

**NI Practitioners' Group on Freedom of Information
Minutes of a Meeting held in Castle Buildings on
Thursday, 4 March 2010 at 10:00am**

Attendees

Bernard McCaughan (Secretary)	IMCAB, OFMDFM
Brenda Marson, Departmental Information Manager, (DIM)	DEL
Colin McWhirter, DIM	DARD
David Crabbe, DIM	DRD
David Huddleston	PRONI
David Lammey (Chair)	Head of IMCAB, OFMDFM
Imelda McConnell, DIM	DSD
Jeff Burns, Acting DIM	DHSS&PS
Karen Davidson	IMCAB, OFMDFM
Karen McCready	DFP
Lynne Davison, DIM	OFMDFM
Patricia Smyth	DSO, DFP
Paul McGrory	DOE
Paul McAllister, DIM	DCAL
Sarah O'Cathain, FOI Team Leader (NI)*	ICO
Tom Gwyn, DIM	DETI
Willie Elliott	DE

* Attended Item 3 only.

1. Apologies / Minutes of Previous Meeting

1.1 Apologies

1.1.1 All Departments were represented except for the NIO (which has 'observer' status currently).

1.2 Minutes of Previous Meeting

1.2.1 The minutes of the previous meeting held on 3 December 2009 were agreed.

1.2.2 They would be placed on the OFMDFM website for public consumption.

Action: IMCAB

2. Matters Arising (from previous minutes)

2.1 Further to matters arising from the previous meeting the following was reported:

2.1.1 Paragraph 2.1.2: DRD representative advised that because of other work priorities, the Employment sub-group had not met with Central Personnel Group, DFP, to discuss the possibility of proactively disclosing employment-related information in the future.

- 2.1.2** Paragraph 2.1.3: DFP representative had provided IMCAB with a copy of the Cabinet Office Review of the 'Data Incident' in Royston House, which she advised was now publicly available. She also described how the incident and Review had heightened awareness of data protection within her Department.
- 2.1.3** Paragraph 2.1.3: IMCAB was to progress the identification of statutory bars to the disclosure of information that required repeal or amendment for the purposes of an Order under Section 75 of the FOI Act. This matter would be covered at agenda item 6.
- 2.1.4** Paragraph 2.1.3: There had been unexpected developments in the '30-year' rule Review issue. The Chair would provide an update at agenda item 7.
- 2.1.5** Paragraph 3.3: IMCAB had completed an exercise to 'marry up' the ICO's list of complaints with those known by Departments.
- 2.1.6** CAL had issued a training update to DIMs on 10 December 2009.
- 2.1.7** IMCAB had advised Departments on 26 February 2010 of requirements in relation to drafting test scripts, testing and training for the new NICS FOI Workflow.
- 2.1.8** IMCAB had written to DIMs on 25 January 2010 advising of changes in relation to quarterly and annual FOI performance reporting.

3. ICO Update

3.1 The FOI Team Leader, ICO (NI), was welcomed to the meeting. She provided the following update:

- ICO (NI) was dealing with approximately 48 cases of which 35 were 'active';
- 16 central government cases had 'closed' since the beginning of December 2009;
- A number of Decision Notices had been issued against the DOE over the last three months;
- ICO is taking a more robust approach to record-keeping, so Departments should ensure that they are documenting their FOI/EIR decision-making process, setting out their reasoning, etc;
- In terms of learning from recent decisions:
 - Innis Information Tribunal decision highlights that it is important to show what steps have been taken when advising a requester that information is 'not held';
 - Roberts Information Tribunal decision highlights that section 36 of the FOI Act cannot be relied on retrospectively;
 - South Yorkshire Police Information Tribunal decision highlights that the time taken to redact information is not covered by section 12;

- Adair Information Tribunal decision (involving Foyle and Londonderry College) is a good example of a request deemed to be 'obsessive' in nature; and
- Magherafelt District Council Information Tribunal decision where a summarised schedule was found to consist of personal information;
- Notification fees for Data Controllers had increased which would help fund the ICO's future data protection work;
- ICO has launched a consultation on a new draft statutory Code of Practice which sets out its proposed approach to using its new auditing powers (due to come into effect in April 2010). Currently, the ICO can only carry out 'spot checks' on public sector bodies, with an extension to the private sector envisaged in the document. The auditing process will allow the ICO: to assess whether organisations are processing personal information in line with the Data Protection Act (DPA); and to advise organisations on best practice. The ICO's approach to auditing will be 'risk based', prompted by evidence from a variety of mediums, including complaints and business intelligence such as news items. The consultation closes on 24 March 2010;
- ICO will gain new powers in April 2010 which are designed to deter personal data security breaches. This includes being able to order organisations to pay up to £500,000 as a penalty for serious breaches of the DPA.
- The recent Data Sharing Review Report included recommendations such as 'better and more authoritative guidance for practitioners'. ICO is to produce a statutory Code of Practice on Data Sharing.

3.2 The Chair and DSO representative advised that they had been invited to attend an ICO workshop on the Data Sharing Code of Practice to be held in London in March.

3.3 The Chair asked the FOI Team Leader for her views on the recent use of the 'Ministerial Veto'. She advised that she would follow up on this.

