SMC Response to Draft Code of Practice Under Section 60 of the Freedom of Information (Scotland) Act 2002

Introduction

The Scottish Museums Council (SMC) is the membership organisation and representative body for Scotland's non-national museums. Our aim is to improve museum and gallery provision in Scotland for both local people and visitors. We have over 200 members who in turn manage over 360 museums. The members include all 32 Scottish local authorities, universities, regimental and independent museums, ranging in size from small voluntary trusts to large metropolitan services, attracting in excess of 1 million visitors each year.

It remains unclear whether the Scottish Museums Council will be covered by the Act – we are not currently listed in Appendix X and are not a non-departmental public body, although we perform many public functions and the Scottish Executive is our primary funder. Further guidance from the Scottish Executive would be welcome on this point. However, SMC welcomes the introduction of a Code of Practice and are already committed to the principles of Freedom of Information and to ensuring transparency and accountability in the way we work. We welcome the opportunity to comment on the Draft Code.

1.   **Expectations and requirements of the Draft Code**
        The Draft Code has helped to clarify some of the issues arising from the Act but there are still a few gaps. These are detailed below.

2.   **Clarity of Guidance Provided by the Code**
        - It is not clear why requests must be in some recordable form. The Code says the recording is for subsequent reference, but not who would be accessing this information.
        - There is no guidance about the length of time this information should be kept, and if the same applies to the response given to the enquiry.
        - It would be useful to know specifically what type of information authorities would be required to collect, who should have access to this and how long this should be retained. For example, would this include information about the enquirer (name, address, etc) or just their enquiry (nature of enquiry, response given, time taken to respond.)

- Again with statistics, a specific requirement would be more helpful than saying that authorities should collect/produce what they see fit. For example, number of enquiries received, number answered, type of information requested.

3. **Enabling applicants to access information**
Where enquirers consistently approach an authority for information held elsewhere, because of confusion about that authority's remit, it may be useful for that authority to produce a list of these frequently asked questions with the details of the correct authority to approach.

4. **Social inclusion/equality mainstreaming and the Code**
The recording of requests raises issues regarding social inclusion. Not all enquirers will be able to put requests in writing (whether by letter or e-mail), as acknowledged by the code. There is a risk of introducing unhelpful and un-necessarily bureaucratic procedures for the information-seeking public. The Code needs to strike an appropriate balance between ease and speed of use for the person seeking information (not necessarily always a written request) and the need for accountability. It would be unfortunate if information which at present is freely given in response to telephone enquiries becomes bogged down in time-consuming processes.

5. **Other areas requiring guidance**
There is no guidance regarding information held by an authority that has been copied to them by another authority, possibly in confidence. Would the authority disclose the information, or direct the enquirer back to the originator of the information?
There is also a need for guidance specifically about disclosure of "commercially" sensitive and confidential information not generated by an organisation but held by them.

6. **Tone of the Code**
The Code has just the right tone, informative without being patronising.
The layout is also quite clear to follow.

October 2003