

NI Practitioners' Group on Freedom of Information (FOIPG)

Minutes of a Meeting held in Castle Buildings on

Thursday, 3 March 2011 at 10:00am

Attendees

Bernard McCaughan (Secretary)	Information Management & Central Advisory Branch (IMCAB), OFMDFM
Brenda Marson, Departmental Information Manager (DIM)	DEL
Charlene McQuillan, DIM	DHSSPS
Colin McWhirter, DIM	DARD
David Crabbe, DIM	DRD
David Huddleston	PRONI
David Lammey (Chair)	Head of IMCAB, OFMDFM
Eileen Cowan, Deputy DIM	DCAL
Imelda McConnell, DIM	DSD
Karen McCready, Deputy DIM	DFP
Lynne Davison, DIM	OFMDFM
Nigel Treanor, Operations and Policy Manager (NI)*	ICO
Paul McGrory, Deputy DIM	DOE
Renee O'Cleary, Deputy DIM	DETI
Tom Clyde, DIM	DOJ
Veronica Bintley, DIM	DE

*Attended for item 4 only

1. Apologies / Welcomes

1.1 Apologies

1.1.1 The Departmental Solicitor's Office representative.

1.2 Welcomes

1.2.1 David Lammey welcomed attendees to the meeting and noted new arrivals to, and departures from, the Group.

2. Minutes of Previous Meeting

2.1 The minutes of the previous meeting held on 2 December 2010 were agreed. They will be placed on the OFMDFM website for public access. **Action: IMCAB**

3. Matters Arising from Previous Meeting

3.1 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 is, due to other priorities, still to be actioned. **Action: IMCAB**

3.2 Paragraph 2.4 of previous minutes – Ministry of Justice (MoJ) had informed IMCAB that the Law Reform Advisory Committee for Northern Ireland (LRAC) would be removed from Schedule 1 of the FOI Act through the next Section 4 Order. Lord McNally had formally written to the First Minister and deputy First Minister and, in addition to the removal of the LRAC, two bodies are to be added to Schedule 1 of the FOIA:

- The Prisoner Ombudsman for Northern Ireland; and
- Royal Ulster Constabulary George Cross Foundation.

The Police Rehabilitation and Retraining Trust had been considered for inclusion on Schedule 1. However, it transpired that the Trust does not fulfil the second Section 4 condition, as its Board appointments are made solely by its Board members and not the Crown, a Minister or a Government Department.

3.3 Paragraph 2.5 of previous minutes – Lord McNally wrote to the First Minister and deputy First Minister on 28 January 2011 updating them on the 'Call for Evidence' (on the Review of the Data Protection Act) exercise, and enclosing copies of the UK government's 'Response to the Call for Evidence on the current Data Protection Legislative Framework', the finalised Post-Implementation Review Impact Assessment, and the Equality Review. It was agreed to issue the documentation to Practitioners for information. **Action: Bernard McCaughan**

3.4 Paragraph 3.2 of previous minutes – Brenda Marson sent colleagues a copy of the Information Tribunal decision in relation to Alison Ince versus the Information Commissioner on 12 December 2010.

3.5 Paragraph 4.5 of previous minutes – IMCAB raised an issue with the Centre for Applied Learning (CAL) relating to Practitioner-trainers receiving course attendance lists prior to delivering access to information training. The issue was again raised with CAL at a sub-group meeting held on 10 February 2011.

3.6 Paragraph 4.6 of previous minutes – Access to Information course feedback was appended to the Note of the aforementioned sub-group meeting.