Action: FOI Team Leader

3.4 FOI Team Leader to forward a list of the 'open' complaint cases being dealt with by her Office which will then be issued to DIMs.

Action: IMCAB

3.5 The Chair thanked the FOI Team Leader on behalf of the Group for her attendance, and also for participating in the recent access to information pilot training.

3.6 A couple of issues were raised after the FOI Team Leader's departure:

- DSD representative advised that her Department had been unaware that a complaint case had been resolved informally. The Chair agreed to ask ICO if it would be possible for Departments to receive written notification of such an outcome.
- DRD representative mentioned the issue of 'scanned signatures', which had been discussed at the last meeting, and asked if the request to ICO for a guidance note could be followed up.

Action: Head of IMCAB

4. Replacement NICS FOI Request Tracking and Monitoring System

- 4.1** The first round of User Acceptance Testing (UAT) was completed on 17 February. A number of staff were singled out for particular thanks.
- 4.2** Nineteen incidents had been identified at UAT. Most had been resolved by the time the second round of UAT was held on 2 March.
- 4.3** Training material for the forthcoming courses would be reviewed by IMCAB – it includes slides, exercises and an End User Training Manual. The material will be issued to DIMs following the training for future reference. **Action: IMCAB**
- 4.4** It was noted that an IT Assist representative would attend both the ‘train the trainer’ and ‘Administration/Reporting’ training courses, as IT Assist will be responsible for initial fault-finding.
- 4.5** The ‘live’ FOI Workflow would be made available in Rosepark House on 16 March, and to staff at their desks on 18 and 19 March, for those Departments that wish to input their backlog of requests i.e., those received from 1 January 2010. On-site support from the service providers would be available on 16 March. **Action: IMCAB**
- 4.6** DIMs were offered the opportunity to view the FOI Workflow on 16 March in Rosepark House. **Action: IMCAB**
- 4.7** The Chair advised that ‘go live’ remains scheduled for Monday, 22 March 2010.
- 4.8** DIMs were reminded that the current Tracking system would be ‘degaussed’ at the end of March 2010, and that Departments need to extract whatever information they may require before then.
- 4.9** The Chair advised that the Change Control Notice in respect of the ‘Managed Service’ was still to be ‘signed-off’. Negotiation with the service providers was continuing.

5. Access to Information Training

- 5.1** The following access to information pilot courses had been held to date: ‘Access to Information Foundation’ – 22 January 2010; ‘Practical Data Protection’ – 29 January 2010; and ‘DPA Principles’ – 2 February 2010. Representatives from DARD, DE and DFP were thanked for attending the pilot courses for evaluation purposes. ‘Working with the FOI Act’ is scheduled for 8 and 9 March 2010, and a representative from DCAL is attending for evaluation purposes.
- 5.2** The ‘Records Management’ and ‘Auditing Data Protection’ course material has been reviewed by DIMs, and the next set of material anticipated is that for ‘Internal Reviews and ICO Appeals’.

- 5.3 A discussion took place on recent correspondence between DARD senior management and CAL, in relation to the importance of high quality access to information courses.
- 5.4 The Chair advised that he was to meet with the Director of CAL to discuss 'Practitioner-based' training, and he would advise the Group in due course of the outcome. **Action: IMCAB**
- 5.5 A discussion took place on the running of Information Systems Examining Board (ISEB) FOI and DPA courses. DIMs were not fully supportive of the accreditation of specific posts within their Departments. Some desire to see the work of Information Management staff recognized and professionalised was expressed but it was felt that the current financial climate did not augur well for such a development.

6. FOI Act – Subordinate Legislation

6.1 Section 4 (coverage of public authorities)

6.1.1 A response had been sent by OFMDFM to Ministry of Justice (MoJ) seeking the removal of the following three bodies (from Schedule 1 of the FOI Act):

- Enterprise Ulster
- The Law Reform Advisory Committee for Northern Ireland
- The Northern Ireland Pig Production Development Committee

6.2 Section 75 (statutory bars to disclosure of information)

6.2.1 IMCAB had written to Departments on 25 January 2010 asking for returns in relation to MoJ's exercise to identify statutory bars to disclosure that required repeal or amendment. Departments were reminded that returns were required by 5 March 2010.

7. UK Government's response to '30 year' Rule Review Report

7.1 The UK Government published [its detailed response last month](#). It intends reducing the 'rule' to 20-years, and is using the Constitutional Reform and Governance Bill (CRaG) as the legislative vehicle for effecting this change. Northern Ireland bodies are not being included in the provisions, as there is insufficient time to obtain the necessary legislative consent motion. The Chair said that the First Minister and deputy First Minister would have to decide whether to leave matters as they stood or to replicate the way public records are going to be released in England and Wales.

8. Any Other Business

8.1 FOI Annual Report 2009

- 8.1.1** Annual statistics would be sought from Departments with a view to publishing the 2009 Report in May 2010. **Action: IMCAB**

9. Date of Next Meeting

- 9.1** The next meeting is scheduled for Thursday, 3 June 2010 in the Conference Room (E4.02) Castle Buildings at 10.00 am.

Meeting concluded at 12.20 pm.