

STATES OF JERSEY



FREEDOM OF INFORMATION: IMPLEMENTATION PLAN (P.41/2011) – COMMENTS

**Presented to the States on 28th April 2011
by the Council of Ministers**

STATES GREFFE

COMMENTS

As stated in its comment to P.39/2011 (which should be read in conjunction with these), the Council of Ministers fully supports the principles of Freedom of Information and is committed to the concept of openness and transparency within Government. Whilst this support is unconditional, the Council of Ministers can only support the implementation of the Draft Freedom of Information Law if adequate resources are made available to manage the implementation and subsequent administration of the Law properly. In summary the estimated implementation cost is over £5.6 million with future running costs estimated to be around £1.3 million a year.

The Council of Ministers cannot support a programme that is inadequately resourced and therefore has little chance of success.

The Privileges and Procedures Committee recognises that the Executive must be the authority responsible for the implementation of a Freedom of Information Law. Deputy Le Hérissier's proposition asks for an implementation plan to be published by the 30th June 2011 for an implementation by the end of 2015. The Chief Minister has therefore commissioned SOCitm to assist with the development of an initial implementation plan. This has been achieved through engagement across all Departments and relevant non-Executive bodies. The result is a document which, on the basis of the current position across States Departments, outlines the necessary requirements for the States of Jersey to successfully implement the Freedom of Information Law by 2015 / 2016. The plan brings together a cohesive, integrated programme of work which covers –

- Records management policy and procedures across the States;
- the Public Records (Jersey) Law 2002 and specific issues at the Jersey Archive; and
- the implications of a Freedom of Information Law.

However the initial plan recognises that a Freedom of Information Law cannot be built on unstable foundations and weaknesses in records management and public records need to be addressed.

This plan will be published in the 'States Report' section of the www.gov.je website and subsequently published in the "R" series.

The structure of the plan details workstreams to be undertaken in order to meet the deadline specified in the proposition although, with any delay, that will be difficult to achieve. Nevertheless a 4 year plan with implementation at the beginning of the 5th year (2016) lists the following streams of work –

- A Programme and Implementation Governance.
- Commissioning an Information Governance Unit.
- Review of Information Requests and Publication Schemes.
- Creation and Implementation of Information and Records Standards.
- Information and Records Awareness and Training.
- Commissioning of a Freedom of Information Unit.

- Resources in the Law Officers and Data Protection Departments.
- Creation of Policies and Procedures.
- FoI Training and Awareness.
- Communications Plan.
- Enabling Technology including the Internet.

However, to help States members understand some of the resource issues associated with this plan, the following table lists some, but not all of the activities, needed for a successful implementation along with estimated costs. This table is a basic summary of the more detailed activities identified in the SOCitm report. The columns represent the year of the programme that the activity has to take place, the activity, any “one off” cost (such as licences and training), a cumulative on going cost (recruitment of personnel and maintenance for example) and the Departmental effort of the Editorial Working Group. The Editorial Working Group is a key resource across all States Departments of all Public Records Officers who will set policies and standards and drive records management and Freedom of Information into the culture of each Department. The key risk to the plan would be lack of engagement of this group in the implementation plan.

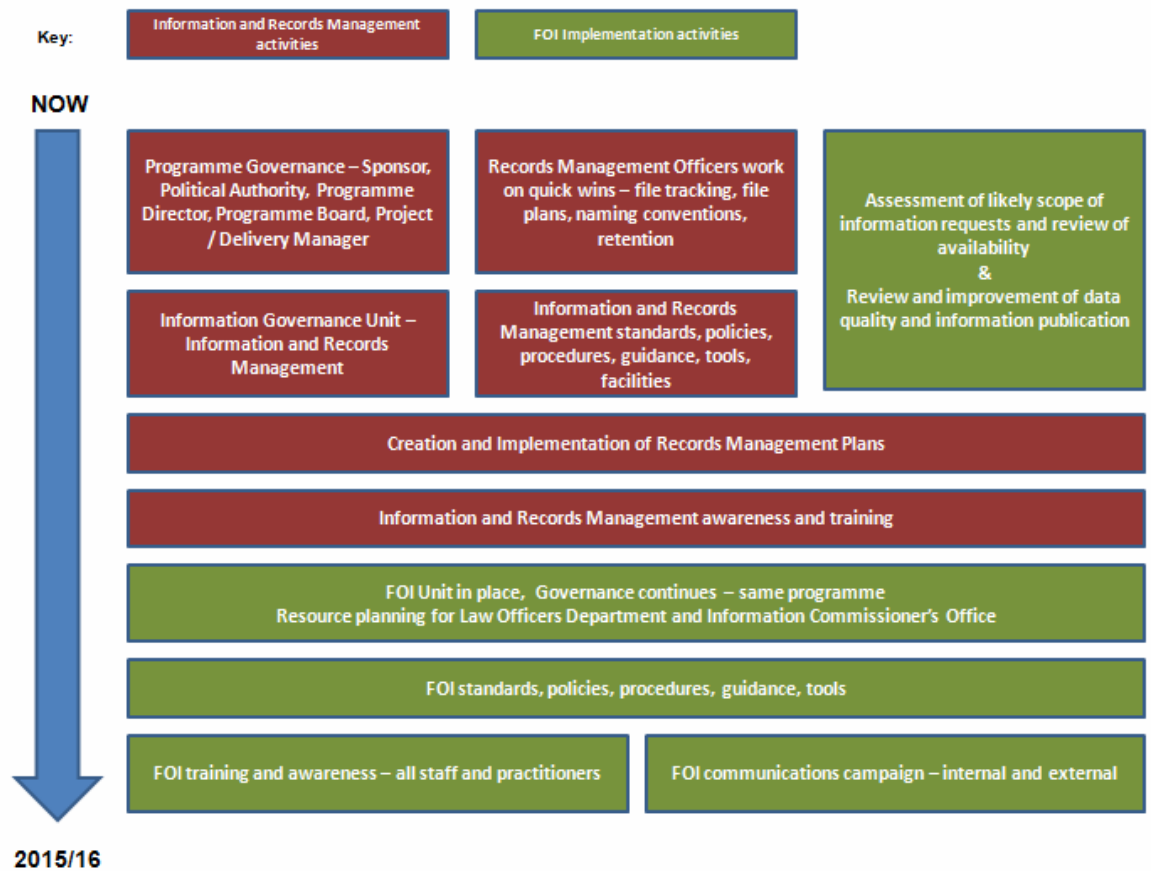
In the following table activities with no costs attached do obviously have an inherent cost in officer time and resource. Having discussed these activities with those consulted, SOCitm believed that this could be absorbed into the normal day to day business of Department officers.

