

SFOI (2004) (Min 3rd Meeting)

**SCOTTISH FREEDOM OF INFORMATION IMPLEMENTATION GROUP**  
**THIRTEENTH MEETING: FRIDAY 8 SEPTEMBER 2004, MERCHANT'S HALL,**  
**EDINBURGH.**

**Those Present**

Michael Lugton (Chair)

Simin Abrahams, Office of the Scottish Information Commissioner

Lindsey Anderson, Crown Office

Jim Clifford, SOLAR

Ahrlene Ferguson, UNISON

David Goldberg, Campaign for FOI in Scotland

Alastair Graham, Grampian Police

Geoff Huggins, SE Development Department

Margaret Keyse, Office of the Scottish Information Commissioner

Andrew Mackie, SE Environment and Rural Affairs Department

Alison Mackinnon, SEPA

Averil MacLachlan, Scottish Enterprise

Margaret Macleod, Universities Scotland

Denise Mattison, Historic Scotland

Diane McGiffen, Audit Scotland

Laura Mitchell, National Archives of Scotland

Sarah O'Neill, Scottish Consumer Council

Geoff Owenson, Scottish Parliament

Karen Williams, Association of Chief Police Officers Scotland

**Secretariat**

John McNairney, FOI Unit

Morag Jones, FOI Unit

### **Item 1: Apologies for absence**

John McNairney opened the meeting on behalf of Michael Lugton and welcomed Diane McGiffen of Audit Scotland and Arhlene Ferguson, who attended on behalf of Chris Bartter of UNISON.

He reported apologies for absence from Peter Anderson, Chris Bartter, George Brechin, Hugh Dignon, Kevin Dunion, Tim Ellis, Sam Ghibaldan, David Mallon, Clive Martlew, Lois McFadyen, Andy Smith, Garrick Smythe, Dierdre Watt and Huw Williams.

### **Item 2: Minutes of Previous Meeting (25 June 2004) and matters arising**

John McNairney reported that the minutes of the meeting of 25 June 2004 had been amended following circulation to members to reflect more accurately comments made by a member. Copies of the revised version were published on the FOI Unit's website and provided at the meeting. Other minor errors were pointed out by John McNairney and David Goldberg. Morag Jones to amend the minutes accordingly and ensure correct versions are published on the FOI Unit website and circulated to members.

Matters arising from the previous meeting are covered in agenda items on the preparation of environmental information regulations, the fees regulations, the section 60 code of practice and date of next meeting.

### **Item 3: Recent Developments – Oral updates**

- **Fees regulations and S60 Code of Practice**

John McNairney told the Group that the fees regulations and the Section 60 Code of Practice under the Act were laid in Parliament on Monday 6 September. He explained that the regulations were in two parts due to differing Parliamentary procedures required for different parts of the Act; the regulations under sections 9 & 12 of the Act were subject to an affirmative procedure and were still therefore in draft form but the regulations under s13 were subject to a negative procedure and had therefore been finalised. He told the Group that guidance on charging fees was included in Annex 3 of the S60 Code of Practice. The Code had been placed on the Scottish Executive's FOI website and the regulations were to be made available shortly on the HMSO website.

- **Training**

John McNairney reported that a seminar for bodies covered by Part 7 of Schedule 1 to the Act and publicly owned companies was held in July, with positive feedback from those attending.

Margaret Keyse told the Group about the regional seminars being held by the Commissioner's office. Two had been held at the time of the meeting, in Dundee and Aberdeen, with four more in Glasgow, Newton St Boswells, Inverness and Stirling planned. The seminars have speakers from OSIC, the Scottish Executive FOI Unit and

Environment Department, the Campaign for FOI and local organisations, and are likely to attract over 500 attendees across Scotland.

#### **Item 4: Environmental Information – Oral update and discussion**

John McNairney welcomed Andrew Mackie, of the Sustainable Development Directorate in the Environment and Rural Affairs Department, who is leading work on the Environmental Information (Scotland) Regulations, to the meeting.

