

NI Practitioners' Group on Freedom of Information (FOIPG)

Minutes of a Meeting held in Castle Buildings on

Thursday, 2 December 2010 at 10:00am

Attendees

Bernard McCaughan (Secretary)	Information Management & Central Advisory Branch (IMCAB), OFMDFM
Brenda Marson, Departmental Information Manager (DIM)	DEL
Colin McWhirter, DIM	DARD
David Huddleston	PRONI
David Lammey (Chair)	Head of IMCAB, OFMDFM
Imelda McConnell, DIM	DSD
John Morgan, DIM	DFP
Lynne Davison, DIM	OFMDFM
Michael Kenny, Deputy DIM	DRD
Patricia Smyth, Departmental Solicitor's Office	DFP
Paul McGrory, Deputy DIM	DOE
Renee O'Cleary, Deputy DIM	DETI
Sandra Dorrian, Deputy DIM	DCAL
Sarah O'Cathain, FOI Team Leader (NI)*	ICO
Veronica Bintley, DIM	DE

*Attended for item 3 only

1. Apologies / Minutes of Previous Meeting

1.1 Apologies

1.1.1 DHSSPS and DOJ representatives sent their apologies.

1.2 Minutes of Previous Meeting

1.2.1 The minutes of the previous meeting held on 2 September 2010 were agreed, and will be placed on the OFMDFM website for public access. **Action: IMCAB**

2. Matters Arising

2.1 Paragraph 2.2 of previous minutes - The Information Commissioner, Christopher Graham, spoke to the Permanent Secretary Group on 22 October 2010, as scheduled. Ken Macdonald, Assistant Commissioner, Northern Ireland, also contributed. The Information Commissioner made the following key points:

- 'FOI needs to speed up' – ICO has got its act together in that respect;
- ICO now publishes a list of bodies not achieving 85% in response times;
- Data Sharing Code of Practice is presently out to consultation;
- Constructive relationship between ICO and OFMDFM's central FOI team is bearing fruit;
- Ken Macdonald is now formally in charge of the ICO's Northern Ireland Office.

- 2.2 Paragraph 2.3 of previous minutes – On 3 September DARD sent to DIMs for their information, the note to its staff concerning the issue of requests for information being included in official correspondence. Colin McWhirter advised that he was arranging to copy the note to Departmental Trade Union Side.
- 2.3 Paragraph 2.3 of previous minutes – The draft form of words for inclusion in Departments' on-line access to information request forms for the purpose of facilitating the occasional sharing of requester details for business reasons was, due to other priorities, still to be actioned. **Action: IMCAB**
- 2.4 Paragraph 2.6 of previous minutes – The Ministry of Justice (MoJ) has informed IMCAB that the Law Reform Advisory Committee for Northern Ireland would be removed from Schedule 1 of the FOI Act through the next Section 4 Order.
- 2.5 Paragraph 3.1 of previous minutes – A single co-ordinated response to MoJ's Call for Evidence (on the Review of the Data Protection Act) was prepared by IMCAB, as requested by the Permanent Secretary Group. It was sent to MoJ in October 2010 along with the Post-Implementation Review Impact Assessment questionnaires forwarded by four of the Departments. David Lammey thanked the Departments that provided input.
- 2.6 Paragraph 4.1 – John Morgan would present the issue of developing a formal Data Protection Breach Protocol at item 7 of today's agenda.
- 2.7 Paragraph 5 – Access to Information Practitioner-based courses would be covered at item 4 of today's agenda.
- 2.8 Paragraph 6.1 – FOI Workflow Managed Service issues would be covered at item 5 of today's agenda.
- 2.9 Paragraph 7.1 - The TRIM (electronic records) container created for the purpose of sharing - on an NICS-wide basis - Departmental responses to round robins requests, has been deleted, as it wasn't being used.

3. Information Commissioner's Office (ICO) Update

- 3.1 Sarah O'Cathain was welcomed to the meeting. She reported that the requested information relating to Cabinet discussion on the future of the Westland helicopter company in January 1986 (some of which the ICO directed should be disclosed), has now been released by the Cabinet Office. The case had been heard by the

First-Tier (Information) Tribunal when the Cabinet Office appealed against the ICO's Decision Notice. The Tribunal concluded that Cabinet minutes should be kept secret, except in rare cases, to preserve the convention of collective responsibility. In this instance, it believed that disclosure was justified. It argued that the convention had been undermined by several former Cabinet ministers, who had published their own accounts of the meeting in memoirs. The Tribunal's decision was also influenced by the political and historical significance of the meeting, and by the fact that 19 years had passed.

- 3.2 The Information Tribunal decision in relation to Alison Ince versus the Information Commissioner was discussed, and Brenda Marson agreed to send a link to colleagues. Sarah O'Cathain and Brenda both indicated that their respective organisations were generally content with the outcome. **Action: Brenda Marson**
- 3.3 The findings in two other Tribunal cases were discussed: the Smartsources Drainage & Water Reports Limited versus the ICO case, which concerns the issue of whether private water companies are 'public authorities' for the purposes of the Environmental Information Regulations (EIR); and the Dorothy Cooksey versus the ICO and Greater Manchester Police case, which concerns the estimation of the cost of responding to a request for information.
- 3.4 Sarah O'Cathain commented on the first monetary penalties served by the ICO for serious data protection breaches.
- 3.6 She also reminded the Group that a draft Code of Practice on Data Sharing was currently out for consultation, with a closing date of 5 January 2011. She urged Departments to contribute.
- 3.7 It was noted that there was a small number of Decision Notices involving the Departments 'in the pipeline'.

