



Scottish Information
Commissioner
It's Public Knowledge

The Office of the Scottish Information Commissioner

Publication Scheme Approval Process – Internal Guidance

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1 INTRODUCTION

- 1.1 Approving publication schemes is an integral part of the work of the OSIC. It is estimated that there are around 10,000 public authorities covered by the Act. Although many of the publication schemes which we receive will be model schemes, there are still likely to be around 2,000 publication schemes to be approved by this office during 2004. As a result, every Freedom of Information Officer (FOIO) will need to be involved in the approval of publication schemes with assistance from the Head of Investigations and from the Admin staff.

2 APPROVING PUBLICATION SCHEMES – A SUMMARY

- 2.1 It is very important that everyone involved in the approval of publication schemes knows the Commissioner's guidance on publication schemes in detail – see <..\..\PUBLICATIONS AND GUIDANCE\Guidance\guipublicationschemes051103MK.doc>.
- 2.2 There are two types of publication schemes: bespoke schemes and model schemes. Model schemes are expected to be submitted 6 weeks prior to the final deadline for schemes to be submitted (see the timetable at 3.1).
- 2.3 FOIOs approving publication schemes will receive three different types of submission: bespoke scheme approvals, model scheme approvals and model scheme adoptions. The schemes and the accompanying documentation can be submitted electronically – a special e-mail address, publicationschemes@itspublicknowledge.info, has been set up for this. Admin check this address on a daily basis.
- 2.4 Where a bespoke scheme is submitted to the Commissioner for approval, the public authority must also submit a completed Form OSIC 1 (Appendix A). If the publication scheme is received without the form or vice versa, the public authority must be advised as soon as possible of what paperwork is required before the approval process can begin. (Style letters have already been prepared for this and for other matters. The style letters are contained in Appendix D. Further information about these is given below.)

- 2.5 Where a model scheme is submitted for approval, the body submitting the scheme must also submit a completed Form OSIC 2 (Appendix B). Again, if the scheme is received without the form or vice versa, the body submitting the documentation must be advised as soon as possible of what paperwork is required before the approval process can begin. However, where an approved model publication scheme is being adopted, the public authority need only submit Form OSIC 3 (Appendix C) to let the Commissioner know which model scheme they want to adopt. The scheme itself does not have to be submitted. (FOIOs should be aware that separate arrangements may be put in place in relation to the adoption of model schemes by GPs, dentists, etc.)
- 2.6 All publication schemes submitted to OSIC will be delegated to FOIOs as set out below by the Admin staff. A separate procedure note has been prepared to cover the work done by Admin Staff: [proPSApprovalAdmin09Jan04MK.doc](#). Where Admin are unsure who to delegate a scheme to (perhaps because an FOIO is off sick or because it is unclear from the form which type of public authority is making the submission) they should seek advice from the Head of Investigations. All FOIOs must read the Admin procedure note as it includes directions on the naming and filing of documents.
- 2.7 There are three main steps in approving publication schemes. These are all set out in more detail below, but can be summarised as follows:
- Checking that the correct documentation has been submitted and that it has been completed in full
 - Checking that all of the information which must appear in a publication scheme is in fact contained in the scheme and
 - Checking that the responses contained in the submission forms are satisfactory.
- 2.8 All approvals will be carried out using the publication scheme approval database. This includes checklists to allow the three steps to be completed.

3 TIMETABLE

- 3.1 As agreed between the Commissioner and the Scottish Ministers, publication schemes will be submitted to OSIC in three separate tranches throughout 2004. The full timetable, taking into account the comments made by the Commissioner in the publication schemes guidance, reads as follows:

SECTOR	FIRST SUBMISSION DATE	MODEL SCHEME TO BE SUBMITTED	DEADLINE FOR SUBMISSION	SCHEMES TO BE APPROVED AND INTO EFFECT
(Parts 1,2,3 and 6 of schedule 1 to the Act) Scottish Ministers Scottish Parliament Scottish Parliamentary Corporate Body Non-Ministerial Office Holders in the Scottish Administration Local Government Police	1 December 2003	17 January 2004	28 February 2004	1 June 2004
(Parts 4 and 5 of schedule 1 to the Act) National Health Service Educational Institutions	1 March 2004	19 April 2004	31 May 2004	1 September 2004
All public bodies listed in Part 7 of schedule 1 to the Act and publicly owned companies	1 June 2004	20 July 2004	31 August 2004	30 November 2004

4 RESPONSIBILITY FOR SECTORS

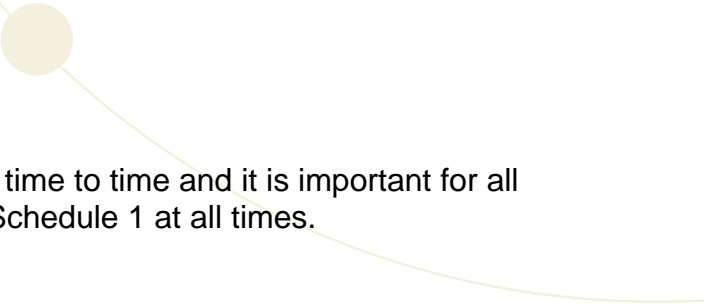
- 4.1 In order to speed up the approval process, there will need to be a certain amount of specialisation within OSIC. For example, it would not be helpful to have eight FOIOs involved in approving schemes from one particular sector, when, if one or two FOIOs were involved with that particular sector, they could acquire specialist knowledge about that sector which would allow them to deal with the approval process more quickly.

4.2 The approval process will therefore be split up as follows:

TRANCHE OF APPROVAL	SECTOR	NUMBER IN SCHEDULE 1	FOIO(S)/HEAD OF INVESTIGATIONS	SECTOR EXPERTS
1	Scottish Ministers, the Parliament	1-3	M Keyse	M Keyse
	Non-ministerial office holders in the Scottish Administration	4-19	M Keyse S Abrahams C Dalgleish	M Keyse
	Local Government	20	C Sigsworth	C Sclater
		21	C Sclater C Sigsworth A Davies	C Sclater
		22, 24	P Mutch	C Sclater
		23	L Scharbert	C Sclater
	Police	50-52	M Hughes	N/A
2	National Health Service	25-26, 28-32	M Hughes	L Scharbert
		27	C Sigsworth	L Scharbert
		33-35	L Scharbert	L Scharbert
		36-40	P Mutch	L Scharbert
		41-46	A Davies	L Scharbert
	Educational Institutions	47-49	S Abrahams C Dalgleish C Sclater	S Abrahams
3	Part 7 Bodies			
	The Accounts Commission for Scotland	53	Alison Davies	n/a
	The Advisory Committee on Sites of Special Scientific Interest	54	Alison Davies	n/a
	An area tourist board established by virtue of section 172(1) of the Local Government (Scotland) Act 1994 (c.39)	56	Alison Davies	n/a
	Audit Scotland	57	Alison Davies	n/a
	The Auditor General for Scotland	58	Alison Davies	n/a
	The Board of Trustees for the National Galleries of Scotland	59	Caitlin Dalgleish	n/a
	The Board of Trustees for the National Museums of Scotland	60	Claire Sigsworth	n/a
	The Board of Trustees of the Royal Botanic Garden, Edinburgh	61	Sarah Hutchison	n/a
	The Commissioner for Public Appointments in Scotland	62A	Sarah Hutchison	n/a

