

NI Practitioners' Group on Freedom of Information

Minutes of a Meeting held in Castle Buildings on

Thursday, 3 June 2010 at 10:00am

Attendees

Colin McWhirter, DIM	DARD
David Crabbe, DIM	DRD
David Huddleston	PRONI
David Lammey (Chair)	Head of IMCAB, OFMDFM
Debby Nelson, Acting DIM	DE
Helen Lindsay	DEL
Jeff Burns, Acting DIM	DHSS&PS
John Gault (Service Manager)**	Steria
John Morgan, DIM	DFP
Karen Davidson	IMCAB, OFMDFM
Lynne Davison, DIM	OFMDFM
Paddy Byrne***	Centre for Applied Learning
Paul McGrory	DOE
Paul McAllister, DIM	DCAL
Paula McCreary, Head of Programme Delivery***	CAL
Sarah O'Cathain, FOI Team Leader (NI)*	ICO
Tom Clyde, DIM	DOJ
Tom Gwyn, DIM	DETI

* Attended item 3 only.

** Attended item 4 only.

*** Attended item 5 only.

1. Apologies / Minutes of Previous Meeting

1.1 Apologies

1.1.1 Imelda McConnell, DSD

1.2 Minutes of Previous Meeting

1.2.1 The minutes of the previous meeting held on 3 March 2010 were agreed, and will be placed on the OFMDFM website for public access. **Action: IMCAB**

2. Matters Arising (from previous minutes)

- 2.1 Paragraph 2.1.2: The Chair suggested that the work of the Employment sub-group had appeared to lose momentum. However, the issue that they were examining remained a 'live' one, as the number of round-robin and transferred requests for personnel-related information remained steady. Ways in which Departments could tackle such requests more proactively were then discussed. It was agreed that there was still merit in meeting with Central Personnel Group, DFP, to discuss options.
- 2.2 Paragraph 3.3: The Chair reported the ICO's FOI Team Leader's (NI) views:

'The second use of the section 53 veto was in respect of the "devolution case" and ICO's principal concern was that the veto was exercised before the Tribunal had a chance to make a decision, and it was felt that this could be seen as circumventing the proper processes. However, the Commissioner's view is that the veto is and should remain exceptional, and on that basis it should not prevent the ICO from ordering disclosure where the Commissioner feels it is appropriate to do so. After all, the section 35 exemption is qualified'
- 2.3 Paragraph 3.4: ICO's FOI Team Leader forwarded a list of the 'open' complaint cases being dealt with by her Office. IMCAB sent it to Practitioners on 22 March 2010.
- 2.4 Paragraph 3.6: The Chair advised that the issue of the ICO's production of guidance regarding the handling of 'scanned signatures' was raised again with the ICO at a meeting with Ken Macdonald (acting Head of ICO's Regional (NI) Office), in April 2010.
- 2.5 Paragraph 4.3: Following the conclusion of FOI workflow training on 12 March 2010, IMCAB issued training material to Practitioners for use in their respective Departments.
- 2.6 Paragraph 4.5: Prior to 'going-live', the FOI workflow was made available on 16 March in Rosepark House to enter details of requests received since January 2010. DARD, DCAL, DETI, and OFMDFM made use of this facility.
- 2.7 Paragraph 4.6: DIMs had been offered the opportunity to view the FOI workflow prior to 'going-live'. DETI's DIM took up the offer.
- 2.8 Paragraph 5.4: The Chair met with the Director of CAL to discuss 'Practitioner-Based Training' on 16 March 2010. This topic would be discussed in detail under agenda item 5.
- 2.9 Paragraph 6.2.1: IMCAB wrote to Departments on 25 January asking for returns in relation to Ministry of Justice's (MoJ) exercise to identify statutory bars to disclosure of information that required repeal or amendment. IMCAB submitted the NICS return on 26 March 2010, and MoJ advised that it hopes to make the (s75) Order in Spring 2011.