3.7 Paragraph 4.7 of previous minutes – Catherine Vint, ICO, and David Lammey delivered an 'Internal Reviews and ICO Complaints' course on 25 January 2011 – it was attended by seven participants including Senior Civil Servants. A further course is planned before the end of June 2011. Practitioners were asked if they wanted to add to the list of trainees. **Action: Practitioners/Bernard McCaughan**

- 3.8 Paragraph 4.8 of previous minutes – ‘Applying Data Protection In-Depth’ seminars were delivered by Catherine Vint, and Nigel Treanor, ICO, on 8 December 2010, and also on 8 and 10 February 2011. Overall, 134 staff members (including Practitioners) attended.
- 3.9 Paragraph 4.9 of previous minutes – ICO’s Head of Good Practice, Louise Webb, delivered ‘Auditing Data Protection’ seminars to 50 staff on 3 February.
- 3.10 David Lammey advised that attendee feedback from the ICO-led seminars had been very positive. If Practitioners wished to view the feedback, then they should contact Bernard McCaughan.
- 3.11 Paragraph 4.12 of previous minutes – IMCAB sent to Practitioners draft input to CAL’s next Training Services Framework Contract on 11 January 2011 for their comments and suggestions.
- 3.12 Paragraph 5.1 of previous minutes – Practitioners had indicated they were content to proceed with the revisions to the FOI Workflow, and the delivery of two half-day ‘Ad hoc Reporting’ training sessions. Progress would be covered under Agenda item 7.
- 3.13 Paragraph 7.1 of previous minutes – Consideration of the issue of a NI Civil Service (NICS) protocol for handling data breaches would be taken forward by John Morgan upon his return to work. **Action: John Morgan**
- 3.14 Paragraph 8.1.1 of previous meeting – Progress on the ‘Out-of-Office’ facility issue would be covered under Agenda item 7.
- 3.15 Paragraph 8.2.1 of previous meeting – A revised version of the NICS FOI ‘Co-ordination Arrangements’ policy and procedures document had been sent to Practitioners for comment on 15 February 2011.

4. Information Commissioner’s Office (ICO) Update

- 4.1 Nigel Treanor was welcomed to the meeting. He explained that his colleague, Sarah O’Cathain, was unable to attend, however, she would forward to IMCAB a written FOI update in due course. **Action: Sarah O’Cathain, ICO**
- 4.2 Nigel outlined the impending changes to the operations and location of the Information Commissioner’s Regional Office in Belfast, as a result of expenditure reductions. With effect from April 2011, FOI complaint handling will be managed through the Information Commissioner’s Head Office in Wilmslow, whilst still being delivered by local staff. Furthermore, the ICO will move to smaller accommodation within the Crown Estate by December 2012. Practitioners were assured that the ICO is fully committed to maintaining a strong presence in Northern Ireland, and will continue to provide advice on policy and practice in both Data Protection and Freedom of Information to its stakeholders here.

- 4.3 Nigel commented on the latest monetary penalties served by the ICO for serious data protection breaches. It was noted that the two Councils concerned had relevant policies were in place but that they were not being followed by staff. Moreover, one Council breached the Act by failing to have a written contract in place with the other Council, and did not monitor that Council's procedures for operating the service securely.
- 4.4 Nigel reported that the consultation on ICO's draft Code of Practice on Data Sharing closed in January 2011. It is hoped that there will be a regional launch of the Code of Practice in May of this year, and departmental representatives will be invited to attend.
- 4.5 David Lammey referred to a HM Treasury document entitled, 'Transparency: Payment Fraud and other Risks', which highlighted the potential to use 'scanned signatures' and other official information for fraudulent activities – an issue he had raised previously with the ICO. David said he would welcome the views of the regulator on this issue. **Action: Nigel Treanor, ICO**
- 4.7 Veronica Bintley requested guidance in relation to her Department's responsibilities in relation to personal information held by Staff Associations. Nigel agreed to pursue the matter. **Action: Nigel Treanor, ICO**
- 4.8 A short discussion took place on the embargo on the destruction of official files, and the implications this may have in respect of the Data Protection Act's fifth principle – 'personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes'. Nigel advised that PRONI and the ICO would soon be issuing a joint letter on this matter. **Action: Nigel Treanor, ICO, and David Huddleston, PRONI**