	The Crofters Commission	63	Lucy Scharbert	n/a
	The Deer Commission for Scotland	64	Martin Hughes	n/a
	The Fisheries Committee continued in existence by paragraph 5 of Schedule 9 to the Electricity Act 1989 (c.29)	65	Martin Hughes	n/a
	The General Teaching Council for Scotland	66	Margaret Keyse	n/a
	Highlands and Islands Enterprise	67	Claire Sigsworth	n/a
	Historic Environment Advisory Council for Scotland	67A	Caitlin Dalgleish	n/a
	A justice of the peace advisory committee	69	Claire Sigsworth	n/a
	Learning and Teaching Scotland	70	Claire Sigsworth	n/a
	The Local Government Boundary Commission for Scotland	71	Simin Abrahams	n/a
	The Mental Welfare Commission for Scotland	72	Claire Sigsworth	n/a
	A National Park authority, established by virtue of schedule 1 to the National Parks (Scotland) Act 2000 (asp 10)	73	Claire Sigsworth	n/a
	The Parole Board for Scotland	74	Simin Abrahams	n/a
	A person appointed for Scotland under section 3(1) of the Local Government and Housing Act 1989 (c.42)	75	Caitlin Dalgleish	n/a
	The Royal Commission on the Ancient and Historical Monuments of Scotland	76	Simin Abrahams	n/a
	The Scottish Agricultural Wages Board	77	Simin Abrahams	n/a
	The Scottish Arts Council	78	Simin Abrahams	n/a
	The Scottish charities nominee, appointed under section 12 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c.40)	79	Simin Abrahams	n/a
	The Scottish Children's Reporter Administration	80	Lucy Scharbert	n/a

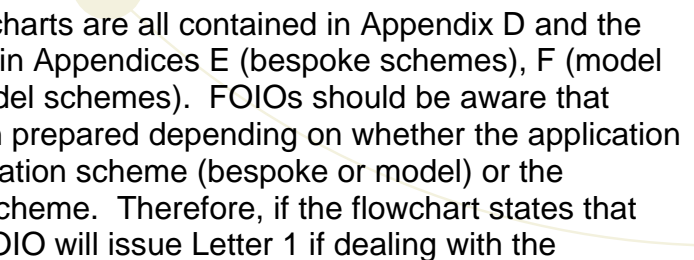
	The Scottish Commission for the Regulation of Care	81	Lucy Scharbert	n/a
	The Scottish Criminal Cases Review Commission	83	Sarah Hutchison	n/a
	Scottish Enterprise	84	Lucy Scharbert	n/a
	The Scottish Environment Protection Agency	85	Sarah Hutchison	n/a
	The Scottish Further Education Funding Council	86	Lucy Scharbert	n/a
	The Scottish Higher Education Funding Council	87	Lucy Scharbert	n/a
	Scottish Homes	88	Paul Mutch	n/a
	The Scottish Industrial Development Advisory Board	89	Margaret Keyse	n/a
	The Scottish Information Commissioner	90	Margaret Keyse	n/a
	The Scottish Law Commission	91	Caitlin Dalglish	n/a
	The Scottish Legal Aid Board	92	Margaret Keyse	n/a
	Scottish Natural Heritage	93	Margaret Keyse	n/a
	The Scottish Prisons Complaints Commission	94	Martin Hughes	n/a
	The Scottish Public Services Ombudsman	95	Caitlin Dalglish	n/a
	The Scottish Qualifications Authority	96	Martin Hughes	n/a
	The Scottish Records Advisory Council	97	Martin Hughes	n/a
	Scottish Screen	98	Martin Hughes	n/a
	The Scottish Social Services Council	99	Caitlin Dalglish	n/a
	The Scottish Sports Council	100	Paul Mutch	n/a
	The Scottish Tourist Board	101	Alison Davies	n/a
	Scottish Water	102	Paul Mutch	n/a
	Social Inclusion Partnerships	103	Paul Mutch	n/a
	The Standards Commission for Scotland	104	Paul Mutch	n/a
	The Trustees of the National Library of Scotland	105	Paul Mutch	n/a
	The Water Industry Commissioner for Scotland	106	Paul Mutch	n/a
	Publicly owned companies	To be allocated on a rota basis.		

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- 4.3 Schedule 1 will of course change from time to time and it is important for all FOIOs to have access to an updated Schedule 1 at all times.
- 4.4 Where one sector proves to be more difficult and/or time consuming than others, FOIOs will be expected to help out to try to ensure an even workload throughout the office. It is also possible that some of the publication schemes which come in during the first tranche will be allocated on a rota basis to ensure even sharing of the work and to make sure that everyone gains some experience of approving publication schemes from the start of 2004. It is the responsibility of FOIOs to tell their line managers if their workload in relation to publication scheme approvals is too light or too heavy.
- 4.5 It is important that FOIOs spend time becoming acquainted with the public authorities for which they are responsible. Some of this work has already been carried out, particularly for example in relation to health and higher and further education. A number of FOIOs have already been designated as “experts” in particular fields, who will be able to give advice to others approving schemes in that field. The “experts” are listed in the final column in the above table. The “experts” will also be expected to have an overview of what is happening in a particular sector and to advise management if, for example, additional resources are required in a particular area or public authorities from that sector are failing to submit their schemes in time.
- 4.6 Where a meeting is arranged between OSIC and a particular sector, the FOIOs responsible for that sector’s publication schemes will wherever possible be asked to attend the meeting.

