mackinnon asked about charging in relation to Environmental Information Regulations, as the EU framework for EIRs has no upper cost limit. John McNairney told the Group that it was expected that charging in relation to EIRs would follow a similar structure to that used in relation to Freedom of Information.

George Brechin expressed concerns about the permissive nature of the regulations and the discretionary power to charge fees, especially in relation to audit requirements for value for money, etc. Bill Magee told the Group that he expected auditors would seek to ensure reasoned judgements were being made rather than influencing the judgements themselves.

Action

The FoI Unit to look into the possibility of producing simplified fees guidance.

- Information Quadrilateral Meeting

This meeting between the Scottish Information Commissioner, the UK Information Commissioner, members of the FoI Unit and representatives of the Department for Constitutional Affairs had taken place on 29 January and a copy of the minutes of the meeting was circulated to members of the Group.

Item 4: Training – Oral update

John McNairney told the Group that the leaflet template and open learning workbook commissioned by the Executive from Masons had been published on the Scottish Executive website and that the final element of training material, the trainers' pack, would be published very shortly. The FoI Unit will write to all chief executives of public bodies to let them know when the trainers' pack has been published.

Chris Bartter asked how public bodies are implementing training, and several members of the Group outlined how their authority was planning to implement training across their organisation in preparation for 1 January 2005.

Item 5: Third Annual Report of the SFOIG.

Michael Lugton introduced the third Annual Report and invited comments from the Group. David Goldberg asked why the report did not mention the proposed review of Schedule 1 to the Act. Tim Ellis replied that the review would be mentioned in the Minister's report to Parliament on progress in implementation of FoI.

No other comments were made and the Report was duly signed off.

Item 6: Scottish Information Commissioner's Operational Plan 2004-05

Kevin Dunion spoke to the plan. He told the Group that four further appendices to the plan were to come and that a three-year plan would be developed for the period 2005-2008 once funding plans for his office had been agreed with the Scottish Parliament .

Sarah Hutchison outlined how OSIC plans to raise public awareness of FoI over 2004 in three ways –

- A general public information campaign outlining the new rights under the Act;
- Work with advice/rights providers (especially to ensure that minority groups are aware of their new rights and how to exercise them; and
- Work with groups likely to use the Act, e.g. the media, both in terms of exercising rights under the Act and how FoI is reported by the media.

Item 7: Craigforth Research Study of public authorities preparedness for the implementation of the Freedom of Information (Scotland) Act 2002

Sarah Hutchison gave a presentation to the Group on the findings of this research, which gave an indication of the state of public authorities' readiness at November/December 2003. She explained how the research was carried out and told the Group that OSIC intended to use the same questionnaire again in November and December 2004. A copy of her slides is attached.

Michael Lugton commented that the research provided a positive snapshot of the state of readiness of public authorities, and other members of the Group said that it was useful to see what the position was at that time and to compare it with the progress that has been made since.

Chris Bartter asked who the “FOI contacts” surveyed were and Ms Hutchison said that they were predominantly staff in administrative or record/information management roles in centralised departments who reported to senior management. Tim Ellis asked if the organisations surveyed appeared to have FoI “championed” from above, and Ms Hutchison replied that it was very mixed across authorities.

In light of an element of the research relating to retrieval of information from emails, Jim Clifford asked if OSIC intended to publish guidance on email archiving and retrieval. Kevin Dunion indicated that he did not currently intend to publish such guidance as the S61 Code of Practice on Records Management and the accompanying Model Action Plan provide guidance on good records management practices.

Item 8: Suggested date and agenda for Next Meeting

Michael Lugton told the Group that the next meeting would be held in June 2004 and suggested 25 June as a possible date. The Secretariat will canvass members for suitability of this date. It will be the first meeting of the Group to be held in public, so the Secretariat will make arrangements and will provide members with relevant details in due course.

Tim Ellis said that as part of the Group’s new remit was to provide a forum for the exchange of experiences and ideas on FoI issues, members were invited to submit agenda items for future meetings to the Secretariat.

Action

FoI Unit to canvass members for suitability of 25 June as the date of the next meeting and make arrangements for the meeting to be held in public.

No other business was tabled.

Secretariat
April 2004

Sarah Hutchison's presentation slides


Scottish Freedom of Information Implementation Group



Survey of Designated Scottish Public Authorities
March 2004

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Research Programme 2004



- Public authorities preparedness
- Public awareness - omnibus
- Public awareness – focus group

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Survey of Designated Scottish Public Authorities



- Methodology
- Participation
- Key Findings

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Methodology



- Sample
- Questionnaire
- Paper and Web based
- Interviews

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Areas Covered



- Attitudes to FOI
- Organisational approach
- Record keeping
- Publication schemes
- Preparing for information requests
- Staff training

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Impact of FOI



16%	very positive
67%	somewhat positive
6%	no impact
10%	somewhat negative impact

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Enthusiasts




“There is genuine enthusiasm for an open culture and the avoidance of the use of exemptions.”

“FOI is forcing us to look seriously at how we deal with information and what we hold. ...It's a fantastic opportunity to tidy up our records management.”

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Sceptics



“FOI is not about our core delivery services and we will have to comply with no additional resources. How useful will it be as an end product?”

“Public expectations are being raised, but they will be disillusioned.”

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Confident can retrieve information



	Paper	e-mail
entirely confident	19%	15%
fairly confident	73%	62%
not very confident	8%	17%
not at all confident	1%	5%

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Position Statement



- 92% - still to complete publication scheme
- 42% - to develop record retention and disposal policies
- 22% - still to nominate person with FOI responsibility
- 89% - to develop procedures for reviewing FOI decisions
- 90% - intend to provide training, few had planned

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