

The Freedom of Information Act 2000 and Social Workers

The Freedom of Information Act received will come fully into force on 1st January 2005. It will have a massive impact on the way public authorities, including councils, manage and give access to all recorded information. Since social workers record lots of information as part of their work, they must have a good understanding of the Act and what they need to do now to comply. The Act introduces:

- A general right of access to all recorded information held by public authorities, subject to certain exemptions;
- A new office of Information Commissioner, Richard Thomas, which will enforce both data protection and freedom of information legislation;
- A new Information Tribunal with wide powers to enforce the rights created; and
- Publication schemes – A document to be produced by each public authority specifying the classes of information the authority intends to publish, the manner of publication and whether or not there is a charge for access.

The full text of the Act can be found on the HMSO website (www.hmso.gov.uk) and useful guidance, as well as the two codes of practice mentioned below, is available on the special website set up by the Department of Constitutional Affairs (www.foi.gov.uk)

The key issue at the moment is preparing for the full right of access to all recorded information, which comes into force on 1st January 2005. The Exercise of this right is not restricted to individuals. Anyone can make a request under the Act. This includes journalists, politicians, pressure groups, companies and other local authorities. There is also no restriction on nationality.

So how much can be charged for supplying information? The current draft fees order (correct at the time of writing) stipulates a maximum of ten per cent of the marginal cost of retrieval of the requested information (capped at £550) plus disbursements. In effect £55 plus copying. There is no obligation to comply with requests over this limit but in a technology driven age, and bearing in mind the records management code (see later), how many requests will cost more than £550 to process?

So what can social workers and social services departments do to prepare for the Act? Firstly they must try to change the culture of their department in the way that it stores and records information. The message needs to permeate throughout that secrecy is out and transparency is in. Briefing sessions, and guidance notes will help to spread the freedom of information message. Once this message gets through, staff will be much more careful about handling and recording information.

Any freedom of information legislation is only as good as the quality of the records to which it provides access. There is a code of practice on records management which is supplemental to the provisions in the Act. The main recommendations are:

- The records management function should be recognised as a specific corporate programme within an authority.

- An authority should have in place an overall policy statement, endorsed by top management and made readily available to staff at all levels of the organisation, on how it manages its records and indicate the way in which compliance with the policy will be monitored.
- Training should be given to all new staff on awareness of records issues and practices.
- A tracking system should be used to control the movement and location of records. This should be sufficient to ensure that a record can be easily retrieved at any time, that any outstanding issues can be dealt with, and that there is an auditable trail of record transactions.

Under Part III of the Act the Secretary of State has also issued a code of practice providing guidance to public authorities on dealing with requests for information and publication schemes.

So what impact will the Act have on social workers and the social services function? Many readers will already be familiar with the Data Protection Act 1998 often used by service users to access their social services records. The Freedom of Information Act will be much wider because anyone will be able to request any recorded information. This will include details of policy documents, meeting notes and briefing papers. Of course personal information about individuals (other than the applicant) will be exempt from access. However this is a "qualified exemption" which means that it is subject to the public interest test. There may be instances where the public interest in knowing the information is more important than the individual's privacy. For example there have been a number of cases in the last few years involving abuse of children where the lack of training or experience of social workers has been highlighted. It is not inconceivable, post January 2005, for someone to request a social worker's training or disciplinary record in such a case. It is also possible that someone who feels aggrieved about the perceived bad service they have received from social services will use the Data Protection Act and the Freedom of Information Act to get access to all the relevant documents of a personal and non personal nature. This would allow them to properly scrutinise the key decisions made about them.

The Freedom of Information Act is going to mean a sea change in the amount of information local authorities and other public sector organisations are going to have to make publicly available. In an age when information is power, the Act aims to redistribute this power to the people. It will mean yet more work for social workers. All would be wise to think about the practical and resource implications now before the Act comes fully into force in January 2005.

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