5 PUBLICATION SCHEME APPROVAL PROCESS - FLOWCHARTS

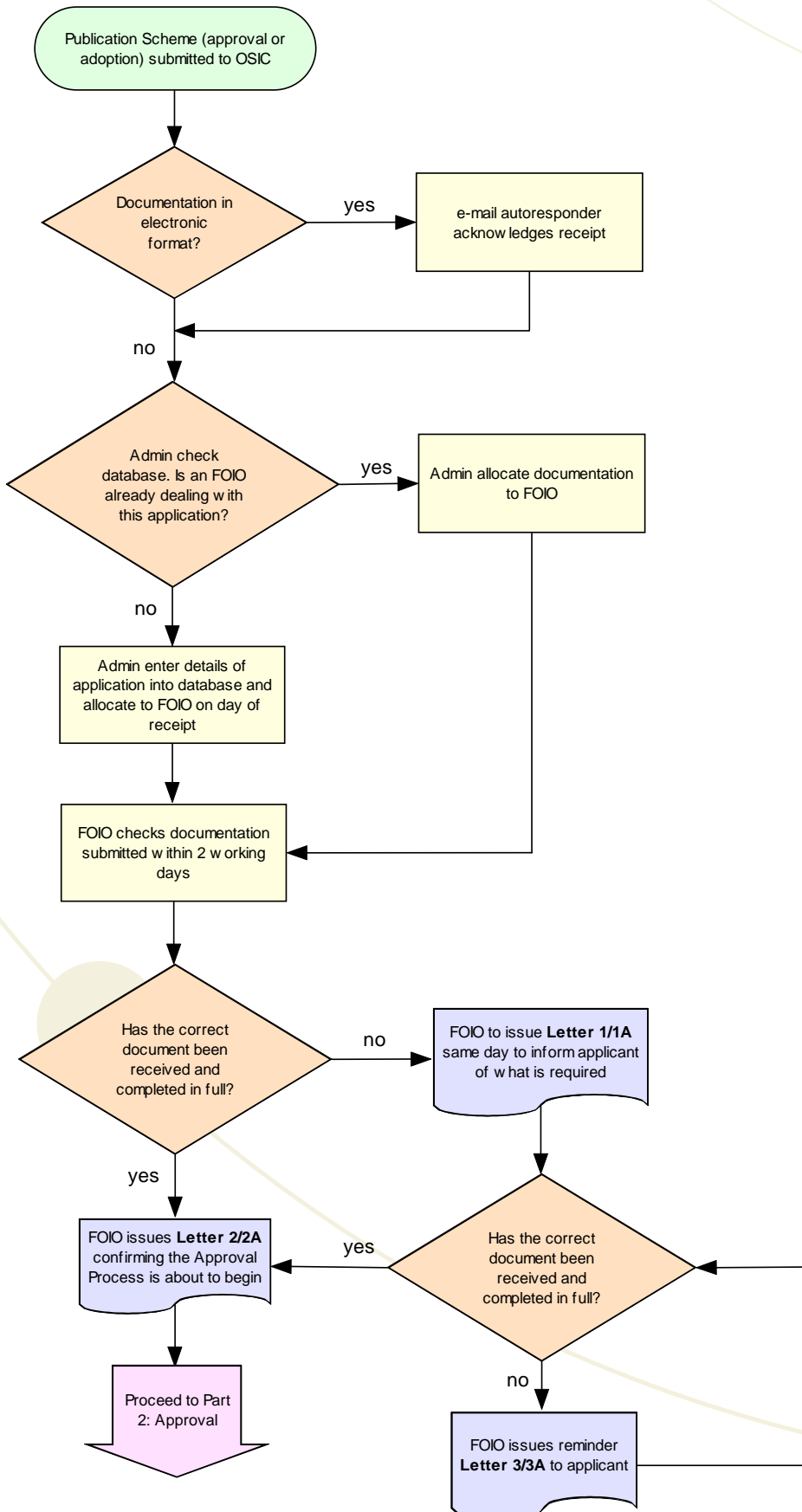


- 5.1 The following flowchart sets out the various steps to be taken in approving publication schemes (including the approval of model schemes and their adoption). The flowchart is in two separate sections:
- Part 1 – submission
 - Part 2 - approval

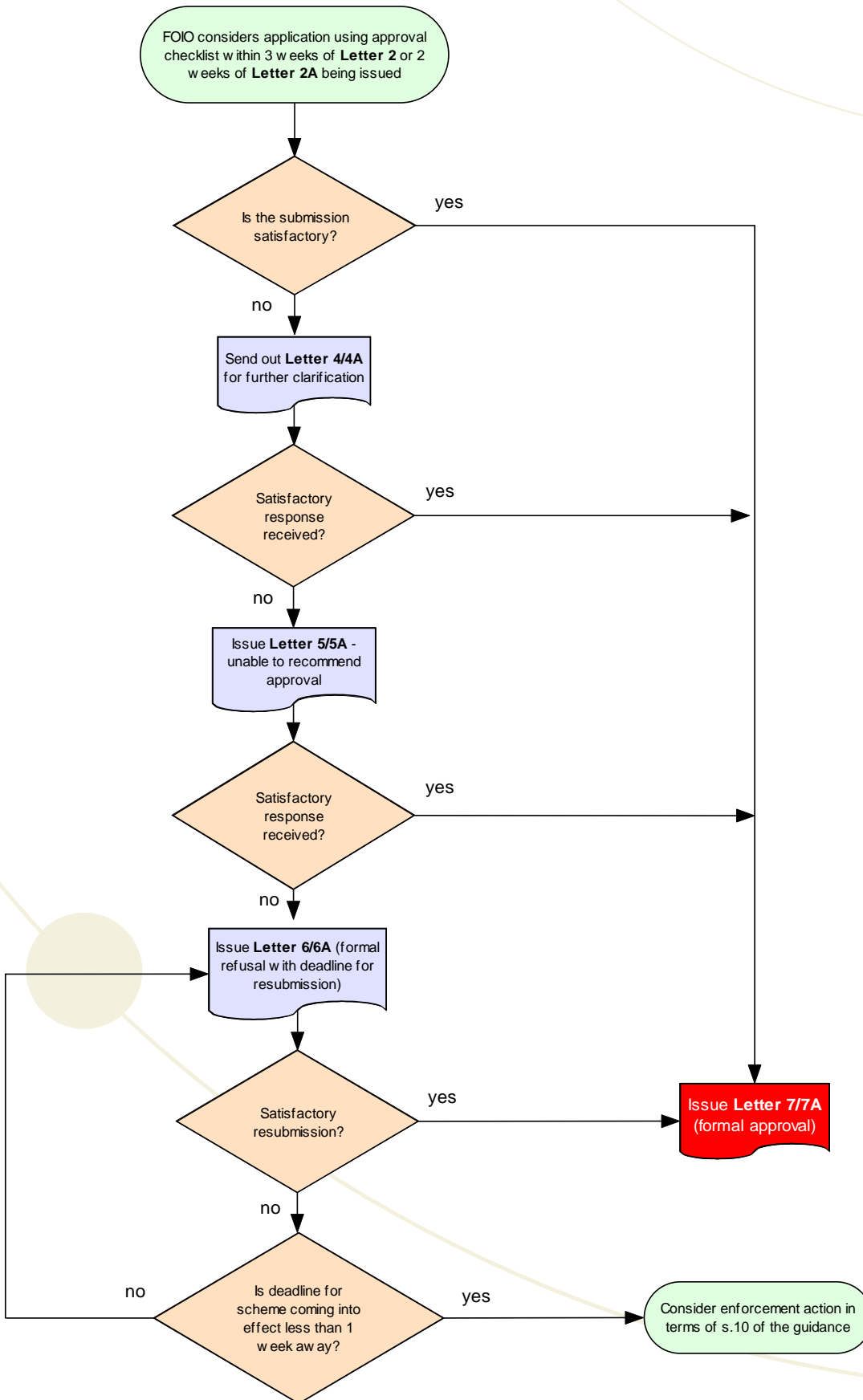


5.2 The letters referred to in the flowcharts are all contained in Appendix D and the approval checklists can be found in Appendices E (bespoke schemes), F (model schemes) and G (adoption of model schemes). FOIOs should be aware that slightly different letters have been prepared depending on whether the application relates to the approval of a publication scheme (bespoke or model) or the adoption of a model publication scheme. Therefore, if the flowchart states that Letter 1/1A is to be issued, the FOIO will issue Letter 1 if dealing with the approval of a (bespoke or model) publication scheme and Letter 1A if dealing with the adoption of a model scheme. The headings in the style letters make it clear which are the correct letters to send.

PUBLICATION SCHEME APPROVAL PART 1: SUBMISSION



PART 2: APPROVAL



6 PUBLICATION SCHEME APPROVAL CHECKLIST – BESPOKE SCHEMES

- 6.1 The approval checklist for bespoke schemes is at Appendix E. An electronic version of the checklist has been integrated into the approvals database.
- 6.2 The checklist sets out the information which must be contained in a publication scheme before it can be approved. Some of this information is easier to consider than others. For example, the publication scheme must state the title of the senior manager with FOI responsibility for that public authority. That type of information is usually easy to locate. However, FOIOs will also be expected to consider more difficult questions, such as whether the public authority has adequately taken the public interest into account in preparing its publication scheme. Advice on how to consider specific questions in the checklist is given below.
- 6.3 When considering whether a bespoke publication scheme should be approved, FOIOs should take each question in the checklist in turn and tick either the “yes” or “no” box as appropriate. If further action is required, tick the “Action required” box. If no further action is required for that particular question, tick the “Approved” box.
- 6.4 Once the list has been run through in full, go back to any ticked “Action required” boxes and implement whatever action is necessary. For example, you may need to contact the public authority to ask for a day to day FOI contact to be added to the publication scheme and for the scheme to be resubmitted. You may also want to ask for further information before deciding if the public authority has taken the public interest into account before submitting the publication scheme (see 9.7 for further guidance).
- 6.5 FOIOs can request further information either by telephone or in writing (email or letter). If information is requested by telephone but the telephone call does not sufficiently answer the query, follow up the request up by email or letter.
- 6.6 At the end of the process, FOIOs must ensure that all of the actions triggered by ticks in the “Action required” boxes have been completed satisfactorily and must be able to demonstrate that this is the case. This may involve checking the resubmitted scheme and considering any further information provided by the public authority. FOIOs should consider taking notes of their reasons for any decisions in the Notes section of the checklist. The “Approved” box should also be ticked when an action has been completed satisfactorily.

