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Your Ref:
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Date: 21st November, 2006.

Lady Ashton
Department for Constitutional Affairs
Selbourne House
54 Victoria Street
LONDON
SW1E 8QW

27 NOV 2006

Dear Lady Ashton,

Response to Independent Review of the Impact of the Freedom of Information Act.

In furtherance to our recent meeting, I have undertaken a consultation exercise with my colleagues across the United Kingdom. I have summarised views within the following paragraphs which I hope will be of some use to the deliberations on how best to develop thinking concerning the potential charging of FOI requests and also other recommendations contained within the review by Frontier Economics. These are only our initial thoughts and are made in the spirit of understanding that we have and responsibility in trying to assist Government thinking in this very important area of Freedom of Information.

ACPO represents 44 Constabularies, each an individual public authority and has seen probably the highest volume of FOI requests by a single business area since the inception of the Act on 1 January 2005. ACPO forces process approximately 20,000 FOI requests each year and the impact of the Act has been significant across the policing environment.

ACPO has been actively involved in reporting to review panels on the impact of the legislation and has provided detailed reports and verbal submissions to the Constitutional Affairs Select Committee, DCA and for the Frontier Economics Research Project.

ACPO are encouraged by the willingness of Government to review the impact of the legislation in an attempt to assess its implications. It is also pleasing to note the significant shift in public perception on openness of public authorities since the Act's introduction as highlighted in the ICO's Progress report of 2006.

The Act has clearly focussed public authorities' minds on openness and transparency and has seen significant disclosures of information which before would never have been achieved. ACPO has embraced this ethos.

In line with the Government's proposed positioning, ACPO do not support the introduction of the fees regime. It is felt this would not significantly affect submissions from well funded media

organisations (the highest requesting group for ACPO at levels approaching 45%), but will impact those whom the Act was brought in to empower; individual citizens who will be deterred from submitting requests by even a nominal fee. Also as highlighted in the Frontier Report, the cost of processing a nominal fee would far outweigh any income generated and will, in effect, cost police forces in processing time and bureaucracy.

In relation to the aggregation of costs for legal persons on non-similar requests, it is felt that this would be disproportionately harsh on media organisations who directly feed disclosed information into the public domain through their publications. It is through the media that the majority of the public receive their information, closing this channel would reduce general information provision. The indirect consequence will be the use, by media organisations, of anonymised requests using 'covert' submission details by way of googlemail, hotmail addresses to become a 'multiple single applicant'. ACPO in recent weeks have seen a number of national submissions to Constabularies, Local Authorities and Youth Offending teams though submitted by different 'applicants' by way of their e mail address it is clear from the request wording and subject matter that they are from the same 'individual'.

Enforcement of this loophole would be extremely difficult without requiring applicants to provide a verifiable name and address on request submission, clearly a principle discounted from the primary legislation and extremely labour intensive with regard to detail verification.

ACPO FOI practitioners have established working relationships with the high volume media requesters, explaining difficulties, offering advice and guidance which in most cases is well received by these media organisations, to lose these links would be disadvantageous. It is acknowledged by the vast majority that these levels of demand from the media were an inevitable consequence of the act and practitioners though frustrated by a few 'abusers' of the legislation accept this as an expected outcome of the legislation and if it meets the objectives of the legislation; to provide more information to the general public, is an outcome they are willing to accept. In the era of increased information provision at a local level, as required by ACPO in its Neighbourhood Policing Strategies, any limiting of routes for information disclosure fall against these principles. Indeed, we believe it would also directly inhibit Government Policy of driving the disclosure of such data so as to reassure communities.

ACPO supports the principle of developing a Media Codes of Practice for FOI potentially limiting voluminous requests by consent rather than legislative restrictions. Development of the Section 14 Vexatious principles for high volume or disproportionate requests may assist in this area.

ACPO is content that £450 represents an appropriate level on costs though the review of costing regulations is supported. Any changes in this area would require clear guidance as potential difficulties could be faced in the justification of time spent on consultation, reading and decision making. ACPO FOI decision makers spend considerable time obtaining business lead advice and guidance in addition to legal advice for complex requests to ensure sound and well articulated arguments for presentation to an applicant. Clearly this time cannot currently be included and it is our feeling that inclusion is justified.

Another principle worthy of consideration involves the varying of hourly costs, dependent on who in the organisation is completing the review. Time spent by a Constabulary ACPO lead should, it is felt, be costed at a higher hourly rate than the time spent by an administration clerk retrieving and collating data for a request. It is recognised that these changes would require transparent calculation methods and considerable development work will be required to establish clear and workable processes. It is ACPO's view that with any potential change the principle of 'keeping

matters simple' is paramount

Other considerations that have been highlighted through our consultation include building a costing element into the internal review process which across the service require considerable additional time and expense by senior management in reviewing original decisions. Clearer justification by the applicant for requesting an Internal review should be included and the possibility of a fee charged.

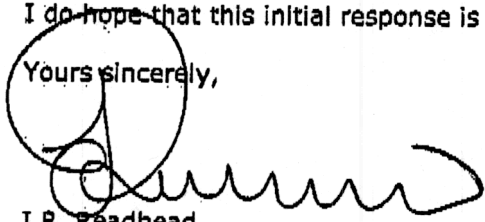
As with all public authorities the legislation has required significant internal investment in an ever tightening financial environment. Practitioners talk of purely acting reactively to requests for information rather than having time to proactively publish data. Investment from Government in the field of publication schemes could have the effect of reducing requests. That being said, initial indications from a number of forces who have published all requests and responses on their websites have not seen any decline in request submissions.

As the executive for the Police Service FOI Central Referral Team who additionally support ACPOS Scottish colleagues the disparities in the Act between Scotland and the rest of the UK are considerable with no ability to aggregate and a fee limit of £600. Appreciating the unique statue of the Scottish Act it is surprising that such significant differences exist across the UK on a modern piece of legislation based from the same principles, consideration to align these costing models North and South would appear sensible.

In conclusion ACPO supports the principles if including reading, consideration and consultation time in calculation though identifies the need for clear central guidance on these processes. ACPO is against the aggregation recommendations though does see the need to develop a clearer media Code of Practice and the enhancement of Section 14 criteria. ACPO does not support a flat rate fee.

I do hope that this initial response is helpful.

Yours sincerely,



I.R. Readhead
Deputy Chief Constable