2.10 Paragraph 8.1: The Group was advised that the FOI Annual Report 2009 had been sent to the First Minister and deputy First Minister on 26 May for clearance.

3. ICO Update

3.1 ICO's FOI Team Leader (NI) was welcomed to the meeting. Ken Macdonald was unable to attend due to a prior engagement. However, he has offered to deliver a Data Protection briefing to NICS Practitioners at a later date. **Action: IMCAB**

3.2 The Chair noted that Christopher Graham, the new Information Commissioner, had accepted an invitation to speak to the Permanent Secretaries' Group on 10 September 2010. He will be accompanied by Ken Macdonald.

3.3 ICO's FOI Team Leader provided an update:

- ICO (NI) was dealing with approximately 16 'live' central government complaint cases;
- Six central government complaint cases were informally resolved last month;
- ICO's Head of Complaints was meeting with ICO (NI) staff later today to discuss ways in which complaints could be resolved more speedily through early intervention and informal resolution;
- NI Departments were praised for co-operating fully with the ICO. This resulted in less paperwork, fewer legal issues and - crucially - a happier complainant;
- There have been no Decision Notices (DNs) involving NI Departments recently;
- Recent interesting DNs from around the UK were commented on:
 - Vale of Glamorgan Council – the case concerned consultants' salaries. Section 43 of the FOI Act (commercial interests) was relied upon by the public authority. The complaint was upheld;
 - Health and Safety Executive (GB) – the case concerned accident investigations. Section 31(1) (law enforcement) was engaged. ICO agreed that the information requested should not be released;
 - Land Registry – the case concerned a computer code and whether its disclosure could damage the economy. Section 29 (1) (the economy) was relied upon. The complaint was not upheld.
 - Queen's University, Belfast – the case concerned raw data relating to tree rings. Environmental Information Regulation 12(5)(c) (intellectual property rights), and other regulations were used. The complaint was upheld.
- Public authorities are becoming more adept when using exemptions. ICO is also witnessing the use of stronger public interest arguments;
- There have been a few key Information Tribunal decisions recently:

- Etchells v ICO – the information in the spotlight was contained in a ‘live’ database (a register) created under the National Registration Act 1939. Section 40 (personal information) was used. ICO did not uphold the complaint, and the subsequent appeal was dismissed.
- Bristol City Council v ICO – access to a Developer’s viability report was the main issue - regulation 12(5)(e) (confidentiality of commercial information) was engaged. ICO had ordered disclosure. The appeal was subsequently dismissed (for reasons which differed from those set out by ICO);
- A new Minister has been appointed (Ken Clarke). ICO will be following closely the UK government’s work on policy issues such as the coverage of additional bodies under the FOI Act, and the use of CCTV and ID Cards;
- If applicants were provided with more comprehensive Refusal Notices, they would be less likely to appeal to the ICO and the Information Tribunal.

3.4 DRD representative advised that due to the prevailing financial pressures, his Department was examining more closely the use of fees regulations when considering responses to requests. ICO’s FOI team leader advised that ICO was content for public authorities to use fees notices under Section 9 of the FOI Act. However, if using Section 12, then the ICO will look closely at whether a public authority’s estimation of costs was accurate and justifiable. A public authority should be able to show to the ICO a clear record of how costs were estimated. The Chair encouraged Departments to take reasonable steps to document estimations.

3.6 The Chair asked Departments to raise with him any issues they would like discussed at his forthcoming quarterly meeting with the ICO’s FOI Team Leader and Ken Macdonald.

4. FOI Workflow Managed Service Issues

4.1 Steria’s Service Manager, was introduced, and it was noted that a short article (with photo) on the Workflow Project had been prepared for the ‘Reform E-zine’.