6.7 When all of the “Approved” boxes have been ticked, the FOIO should then arrange for a formal letter (signed by the Commissioner or on his behalf by the Head of Investigations or the Head of Policy and Information) to be sent to the public authority confirming that the scheme has been formally approved.

7 PUBLICATION SCHEME APPROVAL CHECKLIST – MODEL SCHEMES

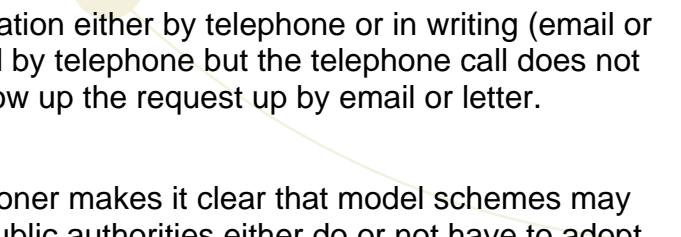
7.1 The approval checklist for model publications schemes is at Appendix F. An electronic version of the checklist has been integrated into the approvals database.

7.2 The checklist sets out the information which must be contained in a publication scheme before it can be approved. Some of this information is easier to consider than others, for example the type of public authority for which the scheme would be suitable. That type of information is usually easy to locate. However, FOIOs will also be expected to consider more difficult questions, such as whether the body submitting the publication scheme has adequately taken the public interest into account in preparing its publication scheme for the sector. Advice on how to consider specific questions in the checklist is given below.

7.3 Remember that model schemes will have to be dealt with in a slightly different manner than bespoke schemes. For example, the actual names of the public authorities to be covered by the model scheme or the names of the FOI contacts in each of those public authorities do not need to be listed in the model scheme. However, you need to make sure that there is a section in the model scheme which allows for this type of information to be inserted into the scheme when it is adopted by public authorities.

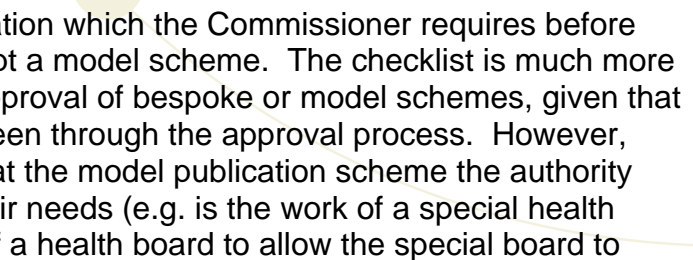
7.4 When considering whether a model publication scheme should be approved, FOIOs should take each question in the checklist in turn and tick either the “yes” or “no” box as appropriate. If further action is required, tick the “Action required” box. If no further action is required for that particular question, tick the “Approved” box.

7.5 Once the list has been run through in full, go back to any ticked “Action required” boxes and implement whatever action is necessary. For example, you may need to contact the body submitting the model scheme to ask for a section to be inserted for the day to day FOI contact to be added and for the scheme to be resubmitted. You may also want to ask for further information before deciding if the body submitting the scheme has taken the public interest into account (see 9.7 for further guidance).

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- 7.6 FOIOs can request further information either by telephone or in writing (email or letter). If information is requested by telephone but the telephone call does not sufficiently answer the query, follow up the request up by email or letter.
- 7.7 The guidance from the Commissioner makes it clear that model schemes may contain “opt-out” classes which public authorities either do or not have to adopt. If a model scheme does contain opt-outs, make sure that you are satisfied that the opt-outs would not make the model scheme unacceptable, particularly if all of the possible opt-outs were to be used by the same public authority.
- 7.8 At the end of the process, FOIOs must ensure that all of the actions triggered by ticks in the “Action required” boxes have been completed satisfactorily and must be able to demonstrate that this is the case. This may involve checking the resubmitted scheme, considering any further information provided by the body submitting the scheme and taking a note of reasons for any decisions in the Notes section of the checklist. The “Approved” box should also be ticked when an action has been completed satisfactorily.
- 7.9 When all of the “Approved” boxes have been ticked, the FOIO should then arrange for a formal letter (signed by the Commissioner or on his behalf by the Head of Investigations or the Head of Policy and Information) to be sent to the body submitting the scheme and confirming that the scheme has been formally approved.
- 7.10 The Commissioner has stated in the publication scheme guidance that information about approved model schemes will be made available on his website. As a result, when you are considering a model scheme, email Alison Davies or Martin Hughes to let them know.

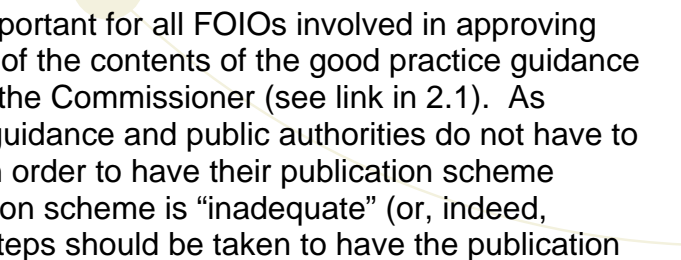
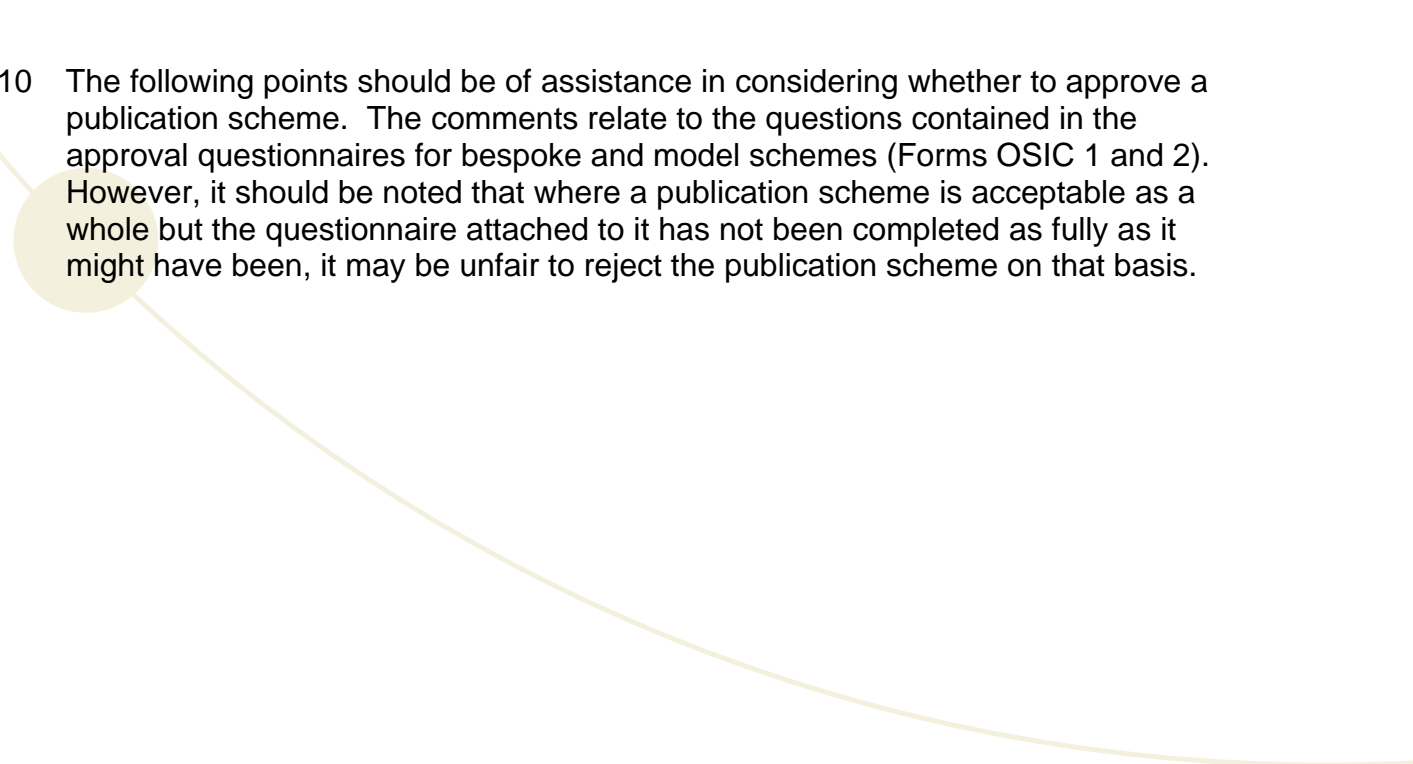
8 MODEL PUBLICATION SCHEME ADOPTION CHECKLIST

