

SCOTTISH PUBLIC INFORMATION FORUM

SECOND MEETING

**MONDAY, 14 APRIL 2008, THE SCOTTISH PARLIAMENT,
EDINBURGH**

Present:

Claire Turnbull (Chair), The Scottish Parliament
Cathy Adamson, Fife NHS Board
Karen Angus, Society of Local Authority Lawyers & Administrators in Scotland
Lloyd Austin, RSPB
Chris Bartter, Unison
Grahame Clarke, Association of Chief Police Officers in Scotland
Sarah Emerson, Lothian & Borders Police
Carole Ewart, Campaign for Freedom of Information in Scotland
Brian Jamieson, Scottish Enterprise
Bruno Longmore, National Archives of Scotland
Alison Mackinnon, Scottish Environment Protection Agency
Margaret Macleod, Universities Scotland
Stephen Howard, Universities Scotland
Carol McDivitt, Crown Office
Chris Roberts, Highlands & Islands Enterprise
Neil Watson, Historic Scotland
Alicia McKay, FOI Unit, the Scottish Government

In attendance:

Sarah Hutchison, Office of the Scottish Information Commissioner
Caitlin Stott, Office of the Scottish Information Commissioner
Susan Healy, The National Archive

Secretariat:

Brian Rigby, Scottish Government

The meeting was advertised as being held in public. 18 members of the public attended.

1. Welcome and apologies for absence

Claire Turnbull welcomed members to the meeting and those viewing proceedings from the public gallery.

Apologies had been received from Roger Green (Historic Scotland), David Cullen (The Law Society of Scotland), Neil Cuthbert (Association of Scotland's Colleges), Alison Rooney (Glasgow Caledonian University), Mandy Gallacher (Audit Scotland), Sarah O'Neill

(Scottish Consumer Council), Derek Manson-Smith (Campaign for Freedom of Information in Scotland) and Kenneth Macdonald (UKIC in Scotland).

Members were asked to note that Chris Roberts replaces Liz Taylor as the Highlands & Islands representative on the Forum.

Best wishes were passed on to Forum member Andrew Mackie of the Scottish Governments Environmental Futures Division who retired on 31 March.

2. Update from the Scottish Information Commissioner

Sarah Hutchison provided the Forum with an update which covered the following points:

- Commissioner's annual report recorded that FOI was working well with experiences being positive.
- Case backlog had been largely cleared.
- Still evidence that some are not exercising their FOI rights ("missing applicants") and that some public authorities are recording a low volume of requests, for example local authorities – OSIC to examine this.
- Increase statistics data available in relation to the Public Authorities table.
- In relation to his second 4 year term in office, the Commissioner plans to improve timescales regarding case closure, work more on compliance, raise awareness of FOI rights, promote knowledge and good practice and engage with the SG to ensure the effective operation and scope of FOISA.
- Research project shows a low application rate for Health Authorities.
- Future legacy publications from the Commissioner include an FOI handbook for practitioners and a compendium of decisions, titles yet to be decided.
- Exemptions briefings being revised.
- Internationally, Commissioner will attend the Atlanta convention, Carter Foundation, FOI Worldwide.
- Commissioner will also be speaking at the Parliamentary Committee.
- Staffing – 2 staff have been seconded to the Policy team from Investigations.
- Minute of Agreement (MoA)– Agreement has been reached between OSIC and the SG's FOI Unit on the terms of a MoA which sets out minimum standards as regards how FOI cases should be handled by the respective offices (subject, as appropriate, to exceptions). The Commissioner would now like to hear the views of other groups who may be interested in having a similar arrangement.

The Chair invited questions from the Forum.

3. Update from the Scottish Government

Alicia McKay, Head of the FOI Unit, updated members on the following points:

- The Minister for Parliamentary Business (MPB) has instructed that an order be made to update the list of Scottish public authorities subject to FOISA listed in schedule 1. Relevant bodies will be added and defunct bodies removed. The order will be made under Section 4 of FOISA. Thereafter, the need for any further Section 4 orders will be reviewed, at least, on an annual basis.

- An order is also to be made to remove certain statutory bars to the disclosure of information. The order will be made under Section 64 of FOISA.
- Extension of the coverage of FOISA to other bodies - The SG is actively considering the issue of coverage. The MPB sought and has now received the views of the Commissioner on the matter, the terms of which are being examined..
- The SG Publication Scheme revision to be approved by 1 June. A draft and questionnaire issued to Forum members, pre meeting, for comments.
- Section 60 and 61 of FOISA Codes of Practice and section 18 of EI(S)Rs – Minister agrees to a review. This work is at a very early stage and has yet to be scoped. The views of SPIF will be sought (perhaps through a Working Group) in due course.

4. Review of Section 46 Code of Practice

Susan Healy of The National Archive was invited to give a presentation on revising the code of practice under FOIA s 46. This covered:

The changed context;

- Then and now.

Revised code;

- 2007 working principles.
- Process to date.
- Main changes.

What happens next?

- Public consultation?

The chair invited comments from Forum members and an open discussion on this topic followed.

5. Publication Schemes

Sarah Hutchison was invited to give a presentation on new guidance.

Sarah outlined the 4 year programme together with the key elements of the guidance and the new features.

Members were asked for their comments.

6. Coverage of the Act and delays in decisions from the Commissioner

Carole Ewart from the Campaign for Freedom of Information in Scotland was invited to give a presentation on this topic. This covered:

Introduction

- Background of the CFOIS.

Context of FOI

- Operation of the FOISA.

- Duties of public authorities.
- The Scottish Government and Scottish Information Commissioner.

Coverage of the Act

- The CFOIS suggest a widening of the coverage of the Act and listed those bodies from both the public and private sector which they recommend should be included in the future.

SIC backlog

- Whilst the CFOIS acknowledges that the Commissioners backlog has now been largely cleared they recommend that this situation should be monitored so that remedial steps can be taken to stop this situation occurring in the future.
- The CFOIS recommends that the process for setting and scrutinising the Commissioners budget takes account of future trends in the levels of work.

Conclusion

- CFOIS believe that FOI will help to ensure that all service providers – public and private - are responsive and accountable to the public they serve.
- The CFOIS recommends that the Office of the Scottish Information Commissioner is consistently funded to ensure efficient delivery of its functions.
- FoI must be regarded as a right and not a privilege.

Members were asked for their comments.

7. MoA

See agenda item 2.

Questions were invited from those observing – none.

8. Any other business?

Claire asked members to consider the future format of the meeting (and topics for discussion) and whether benefits could be gained from conducting more, less or regular sub group meetings to discuss one topic? Members representing CFOIS and Unison recorded that they were content with the current meeting arrangements.

Action point – suggested theme for the next meeting, users perception and experience of FOI – members to suggest who could be invited to present (including themselves).

Members also to comment on future format of the Forum and to suggest other topics for discussion at next meeting.

9. Date of the next meeting, venue and chair.

Provisional date set for October 2008. Claire invited members to suggest a venue and nominate the chair for the next meeting.

**Action point – Members to suggest venue and volunteer to be chair for next meeting.
Note the chair does not also need to provide the venue.**

A short break followed to allow members not wishing to remain for the final agenda item to depart.

10. Sharing experiences and good practice – Forum discussion.

Some members concluded the meeting by sharing their experiences on a number of issues in a 20 minute open discussion. Topics discussed were:

- Approach to tender/ procurement processes and contract information.
- Experiences of dealing with requests for 3rd party information.
- Situations where Personal Data can be released.

Close