However, it is this aspect of the cost of implementation in Departments that is a significant concern for the Council of Ministers, given that the previous introduction of the Public Records Law was not adequately resourced. Whilst record keeping is adequate for the purposes of day-to-day service delivery, considerable work is needed to bring standards up to those needed for proper compliance with this Law. The impact of this work is difficult to quantify, but the increases in recent years in the volume and complexity of States Questions give an indication of the workload Departments may face. In the case of many, if not all Departments, the Council believes it may not be possible to simply absorb that additional workload. There is a danger, therefore, that the Law may add to the costs of “bureaucracy” as perceived by some observers in that it will increase costs without necessarily improving service delivery or efficiency.

Year	Activity	One off	Cumulative on going	Dept.
1	Programme Initiation			
	Roles and responsibilities			
	Detailed Project Plan			
	Information Governance Unit		£137k	
	Assess current scope of requests			
	Editorial Working Group			£1.4m
	Jersey Archives		£100k	
	Licencing Electronic Records	£400k		
	Electronic Records support		£57k	
	Open text support		£105k	
	Training RM FoI	£30K		
	Training Document Management	£108k	£20.25k	
	Training Livelink	£180k	£33.75k	
Annual Cost	Total £2,571k	£718k	£453k	£1,400k
2	Assess data quality			
	Create intranet pages			
	Editorial Group			£370k
Annual Cost	Total £823k		£453k	£370k
3	Review contracts			
	Editorial Group			£370k
	Create FoI case management	£20k	£4k	
Annual Cost	Total £847k	£20k	£457k	£370k
4	FoI communications	£50k		£5k
	Training FoI	£30k		
	FoI Unit		£114k	
	Editorial Group			£370k
	LOD recruitment		£237	
	Information Commissioner		£126	
Annual Cost	Total £1,389k	£80k	£934k	£375k
Overall Cost	Overall Total £5,630k	£818k	£2,297k	£2,515k

At this stage estimates of cost can only be indicative until more detailed plans are devised. As stated above, the principal risk in these estimates is the effect on Departments. The table above contains the commitment of Departmental Public Record Officers to the project and has no element of consequential costs to Departments of changes in their document systems which might include expensive “back scanning” and staffing.

Again in an effort to help States members, a diagram from SOCitm is reproduced in this comment which tries to show pictorially the balance between records management and Freedom of Information activity throughout the project. The effort required at Jersey Archive to reduce the backlog for the Public Records Law is constant throughout.



This Law is being brought forward during a period of significant and unprecedented financial constraint, with the States of Jersey in the process of agreeing spending limits from 2012 in the Business Plan, to be lodged in July. Funding for a Freedom of Information Law is currently outside this process and therefore it is difficult to see how implementation can be committed to at this stage, resulting in the full introduction of the Law by 2015 without addressing this resource issue. There are also issues around records management and the Public Records Law which need to be addressed to ensure that implementation of the Freedom of Information Law can be successfully undertaken. Nevertheless, the implementation plan covers a period of 4 years, dealing with Records Management, Public Records and Freedom of Information resulting in implementation in the fifth year. If the initiative began in June 2011 it would be completed by June 2015 with a potential implementation date of late 2015 or early 2016. However this would only be possible with adequate resourcing.

Overall, the Council of Ministers is supportive of the principles of Freedom of Information and has demonstrated this through the development of an initial plan for implementation. The Council will endeavour to drive and co-ordinate implementation of the Law but this is dependent on the provision of adequate resources across the States. A plan which identifies resources that do not materialise has little chance of success. The Council is anxious that the expectations of States members are not unduly raised regarding the ease and cost of implementation and ongoing maintenance. It would not wish to be in the position of introducing a Law that there was little chance of fully complying with. It believes that introduction and ongoing

maintenance of a Law should be proportionate and have the maximum benefit for sensible use of limited funds and manpower, introduced *only* on the basis that sufficient resources are made available to allow it to be properly implemented and managed.

The debate over States resources for 2012 and beyond will take place on the Business Plan in September. The current financial envelope cannot be increased and does not contain provision for Freedom of Information. Therefore implementation of the Freedom of Information Law can only proceed after decisions are taken as to how the States and Departments can meet the cost and what existing service funding can be lost. Given the well-documented efforts of States Departments already to implement stretching CSR targets, States members will need, at that time, to balance their support for implementing this legislation, if approved, against potential reductions in other areas.

In summary the Council of Ministers believes that it has already demonstrated – through these comments, its comments on P.39/2011, and its publication of the initial implementation plan – its commitment to the principles of freedom of information and open and transparent government. It therefore views this proposition as unnecessary and incapable of full implementation for the reasons of resource constraint outlined above.