- 8.1 The checklist for adopting approved model schemes is at Appendix G. An electronic version of the checklist has been integrated into the approvals database. Remember that a model scheme can only be adopted once it has been formally approved by the Commissioner. If a public authority wishes to adopt a scheme which has not been approved, the submission form must be returned immediately to the authority with an explanation why and a request that the application be resubmitted once the model scheme has been approved.

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- 8.2 The checklist sets out the information which the Commissioner requires before allowing a public authority to adopt a model scheme. The checklist is much more basic than the checklist for the approval of bespoke or model schemes, given that the model scheme has already been through the approval process. However, FOIOs may still need to check that the model publication scheme the authority wishes to adopt is suitable for their needs (e.g. is the work of a special health board sufficiently similar to that of a health board to allow the special board to adopt the health boards' model scheme?). They will also need to check whether opt-outs are available in the model scheme and that it is clear from the submission form which opt-outs are or are not being used.
- 8.3 When considering the adoption of model schemes, FOIOs are likely to be asked questions about variations to model schemes. Further guidance on these is available from the Commissioner's publication scheme guidance (see link in 2.1).
- 8.4 When considering whether an adoption request should be approved, as with other approvals, take each question in the checklist in turn and tick either the "yes" or "no" box as appropriate. If further action is required, tick the "Action required" box. If no further action is required for that particular question, tick the "Approved" box.
- 8.5 Once the list has been run through in full, go back to any ticked "Action required" boxes and implement whatever action is necessary.
- 8.6 FOIOs can request further information either by telephone or in writing (email or letter). If information is requested by telephone and the telephone call does not sufficiently answer the query, follow up the request up by email or letter.
- 8.7 At the end of the process, FOIOs must ensure that all of the actions triggered by ticks in the "Action required" boxes have been completed satisfactorily and must be able to demonstrate that this is the case. Take a note of reasons for any decisions in the Notes section of the checklist. The "Approved" box should also be ticked when an action has been completed satisfactorily.
- 8.8 When all of the "Approved" boxes have been ticked, the FOIO should then arrange for a formal letter (signed by the Commissioner or on his behalf by the Head of Investigations or the Head of Policy and Information) to be sent to the public authority confirming that their adoption of the model scheme has been formally approved.

9 SHOULD THE PUBLICATION SCHEME BE APPROVED?

- 9.1 As mentioned above, there are three main parts to the publication scheme approval checklist: ensuring that the proper documentation has been submitted, that the publication scheme contains all of the mandatory information and assessing overall whether the contents of the publication scheme are sufficient. In order to make a decision on the final point, FOIOs need to consider whether the public authority has sufficiently taken the public interest into account in preparing its scheme.
- 9.2 This will always be a subjective decision and without “real life” publication schemes to deal with, it is difficult to give precise guidance on what to look out for when deciding whether a public authority has sufficiently taken the public interest into account. However, knowing how public authorities work and what their duties are will help FOIOs recognise when inadequate regard has been had to the public interest. This is why the publication scheme approval process has been split up in line with paragraph 4.2 to try to ensure that there is specialisation in OSIC. And, obviously, if the answers provided do not ring true, appear absurd or seem inadequate it will be necessary to question the response provided.
- 9.3 The best way for FOIOs to know if a publication scheme is adequate is to have some knowledge about the work of the public authority involved. This is why FOIOs have been given specific public authorities to deal with. OSIC already has details of most of the public authorities covered by schedule 1 and FOIOs should acquaint themselves with, for example, the websites of the public authorities they are responsible for as the websites should give a clear idea of what functions the public authorities carry out etc. The amount of research required will depend on the public authority involved.
- 9.4 One other consideration which has to be taken into account is whether the publication scheme can be easily understood by the FOIO considering its approval. If the scheme is difficult for the FOIO to understand, it will also be difficult for the public to understand what information is to be published under the scheme.
- 9.5 It is clear that, over time, FOIOs will find it easier to differentiate good publication schemes from bad or inadequate publication schemes. However, OSIC needs to have an opportunity to discuss concerns or queries and the office will therefore meet on Friday mornings to discuss questions about specific schemes. In addition, advice and assistance will be available from the sector experts and from the Head of Investigations and the Commissioner, particularly if the timescales involved mean that a quick decision is needed.

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- 9.6 As mentioned earlier, it is very important for all FOIOs involved in approving publication schemes to be aware of the contents of the good practice guidance on publication scheme issued by the Commissioner (see link in 2.1). As mentioned, this is good practice guidance and public authorities do not have to comply in full with the guidance in order to have their publication scheme approved. However, if a publication scheme is “inadequate” (or, indeed, “absurd”) then obviously further steps should be taken to have the publication scheme improved.
- 9.7 In assessing whether a publication scheme is acceptable, it is important to remember that, once the Act comes into force, the public will be able to access information held by public authorities which does not appear in their publication schemes.
- 9.8 The Commissioner would like to see high quality publication schemes being submitted. He is aware that publication schemes are an entirely new concept to Scottish public authorities and as such the quality of schemes may vary. FOIOs should therefore consider the approval of schemes which do not achieve standards of best practice, on the understanding that the Commissioner will expect to see improvements in such schemes when they are resubmitted for approval in the future. However schemes which are inadequate should be refused.
- 9.9 Where publication schemes fulfil the minimum criteria but could be improved, it is open to FOIOs to suggest improvements to the schemes – see paragraphs 6.8 and 7.10 above.
- 9.10 The following points should be of assistance in considering whether to approve a publication scheme. The comments relate to the questions contained in the approval questionnaires for bespoke and model schemes (Forms OSIC 1 and 2). However, it should be noted that where a publication scheme is acceptable as a whole but the questionnaire attached to it has not been completed as fully as it might have been, it may be unfair to reject the publication scheme on that basis.
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Has an information audit been carried out?