4. Access to Information Training

- 4.1 David Huddlestone advised that 'Introduction to Records and Information Management' full-day courses had been held on 24 and 29 November 2010. He advised there had been a few minor issues as regards the availability of training materials but generally, the courses had gone well.
- 4.2 Michael Kenny advised that 'Handling Requests for Information' courses are scheduled for 6 and 8 December 2010. He advised that the delay in the production of the Trainer Brief had caused some problems, however, he hoped to be in a position to have the Brief completed in time for the courses.
- 4.3 Bernard McCaughan and Renee O'Cleary advised that they had finalised the 'Access to Information Foundation' course training material in preparation for the sessions to be held on 7 and 13 December 2010.
- 4.4 A general discussion took place on the Centre for Applied Learning's (CAL) role in facilitating the Access to Information courses. The assumption is that CAL is responsible for the production (copying and supply) of course material, hospitality

and attendance lists. Bernard McCaughan advised that CAL representatives would attend training sessions to ensure that Trainer Briefs met course requirements.

- 4.5 Michael Kenny advised that he had been having problems getting attendance lists, which would help him plan for break-out groups, etc. The Group's Secretary would follow this up with CAL. **Action: Bernard McCaughan**
- 4.6 Bernard McCaughan advised that CAL would provide feedback from Access to Information courses, and that this would be disseminated to Departmental Information Managers. **Action: Bernard McCaughan**
- 4.7 David Lammey advised that he was currently liaising with Catherine Vint, ICO, in relation to the 'Internal Reviews and ICO Complaints' course, which should be ready for delivery in February 2011 – bookable through HRConnect. **Action: David Lammey**
- 4.8 The first of the 'Applying Data Protection In-Depth' seminars would be delivered by the ICO on 8 December 2010. Further seminars were being planned for January/February 2011. **Action: Bernard McCaughan**
- 4.9 The 'Auditing Data Protection' seminars would be conducted by the ICO's Head of Good Practice Louise Webb, and delivery would commence in the New Year.
- 4.10 David Lammey advised that CAL had applied a reduction to the cost of Access to Information courses. He also reminded Practitioners that the Data Protection seminars are free. Contact details of anyone interested in attending the seminars should be sent to Bernard McCaughan.
- 4.11 David Lammey advised Departmental Information Managers (DIMs) that they are in the best position to ensure that their respective Departmental Training Commissioner colleagues are aware that attendees at Access to Information courses/seminars must have their (DIM) approval.
- 4.12 David Lammey advised that with regard to the new Access to Information training contract, CAL had sent through to him a basic draft framework. IMCAB will produce an initial draft, which will be sent to DIMs for their comments and suggestions. **Action: IMCAB**

5. FOI Workflow – Managed Service Issues

- 5.1 Following the FOI Workflow Users' Workshop in September, Practitioners had been sent a document listing revisions to the Workflow that would attract a charge. It was also noted that the Users had asked Steria (the service providers) to estimate the cost of delivering two half-day 'Ad hoc Reporting' training sessions. Departments were reminded that they were not being asked to contribute to these costs – it was hoped that payment could be made from IT Assist's budget together with a contribution from OFMDFM. Instead, Practitioners were being asked to consider the changes and training sessions, and advise if they were content to proceed with them. Practitioners indicated that they were content with the proposals.

- 5.2 Bernard McCaughan advised that Departments may only be offered one or two places at the 'Ad hoc Reporting' training, so it was important that the most appropriate people were nominated. Nominees should possess the skills necessary to train their Departmental colleagues.
- 5.3 In relation to the issue of 'name of requester', two possible solutions had been considered. Practitioners agreed to follow the 'no cost' option of keeping the fields mandatory and adopting a standard approach to populating the first name and last name: e.g., First name – 'Business'; Last name – 'Northern Ireland Electricity'. It was agreed that IMCAB should now progress the aforementioned matters with Steria and IT Assist. **Action: Bernard McCaughan**

6. UK Government's Transparency Agenda

- 6.1 Practitioners were advised that details of all spending over £25,000 by Whitehall Departments, since the election, have been published, and that the Information Commissioner had expressed his approval.
- 6.2 A short discussion took place regarding the proposal to charge a registration fee for FOI requests, which had been considered by the Permanent Secretary Group on 19 November.

7. Northern Ireland Civil Service (NICS) Protocol – Handling Data Breaches

- 7.1 John Morgan outlined the need for a protocol to deal with handling data breaches within his Department, and suggested that a common protocol across all Departments was achievable. David Lammey asked Practitioners if some of their number would form a sub-group for the purpose of drafting such a protocol. Several Practitioners signified their willingness to assist. **Action: John Morgan**

8. Any Other Business

8.1 'Out of Office' messages

- 8.1.1 IMCAB had written to DIMs about permitting 'Out-of-Office' messages to be received externally to the NICS. The vast majority were content for IMCAB to approach IT Assist, with a view to opening discussions about the removal of the block. A number of good practice points were highlighted in terms of the content of the 'Out of Office' messages. **Action: IMCAB**

8.2 NICS FOI 'Co-ordinations Arrangements' Policy

- 8.2.1 Lynne Davison advised that the NICS FOI 'Co-ordination Arrangements' policy and procedures document was being revisited, now that the FOI Workflow system had been developed and implemented. A revised version would be sent to Practitioners for comment before the next meeting. **Action: Bernard McCaughan**

9. FOIPG Meeting Dates 2011

- 9.1 Practitioners were advised that FOIPG meetings have been scheduled for 3 March; 9 June; 1 September; and 8 December – all Thursdays.

Meeting concluded at 12:30pm.