5. Access to Information Training

- 5.1 Practitioners were given an update in relation to the first tranche of Practitioner-based Tier 1 training – 24 November 2010 to 10 February 2011:
- C.125 trainees attended 'Access to Information – Foundation' courses.
 - 81 trainees attended 'Handling Requests for Information' courses.
 - 72 trainees attended 'An Introduction to Records and Information Management' courses.
- 5.2 Practitioners were also given an update in relation to an Access to Information sub-group meeting held on 10 February 2011 to discuss outcomes from the first tranche, and to plan second (March to June 2011) and third tranches (September to December 2011). A Note of the meeting was issued to Practitioners on 2 March 2011.
- 5.3 David Lammey highlighted a number of issues arising from feedback to the sub-group:

- There are some Practitioner-trainer availability issues to overcome. Practitioners were asked if they or their staff would be willing to join the pool of trainers and, if so, to contact Bernard McCaughan.
- DIMs to consider if demand warrants the holding of courses outside Greater Belfast, perhaps in Omagh or the Coleraine/Ballymena area?
- A recommendation to shorten the 'Records and Information Management' course to a half-day. Practitioners agreed to the revision.
- Input by CAL trainers. Practitioners agreed to continue with the format of two Practitioner- trainers leading each of the courses during the next two tranches.
- Establishment of an Evaluation Panel by CAL to short-list and consider tenders for CAL's next Training Services Framework contract – two representatives from FOIPG are required. DIMs were asked if they would be interested in serving. An email would issue from IMCAB after the meeting.
- The ways and means of updating the Permanent Secretary Group about access to information Practitioner-based training developments over the last year. It was agreed that IMCAB should initiate proceedings by drafting a factual note. **Action: Bernard McCaughan**

6. NICS FOI 'Co-ordinations Arrangements' Policy

- 6.1 Lynne Davison and Bernard McCaughan were thanked for drafting revisions to the NICS FOI 'Co-ordination Arrangements' policy and procedures document.
- 6.2 Some of the revisions were discussed, and a number of amendments were agreed. DFP would be given some additional time to provide its comments. IMCAB would aim to issue a final draft in April. **Action: IMCAB**

7. FOI Workflow – Managed Service Issues

- 7.1 David Lammey and Bernard McCaughan met with IT Assist's Head of Service Planning, and Steria's Service Manager, on 28 January 2011. They were advised that the proposed changes to the FOI Workflow had been approved by DIMs at the December 2010 FOIPG meeting. It was agreed that a Change Control Notice would be raised by Steria and sent to IT Assist for approval. Changes to the FOI Workflow would be implemented in due course.
- 7.2 Steria requested a NICS staff resource to conduct User Acceptance Testing (UAT) of the new enhancements to the FOI Workflow. Gail Younger, DFP, agreed to fulfil the role. UAT is planned for 28 March to 1 April 2011.
- 7.3 IT Assist will absorb the cost of the FOI Workflow changes, and 'Ad Hoc Reporting' training (c. £7k).

- 7.4 'Ad Hoc Reporting' training will probably be held in May 2011. It was also noted that IMCAB will contact key personnel within Departments for assistance in framing the content of the training. **Action: IMCAB**
- 7.5 Steria's Service Manager had noted that costs for FOI Workflow support were for renewal, and had agreed to progress the issue with the IT Assist's Head of Service Planning. The re-alignment of FOI Workflow support costs with RecordsNI support costs was also discussed. It was agreed that this re-alignment would help to reduce administration costs and should be pursued.
- 7.6 Practitioners were given an update in relation to the 'Out-of-Office' facility issue, which had been discussed with IT Assist's Head of Service Planning. The IT Assist Manager had provided IMCAB with informed sources which supported arguments for blocking the receipt of such messages outside the NICS network, and which countered this position. It was agreed that the matter should be referred to the Director of Information Strategy and Innovation Division (ISID), DFP, for consideration and a decision on policy. **Action: IMCAB**
- 7.7 IT Assist's Head of Service Planning would be contacted in relation to an outstanding issue – accessing emails marked 'private' that are received in generic email Inboxes. **Action: IMCAB**

