SUBMISSION FROM DUMFRIES AND GALLOWAY COUNCIL

Part 1 – records management plans

Section 1 – Records management plans
1. The introduction of records management plans (RMPs) is seen as a satisfactory way to improve consistency in recordkeeping across Scotland. It is appreciated that the previous policy of “encouragement and exhortation” to achieve best practice has not been more than patchily effective. The Council therefore supports this approach, providing the following criteria are met:-
   - Sufficient time is allowed to produce and implement a RMP
   - The “guidance” from the Keeper does not place unreasonable burdens on the Council’s financial and other resources
   - If two or more authorities are required by the Keeper to share a RMP, cognisance is taken of variations in the capabilities of the authorities to produce and implement the plan, taking into account the challenges facing them and/or the resources available to them.

Section 2 – Authorities to which Part 1 applies
2. Agreed

Section 3 – Meaning of “public records”
3. Agreed. The Council agrees with the functional approach to records created by contractors (rather than the ‘publicly funded’ criterion previously proposed). The Council does still have concerns relating to:-
   - The practical implementation of an RMP on the records of contractors outwith the direct control of the public authority.
   - “Spot purchasing”. When making provision for childcare (for example), only part is contracted, the remainder being purchased on an ad hoc basis. Will the resulting records also be subject to the provisions of the Act?
   - Joint commissioning and joint working. When records are split between two or more public bodies how will the responsibility for them be assigned under the legislation?

Section 4 – Approval of plans
4. Given that the Keeper will determine the date of submission of the RMP, its form and manner and the definition of ‘proper arrangements’, the Council believes that there should be a reasonable level of flexibility regarding these determinations to allow for the particular circumstances of each authority.

Section 5 – Review of plans
5. As above (Section 4).

Section 6 – Compliance reviews
6. The council agrees with the requirement for compliance reviews as a necessary element of the RMP process.
Section 7 – Warning notices
7.  Agreed

Section 8 – Model records management plan
8.  Agreed, with the reservation that the model RMP should not be too prescriptive. In this context, the Bill states that “Authorities must...have regard to the model records management plan” (8(2)) (my italics). To what extent will this mean close (and possibly restrictive) adherence to it?

Section 9 – Guidance
9.  Agreed, with reference to comment in section 1 above.

Section 10 – No right of action for failures to comply
10. The test may come when authorities, having had their non-compliance published, still fail to implement RMPs. Will there then be a need for additional legislation to grant powers parallel to those of the Scottish Information Commissioner or the Information Commissioner (DPA)?

Section 11 – Annual report
11. Agreed.

Financial Memorandum
12. A particularly useful document for public authorities that do not have an RMP currently in place, in particular paras. 69-70, 79-90 and the cost benefits given in para. 91.

Policy Memorandum
13. Provides the necessary background to, and justification for the legislation, and as such a worthwhile reference tool.

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