

PUBLISH & BE DAMNED

There is turmoil in the minds of Data Protection officers throughout the land. Having just worked out what the 1998 act means to their organisation they are now faced with another equally daunting prospect – preparing for freedom of information.

There are three main areas to address. The general right to access on request of information of a non personal nature held by public bodies starting in January 2005. The production by the end of the year of a publication scheme and the intriguing question of what to do in between these two apparently unconnected items.

If at this point you are asking yourself 'What's a publication scheme?' you would not be alone. Hundreds if not thousands of local government officers are asking themselves the same question. They've been doing it for some time hoping that repeating the invocation will somehow cause such a publication to fall from the sky (in Word format) so they can do a global Find and Replace and suddenly at the eleventh hour have their publication scheme ready to be printed in corporate covers.

No such luck

There are however two brave pilots at work out there. Central Government has asked 5 departments to put their pilot schemes out to the public and they have all done so via their websites. These can be viewed at leisure and although they are mildly informative they don't seem to provide local government with what it needs. However don't despair because in February a group of 7 local authorities from throughout the UK started work with the LGA and the OIC to produce publication schemes for local government. Hurrah!

At the time of word processing nothing has materialised at all. No gossip, no drafts, nothing for consultation. A rumour says they might report back in mid July but nothing concrete.

So nothing doing there.

Where do we go from here? Well grabbing his pride in one hand and his instinct in the other our correspondent suggests the following strategy.

Firstly book an appointment with the top level of your council – the Management Board, The Executive Committee, the Board of Directors. Nothing concentrates your mind better than having a deadline (and you might find they are already booked up to November!)

Secondly circulate all the heads of department and ask them to undertake an audit within their area of information they hold and information they publish. Set a deadline. Tell them that whatever they return will be going in the publication and each department will have a chapter to itself in this publication. If they don't send anything their chapter will be empty apart from

the name of the department, the postal address and the name of the Head of Department. Recommend they appoint a local representative for FOI.

Thirdly start writing the introductory chapters yourself. These should inform the public of their right under FOI and how to exercise it.

Chapter 1 - Introduction, tell them what FOI offers

Chapter 2 – How to obtain routinely available information. Website, Libraries, Cash Offices already hold lots of forms, reports etc

Chapter 3 - How to obtain information under FOI. Application process, rights of review and appeal, review by information Commissioner.

Chapter 4 - Fees. Tell them what you will charge for copying, writing to disk or CD etc. Be forward looking and include the cost in euros. There may be non – UK applicants.

Chapter 5 - Tell them as much as you can about your Council. Political composition, Policy Formulation and decision making, Committees and panels, Spending plans, Constitution, Officers, Town Councils. Area offices, addresses of cash and information offices. You may find that much of this exists elsewhere (on your website maybe...)

Chapter 6 – List your Council departments, their address, their Head of Department and give a general statement about the work they do. Include a statement here which leads into the next 10 chapters. Something like

Each Department is described in more detail in the pages that follow.

Each Department will hold Management Team meetings, Service Team meetings, Departmental Meetings, etc. Minutes of these meetings will be kept and will be available on request to the Head of Department

Each Department will hold details of its budget and access to this will be available on request to the Head of Department.

Next insert a chapter for however many departments you have (material for which will be supplied by each department) and finish off your draft publication by adding a final chapter called Complaints. If you have a corporate complaints network ask them if they will handle the complaints process for FOI requests. Tell them there will be little demand and it probably won't happen until 2005 and they'll probably agree. Put their contact name and address in the last chapter.

Job done. Before you congratulate yourself take a look at the Information Commissioner's website. Under FOI and Preparing for implementation there is Approval Documentation. Download it and read it. Don't expect to understand it on the first pass. The OIC is just as confused as you are. Eventually you will be able to compare your draft publication with the mandatory approval scheme and reconcile the difference between what you've produced and what they want. It seems that the 'approval by

information commissioner' process which struck fear into the hearts of many turns out to be a self assessment process and only a few will be sampled by the Commissioner to see if they have assessed themselves correctly. The odds are lengthening everyday that you will a) be selected for inspection and b) the Commissioner's office will have enough staff to perform even this sampling exercise.

A word of warning. This will not happen as smoothly and quickly as you hope. There will be resistance as traditional 'need to knowers' try to resist the new culture of openness but eventually you will have a publication in your hand. When this happens send a copy to every Head of Department and invite them to review their chapter in the light of what other departments have done. Point out that anything involving personal data needs to be struck out. Point out that not every member of the public will know what the FLARE or the HIMP system are and some explanations may be needed. Point out that if they are considering claiming exemptions for any information we shouldn't put it in the publication anyway.

One day you'll be called to the meeting with your top management. Take your publication in hand and say your piece.

What to say?

Three things. The Publication is a requirement of the Act but don't attach too much importance to it. Not having one would be a bad thing but even a lightweight first effort (which provided the items set out in the approval questionnaire) would probably do for the first year. The Information Commissioner to whom all publications must be submitted for approval is overworked and under-resourced and by November will have a new person at the helm. They are going to find it difficult to examine thousands of publications in a few months around Xmas 2002. They will probably adopt a self assessment model with random sampling to ensure quality. As you meet other officers from neighbouring authorities over the next 12 months you'll pick up ideas from each other about how to improve your publication.

Second. Getting the publication out of the way will allow your organisation to concentrate on other important issues such as will you disclose names and job titles of officers as a matter of course or will you strike out every reference to personal data. You may need to consult with HR and Unions here.

You may also consider devising systems to record the number of request for access under FOI. If an individual makes repeated or vexatious request you may have the use of an exemption but only if you have evidence of the number or frequency of requests.

You may need to set up an internal committee to hear cases where they are planning to use an exemption but you need to consider the public interest.

Will you design literature for the public? Will you have a standard application form?

Don't let the Publication dominate your strategy – there are many other important areas to address. Your publication would be better as a living document in a ring binder with a relevant picture on the front that is easily updated rather than a glossy corporate print run of 10,000 full colour blade coated waste of money document.

Third. Remember people will in all probability not want anything you've listed in your publication at all. They will want embarrassing information, They will want secret information. They will want to find the things you don't want to reveal. Are you prepared to allow them to access your closest secrets? Will you let them see your Chief Executive's performance related pay targets? Will you disclose how much the Department of ICT spent on external consultants last year? Will you keep a log of all conferences attended by all officers and members with a copy of their speech or their presentation? And a breakdown of their bar bill?

Finally your Top management will have to take a courageous decision. Getting the publication out by February next year can be done but what happens if an individual sees it and then makes a request for information. Do you wait until the statutory right comes into force in 2005 or do you voluntarily disclose in advance of the statutory duty. This is a major policy decision and it will be interesting to see who jumps which way.

In conclusion. Start now - you have less than 6 months left to the deadline; devolve half of your publication to individual departments within your council because one person cannot possibly do this on their own and pull it all together by early autumn. By using the self assessment documentation you should be able to produce a document that hits all the right buttons and gets you through to the second phase.

How long the second interim phase (between putting out the publication and the full right to access) lasts is a difficult question.

The third phase starts January 2005 with the full right to access. It might be possible to bring this forward by submitting a request to central government for all the emails between Steven Byers and Jo Moore in the week beginning 10th September. The response would give us in local government a steer on how we should handle such requests

...as for links to the Council's new constitutional arrangements, policy frameworks, corporate planning, CPA preparations, corporate governance, standards in public life, organisational development and culture change well FOI is certainly one significant strand in the reform and modernisation agenda though probably only one fibre of many in the multi-agency cable of transition to 21st century local government and public services