8. Any Other Business

8.1 FOI, Re-use of public sector information and the Open Government Licence

- 8.1.1 A discussion took place regarding the relationship between FOI, re-use of public sector information and the Open Government Licence (OGL), and the need for guidance when responding to FOI requests. David Lammey advised that he was liaising with The National Archives' Head of Information Policy in the drafting of guidance. **Action: David Lammey**

8.2 Protection of Freedoms Bill

- 8.2.1 The UK government published the Protection of Freedoms Bill on 11 February. This Bill aims to strengthen privacy, deliver greater transparency and improve accountability. It also seeks to provide greater independence for the Information Commissioner. Included are provisions for increasing privacy safeguards on biometric information such as DNA profiles, and for ensuring the effective regulation of camera surveillance, such as the use of automatic number plate recognition.
- 8.2.2 The Bill also aims to make most public records accessible through PRONI ten years earlier, ie, when they are 20 years old, and to amend section 6 of FOI Act so that it extends to companies wholly owned by more than one public authority. Furthermore, a right to access datasets by means of requests or via publication schemes is included. A Legislative Consent Motion will be required to permit the extension of the Bill's FOI provisions to Northern Ireland, as FOI is a 'transferred matter'.

8.3 Absolute Exemption re- communications with the Royal Family

8.3.1 Amendments to the exemption (section 37 (1) of the FOI Act) concerning communications with the Royal Family commenced on 19 January 2011. These amendments featured in the Constitutional Reform and Governance Act 2010. The principal change is that information relating to communications is now covered by an 'absolute', rather than a 'qualified' exemption. This applies to communications with the Sovereign, the heir or second in line to the throne or anyone who has subsequently acceded to the throne or become heir or second in line.

8.4 FOI costs/benefits analysis

8.4.1 MoJ is to conduct a FOI 'costs and benefits' analysis, as part of the 'FOI package' Lord McNally announced in January 2011.

8.5 FOI Coverage

8.5.1 The package of measures included proposals to extend FOI coverage. MoJ has been in touch with DE and DRD as regards extending coverage to examinations bodies and harbour authorities, respectively.

8.6 INSPIRE regulations

8.6.1 The INSPIRE Regulations 2009 came into force on 31 December 2009, and turn the EU Directive (2007/2/EC) into law that applies to England, Northern Ireland and Wales. Complementary regulations have been made by Scotland's Parliament. DEFRA is leading the implementation of INSPIRE at UK level. Each of the Devolved Administrations had agreed to lead the implementation of the regulations locally. Working under the direction of DEFRA, Land and Property Services (LPS), DFP, is taking the lead in Northern Ireland. By May 2011, LPS and other bodies holding priority INSPIRE data (spatial environmental data) must have made their data discoverable and viewable; their information services should then be fully compliant with the regulations by November 2011. There is a significant risk of infraction if INSPIRE deadlines are missed.

8.7 Information Governance Board

8.7.1 The establishment of an NICS Information Governance Board, headed-up by DFP's Permanent Secretary, was noted. A brief discussion took place on the make-up and role of this Board. David Lammey undertook to find out what impact, if any, the Board's work would have on FOIPG. **Action: David Lammey**

9. Date of Next Meeting

- 9.1 The next FOIPG meeting had been scheduled to take place on 9 June 2011 however, it had transpired that the 5th Joint Meeting of the Archives & Records Association Ireland and Information & Records Management Society Ireland is to be held on that date. It was agreed that the date of the FOIPG meeting should be brought forward to 2 June 2011.

Meeting concluded at 12:45pm.