The Section 61 guidance recommends that each public authority carries out an information audit to ensure that it knows what information it holds and where it is held. Although the Commissioner can take enforcement action against a public authority which breaches the Section 61 code, a publication scheme should not be refused simply because a formal information audit has not been carried out. However, a public authority should still be able to prove that it has satisfactory knowledge of what information it holds and where it can be found. The questionnaire only asks for further comments if an information audit has been carried out, but if other parts of the questionnaire are of concern, contact the public authority to ask about their records management. It may be, for example, that an audit was carried out when the Data Protection Act came into force or that the public authority holds so little information that it already knows in detail what it does and does not hold.

What consultation did the public authority carry out to assess what information is of public interest and so should be contained in their publication scheme?

Has the public authority considered FAQs when preparing its publication scheme?

The publication scheme guidance recommends that public authorities carry out some consultation with, for example, service users while preparing their schemes. However, the guidance also recognises that, particularly for the public authorities covered in the first tranche of authorities, there will not be a lot of time to carry out any consultation. The same argument has also been made by some second tranche bodies. In the circumstances, a publication scheme should not be refused simply because a full consultation has not been carried out. However, public authorities should be able to demonstrate that they have considered previous requests for information by members of the public and other stakeholder bodies in deciding what to include in their schemes. If it is not clear from the submission form that they have done this, contact the public authority for further information. Any commitment given by the public authority to future consultation should also be taken into account, although FOIOs may wish to remain in contact with the public authority to ensure that the consultation is in fact carried out and that the results of the consultation are taken into account in considering whether any changes require to be made to the authority's publication scheme.

Does the publication scheme contain information about the services provided by the public authority, the cost of those services and the standards of those services?

Section 23(3)(a)(i) of the Act states that public authorities, when adopting a publication scheme, must have regard to the public interest in accessing information relating to these issues. Although not specifically referred to in the submission form, FOIOs must make sure that the publication scheme contains information about these issues. If information is not clear in the publication scheme, FOIOs should contact the public authority to ask for this information to be included and for the publication scheme to be resubmitted.

Does the publication scheme give information about the facts/statistics on which decisions are based?

Section 23(3)(a)(ii) of the Act states that public authorities, when adopting a publication scheme, must have regard to the public interest in accessing information about the facts/statistics on which decisions are based. Although not specifically referred to in the submission form, FOIOs must make sure that the publication scheme contains information about these issues. If such information is not clear from the publication scheme, FOIOs should contact the public authority to ask for this information to be included and for the publication scheme to be resubmitted.

Does the publication scheme allow the public to access information about the reasons for decisions made by the public authority?

Section 23(3)(b) of the Act states that public authorities, when adopting a publication scheme, must have regard to the public interest in the publication of reasons for decisions made by it. Although not specifically referred to in the submission form, FOIOs must make sure that the publication scheme contains information about this issue. If information is not clear in the publication scheme, FOIOs should contact the public authority to ask for this information to be included and for the publication scheme to be resubmitted.

Is the public authority publishing less information under its scheme than was previously available?

The publication scheme guidance states that public authorities should include in their publication scheme all of the information which they previously made available. The guidance is good practice guidance and the Commissioner has limited powers to make public authorities include certain information in their schemes. If the answer to this question is “yes” and FOIOs are unhappy with the reason for this (the reason given may be that the information not included in the publication scheme is information which the public authority does not consider to be in the public interest), then further information should be sought from the public authority.

10 WHAT IF THE PUBLICATION SCHEME IS UNSATISFACTORY?

10.1 There are a number of steps OSIC can take if a publication scheme which has been submitted for approval is thought to be unsatisfactory. These are as follows:

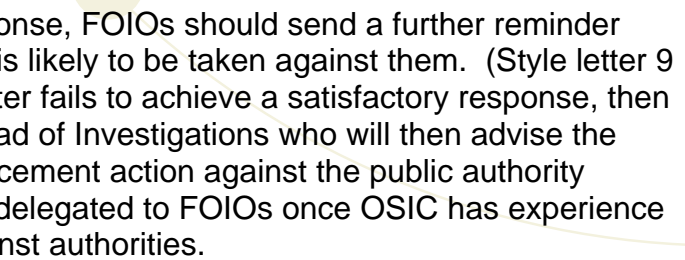
- to suggest improvements which could be made to the scheme to bring it up to the acceptable standard and to ask for the scheme to be resubmitted
- if, after changes have been suggested, the publication scheme is acceptable but only just (for example where only some of the changes have been accepted by the public authority), to approve the publication scheme for a limited period
- if, after changes have been suggested, the publication scheme is still not acceptable or the public authority refuses to take on board the comments made by an FOIO, to refuse to approve the publication scheme
- if, after refusal, a new publication scheme is not submitted within the appropriate time limits or if a public authority refuses to submit a publication scheme, to take enforcement action against the public authority.

By following the flowchart contained in 5 above, FOIOs will be guided through these various options.

10.2 Public authorities should usually be given an opportunity to make changes to their publication scheme in line with an FOIO's recommendations before officially refusing to adopt the scheme. However, there are circumstances where an automatic refusal will be justified, for example if a publication scheme is so poor that it would involve a lot of work on the part of the FOIOs dealing with it to bring it up to an acceptable standard. This will be particularly relevant the nearer to the submission date the publication scheme is submitted. Although FOIOs can make recommendations about what could be included in a publication scheme to bring it up to an acceptable standard, it is the responsibility of the public authority, not the FOIO, to ensure that a submitted scheme is of an appropriate quality.

10.3 Depending on the timescales involved, it may be appropriate to give a public authority more than one opportunity to make changes to their publication scheme to bring it up to approval standard. This is allowed for in the flowchart in 5.

- 10.4 The Commissioner has the power to approve publication schemes for a limited period under section 23(5)(a) of the Act (section 24(3)(a) for model schemes). The publication scheme guidance states that the Commissioner intends to approve publication schemes for a period of at least 4 years. This is intended to give public authorities some certainty about the future of their scheme. However, if a publication scheme only just borders on the acceptable and there is no time before it is due to take effect to suggest changes to the scheme, then one alternative would be to accept the publication scheme for a limited period, for example for 1 or 2 years. Obviously, the more borderline the publication scheme, the shorter period it should be approved for.
- 10.5 Schemes can of course simply be refused. As mentioned in 10.2, if a scheme is submitted very late or is so bad that it would take a lot of time to bring it up to acceptable standard, then refusal may be the appropriate step. However, if a scheme is refused, the Commissioner must set out the reasons why (section 23(6) of the Act or section 23(4) for model schemes) and FOIOs should weigh up whether the time taken to list all of these reasons could be better spent working with the public authority to try to improve the publication scheme.
- 10.6 Enforcement action is likely to be taken in two specific cases when considering the approval of publication schemes:
- after refusal, when a public authority refuses to take account of the reasons for the refusal or fails to resubmit a publication scheme or
 - if a public authority simply fails to submit a publication scheme to the Commissioner for approval.
- 10.7 If a publication scheme has been refused and, despite the refusal letter setting out what requires to be done to bring the scheme up to a reasonable standard, the public authority fails to resubmit the scheme either in line with the letter or at all, this must be brought to the attention of the Head of Investigations, who will advise the Commissioner on the possibility of taking enforcement action against the public authority involved. (This task will be delegated to FOIOs once OSIC has experience of taking enforcement action against authorities.)
- 10.8 If a public authority simply fails to submit a publication scheme, then enforcement action can be taken against the authority. However, it is possible (although increasingly unlikely) that some public authorities may not know that the Act applies to them. FOIOs should therefore try to ensure that, if they do not receive a publication scheme from one of the public authorities for which they are responsible under 4.2, they contact the public authority to find out why no publication scheme has been submitted. The authority should also be advised of their responsibilities under the Act and of their legal duty to submit a publication scheme to the Commissioner for approval. (Style letter 8 in Appendix D.)