Andrew Mackie set out the background to regulations on access to environmental information, pointing out the different origins of the EIR and FOI regimes. He explained the ways in which the Executive were attempting to align the new EIRs and the FOI regimes as closely as possible, but pointed out that due to the differences in the regimes and their underlying bases – FOI is purely Scottish, whereas EIRs are based around UN and European Union directives – total alignment may not be possible. He said that proposals for the new regulations were currently with Ministers and that the new regulations were intended to be finalised by the end of September.

He also told the Group that a conference on access to environmental information was to be held by Holyrood Conferences in Edinburgh on 22 November 2004. It is hoped that guidance on EIRs and the S62 Code of Practice will have been issued in advance of the conference.

The Group discussed issues surrounding which regime to apply to requests for information, how to deal with requests for both kinds of information and what the definition of “environmental” information actually is. Andrew Mackie said that he hoped the Code of Practice and guidance on EIRs would address these issues.

Michael Lugton invited Andrew to attend the next meeting of the Group, scheduled to take place after the regulations are expected to have been finalised.

#### **Item 5. Public awareness research**

Margaret Keyse told the Group that OSIC had commissioned research into levels of public awareness of FOI in advance of their awareness-raising campaign, scheduled to begin in January 2005. The results will be used as a benchmark to compare with a repeat of the survey to take place in March 2005. Another survey of public authority preparedness will be carried out in October/November 2004.

#### **Item 6. Suggested date and agenda for next meeting**

Michael Lugton suggested that the Group meet again after the EIR conference in November, but before January 2005. Following on from discussion at the previous meeting about holding future meetings outside Edinburgh, the Group discussed potential locations and decided on Dundee.

## **Action**

FOI Unit to look into possible locations in Dundee and canvass members for suitable dates in late November/early December.

## **Item 7. Any other business**

David Goldberg asked when the consultation on criteria for bringing new bodies within the scope of the Act, mentioned at the last meeting, was likely to take place. John McNairney replied that the consultation paper was being prepared and will be issued later in the Autumn.

Margaret Keyse enquired about progress on the S104 order covering amendments to the Data Protection Act and the sharing of information between the UK and Scottish Information Commissioners. John McNairney replied that the order was being prepared and would be in force for 1 January 2005.

Margaret Macleod asked about procurement guidance. John McNairney told her that guidance on procurement within the Scottish Executive would be made available within the Executive's Publication Scheme on 1 January 2005. Margaret asked if there were plans to provide general guidance on procurement and FOI for use by public authorities. John said that the Executive's Procurement Directorate were working on guidance and that he would check with them what form this guidance would take and when it would be available.

## **Action**

FOI Unit to liaise with Procurement Directorate on the preparation of guidance on issues surrounding FOI and procurement for public authorities.

Michael Lugton asked the Group for any feedback on the training materials that the Scottish Executive had commissioned and made available to public authorities. Alistair Graham said that his organisation had made extensive use of the training materials. Karen Williams said that she appreciated the materials and thought it was beneficial to have consistent training across public authorities. Margaret Macleod said that she thought the materials were a very good basis for creating training packages and were easy to customise to suit individual authorities specific needs.

After the closure of the meeting, the Group took the following questions from members of the public:

*How much “new” information has been made available to the public through Publication Schemes?*

John McNairney – The forms used to submit draft Schemes to OSIC asked what information was being published for the first time, but there are difficulties in comparing organisations in this respect. Some organisations may already have published a great deal of information and so very little would be “new” in a Publication Scheme.

| Margaret Keyse – OSIC haven’t collected this information as schemes only specify classes of information. Also, different authorities started from different levels of routine publication of information. New guidance on reviewing Publication Schemes, which OSIC will publish next year, will emphasise the Commissioner’s expectation that an authorities scheme should contain more information over time.

Deleted:

*Would a review of an authorities Publication Scheme include a consultation?*

Margaret Keyse – The guidance on reviewing Schemes will cover this.