

**MINUTES OF THE INFORMATION RIGHTS USER GROUP, 14 DECEMBER 2006
AT DEPARTMENT FOR CONSTITUTIONAL AFFAIRS, SELBORNE HOUSE,
VICTORIA, LONDON SW1**

Chair: Baroness Ashton

Attendees: Anthony Kenny, Intellect UK
Maurice Frankel, Campaign for Freedom of Information
Bob Satchwell, Society of Editors
Richard Thomas, Information Commissioner, Observer
Lord Lester of Herne Hill
Rosemary Jay, Pinsent Masons
Judith Cullen, Head of Environmental Information Unit, DEFRA
Adrian Pollitt, Head of the Office of Strategic Health Authorities
Professor Robert Hazell, University College London, Constitution Unit

Apologies: Steve Bailey, JISC
Paul Bettison, Leader of Bracknell Forest Borough Council
John Hipwood, Chairman of the Press Lobby
Ian Readhead, Deputy Chief Constable
Peter Bottomley MP
Austin Mitchell MP

1. Draft Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2007.

1.1 Baroness Ashton launched the public consultation on the Draft Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2007.

1.2 Belinda Crowe explained the draft regulations gave effect to the position announced on 16 October 2006 by the Government as part of its response to the Constitutional Affairs Committee report. She re-iterated the intention of the regulations was to provide mechanisms to public authorities to enable them to deal with the small percentage of requests which have been found to impose disproportionate burdens.

1.3 The main features of the regulations were outlined:

- Reading time – the first read through can only be included
- Authorities will only be able to include the costs of consulting and consideration where certain conditions are met. These are:
 - The cost of these activities must be more than **£100** for central Government and Parliament, and **£75** for the wider public sector.
 - The costs may only be included up to **£400** (central Government), or **£350** (wider public sector) for each activity
- Aggregation of non-similar requests would only be when it is reasonable to do

1.4 The group then had an open discussion about the regulations, the following points were made

- Understood the intentions of the regulations but there was concern over the practical effect the regulations may have and the need to ensure a system that tackles only the problem identified without having an impact on the general use of the Act. There was a need to ensure public authorities do not use the regulations as an excuse for not answering FOI requests.
- It was felt the statutory provisions would benefit from being clear themselves about the problems they are seeking to manage.
- The regulations should not be used to fetter the right of access.
- Considerations should be given to whether the problem could be addressed by other means other and whether the s.45 Code or other forms of secondary legislation might be helpful in informing practice.
- Consideration should also be given to the wider context against which the regulations would operate.
- There is a need to ensure consistency of applications –guidance to support the regulations would be key and this could be helped by putting factors into the regulations or detailed examples in the guidance.
- In assessing reasonableness requests received from an MP of Journalist would not been seen as unreasonable. The aims of the regulations are not to block requests or impose quotas.
- The system of appeals would remain but the introduction of new regulations may see an increase in the number of procedural appeals to the ICO which needs to be considered.
- It was felt more information should be released as a matter of course rather than held back until a FOI request was received.
- The re-invigoration of publication schemes was agreed to help the public being able to access information and also in reducing the number of requests received thus reducing the burden of administering requests. It would be an idea to educate people on how to make requests.

1.5 Baroness Ashton stated that the regulations were subject to a full and proper 12-week consultation. She invited the group to look at the regulations in detail and welcomed their thoughts on how effective they felt the regulations were in addressing the problem of the small percentage of requests that impose disproportionate burdens.

2 Date of next meeting

2.1 It was agreed the group should meet again in February to discuss the regulations after members had had an opportunity to consider the consultation paper in detail.