10.9 If this letter fails to receive a response, FOIOs should send a further reminder advising that enforcement action is likely to be taken against them. (Style letter 9 in Appendix D.) If this second letter fails to achieve a satisfactory response, then the FOIO should speak to the Head of Investigations who will then advise the Commissioner about taking enforcement action against the public authority involved. Again, this task will be delegated to FOIOs once OSIC has experience of taking enforcement action against authorities.

10.10 As mentioned earlier, FOIOs must be aware of changes being made to Schedule 1 and must have an up-to-date version of the Schedule at all times. The Commissioner will issue further guidance on submitting publication schemes for public authorities which are to be added to Schedule 1 after 1 January 2005. However, where FOIOs know what new bodies are to be added, they should consider making contact with the bodies in advance to ensure that they are aware of their forthcoming duties under the Act.

11 TRAINING

11.1 Training will take place on this procedure note in January 2004.

11.2 The training will include advice on how to use the approval software and will include guidance on the practical aspects of dealing with approvals, such as the scanning of documents received and where electronic versions of the schemes should be saved.

12 REVIEW OF THIS PROCEDURE NOTE



12.1 This procedure will be at the end of April 2004 when the first sector's publication schemes have been submitted to the Commissioner for approval.



APPENDICES



APPENDIX A

PUBLICATION SCHEME APPROVAL QUESTIONNAIRE

(FORM OSIC1)

This form is to be used by public authorities who wish to submit a bespoke publication scheme to the Scottish Information Commissioner for approval or who wish to modify an approved model scheme. Use form OSIC2 to submit model publication schemes for approval and form OSIC3 to adopt a model publication scheme.

The responses to the following questions will, in addition to the information contained in the publication scheme, be used by the Commissioner to assess whether a publication scheme complies with section 23 of the Freedom of Information (Scotland) Act 2002 and, consequently, whether the publication scheme should be approved by the Commissioner.

This form must be submitted to the Commissioner at the same time as the publication scheme. It may be submitted online, but only if the publication scheme is also to be submitted online.

PART I – GENERAL INFORMATION

Name of Authority	
Type of public authority as classified under Schedule 1 to the Act	
Address of Authority	
Contact Details of person with overall responsibility for the scheme (please include postal and email address)	
If your publication scheme is to be available on the Internet, insert the web address of the publication scheme*	
If your publication scheme will not be made available on the Internet, insert a postal address from which the scheme will be available.	

*Please remember to keep the Scottish Information Commissioner informed of any changes to the website or postal address.

PART II – APPROVAL QUESTIONS

The following questions are designed to provide the Commissioner with information about the steps you have taken to prepare your publication scheme and, in particular, how you have decided what information to make available in the scheme. Please give as full an answer to each of these questions as possible.

1. Have you conducted an audit to establish what information is held by your authority?
YES ___
NO ___

If yes, please give specific details.

1. What exercises, consultations and initiatives did you carry out in order to assess what information is of public interest and so should be included in your publication scheme?

Please give specific details.

2. How does your scheme provide access to records of the decisions taken by your authority, the information upon which those decisions are based and information about the decision making process itself?

Please give specific examples.

4. Have you considered frequently asked questions and specific areas of interest when determining your classes of information?

YES ___

NO ___

Please give specific details

5. Are you making information available within your scheme which you did not make available previously?

YES ___

NO ___

If YES, please give details of new information

If NO, please give reasons why no new information is to be made available

6. Have you decided not to include in your scheme any information which has been made available by you in the past?

YES ___

NO ___

If YES, please give specific details

7. What steps have been taken to produce your publication scheme in alternative formats so that it is accessible to all individuals?

Please give specific examples

If this questionnaire is not being submitted electronically, please sign and date your response below:

Name	
Signature	
Date	

Insert contact details if different from those given in Part I above.

APPENDIX B

MODEL PUBLICATION SCHEME APPROVAL QUESTIONNAIRE

(FORM OSIC2)

This form is only to be used by bodies who wish to submit a model publication scheme to the Scottish Information Commissioner for approval. Use form OSIC1 to submit bespoke publication schemes and modified model publication schemes for approval. Use form OSIC3 to adopt a model publication scheme.

The responses to the following questions will, in addition to the information contained in the model publication scheme, be used by the Commissioner to assess whether a model scheme will comply with section 23 of the Freedom of Information (Scotland) Act 2002 and, consequently, whether the model publication scheme should be approved by the Commissioner and subsequently adopted by public authorities in the same class.

This form must be submitted to the Commissioner at the same time as the model publication scheme. It may be submitted online, but only if the model scheme is also to be submitted online.

PART I – GENERAL INFORMATION

Name of the Body submitting the Publication Scheme

Contact Name and Job Title

Contact Details of person with overall responsibility for the scheme (please include postal and email address)

Please name the type of public authority for which this model publication scheme will be suitable, as classified under Schedule 1 to the Act.

PART II – APPROVAL QUESTIONS

The following questions are designed to provide the Commissioner with information about the steps taken to prepare the model publication scheme and, in particular, how you have decided what information to make available in the scheme. Please give as full an answer to each of these questions as possible.

- 1. How did you involve the public authorities to be covered by this model scheme in the preparation of the scheme?**

- 2. What exercises, consultations and initiatives did you carry out in order to assess what information is of public interest and so should be included in the model publication scheme?**

Please give specific details.

- 3. How does the model scheme provide access to records of the decisions taken by the relevant authorities, the information upon which those decisions are based and information about the decision making process itself?**

Please give specific examples.

4. **Have you considered frequently asked questions and specific areas of interest when determining the classes of information to be contained in the model publication scheme?**

YES ___
NO ___

Please give specific details

5. **By following the model publication scheme, will the public authorities make information available which they have not generally made available in the past?**

YES ___
NO ___

If YES, please give details of new information

If NO, please give reasons why no new information is to be made available

6. **Have you decided not to include in the model publication scheme any information which has been made available by the bodies to be covered by the model publication scheme in the past?**

YES ___
NO ___

If YES, please give specific details

7. What steps have been taken to produce the model publication scheme in alternative formats so that it is accessible to all individuals?

Please give specific examples

If this questionnaire is not being submitted electronically, please sign and date your response below:

Name	
Signature	
Date	

Insert contact details if different from those given in Part I above

MODEL PUBLICATION SCHEME ADOPTION QUESTIONNAIRE

(FORM OSIC3)

This form is only to be used by a public authority which wishes to adopt a model publication scheme which has already been approved by the Scottish Information Commissioner. Use form OSIC1 to submit bespoke publication schemes and modified model publication schemes for approval. Use form OSIC2 to submit a model publication scheme for approval.

The responses to the following questions will be used by the Commissioner to assess whether a model publication scheme is suitable for a public authority to adopt. This form may be submitted electronically or by post.

