

How to operate the scheme

V2.0

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Model Publication Scheme

How to operate a publication scheme

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Purpose of a publication scheme

A publication scheme sets out the kinds of information that a public authority should make routinely available. The information should be easy for the authority and any individual to find and use.

Public authorities must adopt a publication scheme approved by the Information Commissioner. To reduce duplication and bureaucracy and to ensure consistency in the release of information, the Information Commissioner's Office (ICO) has developed a model publication scheme that any public authority can use.

The model scheme

The model scheme classifies information at a high level and broadly states the way authorities can provide information and what they can charge for. The model specifies seven classes of information. To maximise the routine release of information the categories have been set at a high level. Most information that a public authority holds falls into the seven classes. However,

this does not mean the authority must routinely release all the information covered by the broad definitions in the definition document for that sector. The scheme sets out the circumstances under which an authority would not be required to make information routinely available. These are when:

- the information is not held;
- the information is exempt from disclosure, for instance personal data or commercial interest; or
- the authority cannot easily access the information.

Routinely published information should be available as part of an authority's normal business. So the information should be easy to access through a website or be easily and quickly sent out by a member of the authority's staff.

Environmental information

The Environmental Information Regulations (EIR) require public authorities to make environmental information progressively available electronically.

The regulations do not state how that information should be released. In developing the model scheme, we are suggesting that the publication scheme can be used for this material as well as any other information authorities hold. Environmental information may feature in all seven classes of the scheme.

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When the authority compiles its guide to information, it does not need to highlight information as environmental. However, it should make environmental information available in the same way as any other information the publication scheme covers. The legal requirement is to progressively make environmental information available electronically and all public authorities must bear this in mind.

Regulation 4 (4) of the EIR states that the information referred to in [Article 7\(2\) of the Directive](#) (insert hyperlink here) must be made available.

Authorities should first decide whether they hold any of this information and if so, make it progressively available.

We understand that authorities may find it difficult to identify the information listed in Article 7(2). The ICO is working with the Department for the Environment, Food and Rural Affairs (DEFRA) to find out what each part of the Directive means and which authorities are likely to hold the information it refers to. We intend to produce guidance on this by December 2008.

A guide to the information available

In operating the scheme, an authority must provide a 'guide to information', giving details of:

- ⌘ the information it will routinely make available;
- ⌘ how the information can be accessed; and
- ⌘ whether or not a charge will be made for it.

The guide will not require approval by the Information Commissioner.

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We expect that for most authorities the guide to information will be the authority's website. Authorities are not required to provide a hard copy of the guide, but for authorities without a website this may be necessary.

We have provided a starting point by supplying a definition document for each sector group. Present publication schemes are also a good starting point for an authority to identify the information it must provide.

Using the definition documents

The definition documents give examples of the type of information that we expect an authority to publish. They do not give an exhaustive list; we encourage all authorities to routinely provide as much information as possible under the seven classes of information.

The documents were compiled after consultation with Freedom of Information (FOI) practitioners, users of the Freedom of Information Act (FOIA) and by reviewing past publication schemes. For consistency, we expect authorities to regard the information exemplified in the definition documents as a minimum requirement. Authorities should give all the information listed, unless it can be legitimately excluded.

Providing information routinely

Where appropriate the information must be easily accessible through the authority's website. We accept that some information may only be available in hard copy; the authority must ensure this information is also easily accessible. The information, the manner of publication and any charges should be on the authority's website, plus contact details for accessing it. It may be advisable for the contact point to be the department or person with immediate access to the information.

For example: HR information – HR departmental contact
finance information – financial contact

This process will also enable routine release of information to be integrated into the organisation, rather than remaining the domain of the FOI practitioner.

Providing hard copies of information available on a website

When asked to provide information in hard copy the authority must do so. It is important that all sections of the community can access an authority's information.

Timescales

Unlike the 20 working days allowed for formal FOI requests, information that is routinely available should be provided when requested. The information may be immediately accessed, through the authority's website or by email. In some cases, information may need to be posted. If so, we expect the information to be sent promptly and within five working days as a minimum. If the information needs to be viewed at the authority's premises, the authority

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should contact the individual within five working days to arrange an

appointment convenient to both parties.

Working with other internal departments

To meet an authority's commitment to the scheme, everyone in the organisation must understand the obligations of proactive dissemination, and their role in it. One way to achieve this is to consider assigning 'information champions' in each department who are responsible for their department's information and are committed to:

- ⌘ providing the information;
- ⌘ ensuring its availability for release; and
- ⌘ regularly reviewing and maintaining it.

There are also key FOI links within an authority; these areas must be aware of the authority's duties under FOI and their role in fulfilling them. In all authorities this will include 'front line' teams such as reception staff. In larger organisations it will include customer-care centres, web teams, and press offices.

Reviewing and maintaining a scheme

The Freedom of Information Act (FOIA) states that a publication scheme should be reviewed from time to time. We will regularly review the model scheme and the guidance documents. The authority is also responsible for reviewing and maintaining its guide to information and the data it contains. In larger authorities, the documents covered by the publication scheme will be produced by many individuals working in many departments. As part of good records-management systems, these authorities need to make sure that, where necessary, they update published material and remove outdated information. The source of the original document is probably going to be responsible for keeping it updated. However, authorities should have procedures for making sure that new documents covered by the publication scheme are made available and that any outdated documents are replaced or archived.

We advise that the FOI Practitioner should review the guide and the operation of the scheme annually.