4.2 The following actions arose from the final Project Board meeting which was held on 11 May;

- IMCAB to obtain Departmental contact names for the purposes of a distribution list to be used by Steria when updating Departments on workflow developments;
- IMCAB to seek workflow Users’ views in a few months time;
- Departments currently have the ability to view each others ‘Adhoc’ reports until the next version of Singularity SPP is deployed. Steria to advise when this upgrade has been completed and ‘Adhoc report’ views are restricted to individual Departments;

- Steria to confirm when the fix has been applied to the workflow application to change the date format in reports from US format to UK format;
- Steria to confirm if it is feasible to change the mechanism to remind Administrators to re-start 'suspended jobs' from the current default to a new setting of '0'; '15 minutes' and '30 minutes';
- Board members have until 14 June to advise IMCAB of amendments to the draft minutes of the final Board meeting. The minutes will be copied to all Practitioners for information after this date.

Action: IMCAB/Steria

4.3 Steria's Service Manager provided an oral update on the performance of the workflow, since mid-March, when it went 'live'.

4.4 The issue of deleting 'closed cases' was discussed. Steria's Service Manager explained that the workflow's functionality did not provide for such deletion. He agreed to explore the possibility of adding this function and to advise on the likely impact of that addition.

Action: Steria Service Manager

4.5 It was agreed that it would be useful to have a workshop for Users to discuss any technical issues and to share good practice methods. Steria's Service Manager agreed to bring technical support to the workshop, which will be organised by IMCAB in due course.

Action: IMCAB

4.6 Steria's Service Manager advised that a monthly Management Information Report about technical 'incidents' and other performance matters is currently provided to IT Assist, DIMs and the Chair.

5. Access to Information Training

5.1 The Chair advised that following the extraordinary FOIPG meeting on 19 May 2010, DFP, DRD and PRONI representatives would join him on a sub-group to take training plans forward.

5.2 The Chair then provided a detailed update on the meeting with Centre for Applied Learning (CAL) representatives on 1 June.

5.3 DRD representative (who also attended the 1 June meeting) stressed the importance of developing a 'next steps' plan for taking training proposals forward.

5.4 A CAL representative acknowledged that Information Access expertise lay within the Group. She stressed CAL's eagerness to work with Departments in order to move the business forward promptly.

5.5 DHSS&PS representative advised CAL that numerous staff in his Department needed training urgently. There was some discussion on ways in which to resolve this urgent need.

- 5.6 The development and award of future training contracts was discussed. It was stressed that the specification of Information Access training – as a separate category within the new contract – needed to be absolutely clear. This was a matter which would have to be addressed in early autumn. In the meantime, the Training sub-group (see para. 5.1 above) would review the eleven courses previously specified, with a view to rationalising them and drawing out priority training needs that could be provided for by Practitioners acting as trainers.

Action: Practitioner-Based Training Sub-Group

6. Any Other Business

6.1 FOI Act Section 4 Orders

- 6.1.1 The Chair reported that MoJ is now hoping to commission revisions to Schedule 1 of the FOI Act on an annual basis.
- 6.1.2 IMCAB issued an e-mail on 26 May inviting nominations for bodies or office holders to be added to Schedule 1 (under section 4(1) of the Act), or removed from the Schedule (under section 4(5) of the Act) or nil returns before 16 July.

Action: DIMs

6.2 Government Transparency – Programme for Government

- 6.2.1 The Chair advised that the new UK Coalition government has committed to:
- Extending the scope of the FOI Act to provide greater transparency.
 - Requiring public bodies to publish the job titles of every member of staff on-line, and the salaries and expenses of senior officials paid more than the lowest salary permissible for Pay Band 1 of the SCS pay scale.
 - Publishing government ICT contracts on-line.
 - Publishing all central government spending and contracts over £25,000 on-line.
 - Creating a new 'Right to Data', so that government-held datasets can be requested and used by the public, and then published on a regular basis.
 - Ensuring that all data published by public bodies is published in an open and standardised format, so that it can be used easily and with minimal cost by third parties.

7. Date of Next Meeting

- 7.1 The next meeting is scheduled for Thursday, 2 September 2010 in the Conference Room (E4.02) Castle Buildings at 10.00 am.

Meeting concluded at 12.55 pm.