Making a complaint

We expect all authorities to have a complaints procedure which sets out how to make a complaint when information included in the publication scheme is not made available. This may be the same procedure as that for dealing with complaints about request handling.

Adopting a scheme

The model scheme has been developed and approved by the Information Commissioner and is valid from 1 January 2009. The model must be adopted in its entirety.

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We will assume a public authority has adopted it unless we are told otherwise. Of course, public authorities will need to begin planning for adoption of the

model scheme well before 1 January 2009 so that everything is in place by then. Authorities already covered by the FOI Act should operate their current schemes until 31 December 2008.

Public authorities created after 1 November 2008 will have 60 working days to adopt the scheme from the date they are designated.

Information held in archives and records offices

There are two circumstances where public authorities will hold material in archives: information in archived former working documents; and information in material held in a specialised archive, for example, museums, university collections and historical collections. For the former, we do not expect the scheme to cover any material that has been archived in accordance with good records-management practice. For the latter, we accept that making information available to the public will be in accordance with the rules, procedures and practices put in place by the authority holding the information. We expect these rules and any schedule of fees for access to the material or for research to be available to the public.

Trade union information

We would not expect any public authority to publish notes or minutes from meetings with trade unions representing the authority's staff. The only recommendation we make is that authorities should consider whether there are benefits in publishing which trade unions they recognise for consultation, negotiation and collective bargaining. Any contact details for the trade unions should be published only with their agreement.

Public registers

If a public authority is required to maintain a register and to make the information in it available for the public to inspect, the existing provisions covering access will usually be adequate. However, we expect authorities to publicise which registers they hold and how the public can access the information in them. If registers contain personal information, authorities must ensure they have applied the data protection principles.

Fees and charges

Information available through an authority's publication scheme should be readily available at minimum cost to the public. If an authority charges for routinely published information, we expect the charges to be justifiable, clear and kept to a minimum.

Charges may be made for:

- actual disbursements such as photocopying postage etc.
- information that the authority is legally authorised to charge for.

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Anyone requesting information must be informed of any charge before the information is provided. Authorities may ask for payment before providing the information.

There is more detailed guidance on fees and charges in the accompanying

guidance 'Charging for information in the publication scheme'.

Enforcement policy

A public authority has a duty to adopt an approved scheme. The Information Commissioner will consider complaints brought to his attention about the adoption and operation of publication schemes.

Not adopting a scheme

An authority will be in breach of the FOIA if it has not adopted the model scheme, unless it has received approval for an alternative scheme. The model scheme may **not** be modified without our approval.

If we receive a complaint, we will find out whether there is an approved scheme on the authority's website or if one is available in some other way.

We may contact the authority to discuss the complaint.

- If the authority has an approved model and is operating in accordance with it, the complaint is invalid.
- If we consider the authority has not adopted an approved scheme, the authority will technically be in breach of the FOIA. If so and where appropriate, we will try to informally resolve the matter. However, if there is any delay in this process, an enforcement notice may be served on the authority, requiring them to adopt an approved scheme immediately.

If the authority fails to comply with the notice, the Information Commissioner can certify its failure to comply, in writing, to the High Court.

Publishing not in accordance with a publication scheme

If an authority does not publish in accordance with its adopted scheme, this will be a breach of the FOIA. In these circumstances we will refer to the sectoral definition document the authority's website and/or its guide to information to find out if the information is routinely available.

- If the information is not identified in the definition documents on the website or in the guide to information, then the complaint will be invalid.
- If the information is shown in the definition documents but is not highlighted on the website or in the guide to information, we will consider if it has been legitimately omitted. If it has, the complaint will be invalid.

- The authority will have breached the FOIA if the information:

⌘ is listed in the definition documents and we consider it has not been legitimately omitted, or

⌘ is publicised on the authority's website or in its guide to information as being routinely available.

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In this case, we will require the authority to immediately provide the information and to ensure that in future it is routinely supplied. If there is any delay in this process, an enforcement notice may be served on the authority. If the authority fails to comply with the enforcement notice, the Information Commissioner can certify the authority's failure

to comply, in writing, to the High Court.

Frequently asked questions

The following are answers to questions that authorities have sometimes asked.

Can an authority make modifications to the model?

An authority can add to the model without gaining approval from the information Commissioners Office.

Any deletions made to the model scheme require the approval of the Information Commissioners Office. Deletions to the scheme would only be considered for approval in exceptional circumstances.

Should we show the publication scheme on the website?

It is good practice to publicise your approved scheme on the website to show that you have adopted a scheme. We recommend that it is put in the 'FOI' or 'access to information' section of the site.

Should people be required to access the information through the scheme?

No. People should be able to access information that the authority routinely produces without needing to know about a publication scheme. People should be able to access information through the authority's website or by contacting the authority by phone, email, letter or in person.

What if we are asked to provide a copy of the scheme?

When adopting the scheme, the authority should publish it on its website if it has one. It should also be willing to provide the scheme in hard copy if required.

It would also be useful to provide the sectoral definition documents, which give examples of the specific information provided and, if appropriate, the authority's guide to information.

What if we are asked to provide all the information in the guide?

Because authorities probably have to routinely publish large amounts of information, giving someone all the information in the guide within five working days may be unrealistic.

Technically, an individual is entitled to all the information an authority makes routinely available, but it is reasonable for the authority to provide it over an appropriate period of time, proportionate to the amount of information.

The authority should contact the individual to explain the difficulty and to give a timetable for release. The authority should ask the person what information

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