PART I – GENERAL INFORMATION

Name of Authority _____

Type of public authority as classified under Schedule 1 to the Act

Address of Authority

Contact Name and job title (insert details of the person who will have overall responsibility for the publication scheme once adopted)

Contact Details of person with overall responsibility for the scheme (please include postal and email address)

If your publication scheme is to be available on the Internet, insert the web address of the publication scheme*

If your publication scheme will not be made available on the Internet, insert a postal address from which the scheme will be available.

*Please remember to keep the Commissioner informed of any change to the website of postal address

PART II – THE MODEL PUBLICATION SCHEME

Name the model publication scheme you wish to adopt.

--

If the approved model scheme has been approved subject to various options, please clearly state which options you do or do not wish to adopt.

--

If this questionnaire is not being submitted electronically, please sign and date your response below:

Name	
Signature	
Date	

Contact details if different from those given in Part I above.

--

APPENDIX D

STYLE LETTERS

(Note: Letters 1, 2, 3 etc are designed to be used by FOIOs approving bespoke and model schemes. Letters 1A, 2A, 3A etc are designed to be used by FOIOs considering the adoption of model schemes.)

LETTER 1 – BESPOKE AND MODEL

[Style letters\let1MissingDocument18Feb04MK.doc](#)

Dear

(MODEL) PUBLICATION SCHEME AND QUESTIONNAIRE – MISSING DOCUMENT

Thank you for submitting your organisation's *[(model) publication scheme or questionnaire]* to this office. Unfortunately you have not enclosed the *[publication scheme itself or the questionnaire]*. Please forward this document by no later than *[date – no later than 7 days from date of letter]* to enable me to process the approval of the scheme.

I will be the officer dealing with your scheme, so please mark any future correspondence for my attention.

Yours sincerely/faithfully

LETTER 1A – ADOPTION OF MODEL

[Style letters\let1AMissingDocument18Feb04MK.doc](#)

Dear

MODEL PUBLICATION SCHEME ADOPTION

Thank you for submitting documentation relating to your organisation's adoption of a model publication scheme to this office. Unfortunately you have *[not enclosed Form OSIC 3, which is the form which must be submitted when adopting a publication scheme. The Form is available on our website or by contacting the office]* or *[free text]*.

Please forward the completed Form OSIC 3 to me by no later than *[date – 7 days from date of letter]* to enable me to process your application to adopt a model scheme.

I will be the officer dealing with your publication scheme adoption, so please mark any future correspondence for my attention.

Yours sincerely/faithfully

LETTER 2 – BESPOKE AND MODEL
[Style letters\let2FullSubmission18Feb04MK.doc](#)

Dear

APPROVAL OF (MODEL) PUBLICATION SCHEME

Thank you for forwarding your organisation's *[(model) publication scheme or questionnaire]* *[which was previously missing from your submission of [date]]*. This letter is to confirm that I now have all of the necessary documentation to allow me to consider the approval of your *(model)* publication scheme.

I will contact you again within the next *(number)* weeks to let you know if there any points which need to be clarified or whether there are any adjustments to be made to the scheme before it can be approved.

If there are no points requiring clarification or adjustments to be made to your scheme, you will receive a letter, again within *(number)* weeks, confirming that your *(model)* scheme has been approved.

Yours sincerely/faithfully

LETTER 2A – ADOPTION OF MODEL SCHEME
[Style letters\let2AFullSubmission18Feb04MK.doc](#)

Dear

ADOPTION OF MODEL PUBLICATION SCHEME

Thank you for forwarding the completed Form OSIC 3 *[which was previously missing from your submission of [date]]*. This letter is to confirm that I now have all of the necessary documentation to allow me to consider your application to adopt the *[insert name]* model scheme.

I will contact you again within the next *(number)* weeks to let you know if there any points which need to be clarified before your application to adopt the model scheme can be approved.

If there are no points requiring clarification, you will receive a letter, again within *(number)* weeks, confirming that your adoption of the model scheme has been approved.

Yours sincerely/faithfully



LETTER 3 – BESPOKE AND MODEL
[Style letters\let3Reminder18Feb04MK.doc](#)

Dear

(MODEL) PUBLICATION SCHEME – REMINDER

I refer to my letter dated [*date*] and note that I have not received a response from you. Please let me have a response within the next 7 days.

Yours sincerely/faithfully

LETTER 3A – ADOPTION OF MODEL SCHEME
[Style letters\let3AReminder18Feb04MK.doc](#)

Dear

ADOPTION OF MODEL PUBLICATION SCHEME – REMINDER

I refer to my letter dated [*date*] and note that I have not received a response from you. Please let me have a response within the next 7 days.

Yours sincerely/faithfully

LETTER 4 – BESPOKE AND MODEL
[Style letters\let4Comments18Feb04MK.doc](#)

Dear

(MODEL) PUBLICATION SCHEME AND QUESTIONNAIRE

I refer to [*my/your letter/email/telephone call/fax*] of [*date*] and am writing to you to [*free text – raise concerns or ask for clarification*].

[By making these changes, your [scheme/questionnaire] would meet the minimal criteria for approval, but I would like to offer some suggestions as to how it could be improved. [Free text.]]

Please let me have your response to [*this point/the above points*] by no later than [*insert date no later than 14 days*].

If you would prefer to discuss this matter by telephone, please contact me on 01334 4646xx (direct dial).

Yours sincerely/faithfully

LETTER 4A – ADOPTION OF MODEL SCHEME
[Style letters\let4AComments18Feb04MK.doc](#)

Dear

ADOPTION OF MODEL PUBLICATION SCHEME

I refer to [*my/your letter/email/telephone call/fax*] of [*date*] and am writing to you to [*free text – raise concerns or ask for clarification*].

[By making these changes, your [scheme/questionnaire] would meet the minimal criteria for approval, but I would like to offer some suggestions as to how it could be improved. [Free text.]]

Please let me have your response to [*this point/the above points*] by no later than [*insert date no later than 14 days*].

A decorative graphic consisting of a yellow circle with a thin yellow line extending from its top-left edge, curving downwards and to the right across the top of the page.

If you would prefer to discuss this matter by telephone, please contact me on 01334 4646xx (direct dial).

Yours sincerely/faithfully

LETTER 5 – BESPOKE AND MODEL SCHEMES

[Style letters\let5RecommendRefusal18Feb04MK.doc](#)

Dear

(MODEL) PUBLICATION SCHEME – RECOMMENDATION FOR REFUSAL

I refer to [*my/your letter/email/telephone call/fax*] of [*date*] and am writing to advise that I am unable to recommend to the Commissioner that he approve your organisation's (*model*) publication scheme because of [*free text*]

I am therefore returning your *[[model]publication scheme]*.

[It would be helpful at this stage if we could discuss what needs to be done to bring the scheme up to the standard required by the Commissioner. The scheme has to be approved by [date], so please contact me by [return/no later than date] to discuss]. Or [The scheme requires [free text] before it can be approved. If this causes you any problems, or you would prefer to discuss this with me, please contact me by return.]

Please re-submit your revised *[[model] publication scheme]* by no later than [*date – no later than 14 days*] for re-consideration. Your original application has not been formally refused, but you are being given a further opportunity to submit an acceptable (*model*) publication scheme to the Commissioner for approval.

Yours sincerely/faithfully

LETTER 5A – ADOPTION OF MODEL SCHEME

[Style letters\let5ARecommendRefusal18Feb04MK.doc](#)

Dear

PUBLICATION SCHEME – RECOMMENDATION FOR REFUSAL

I refer to [*my/your letter/email/telephone call/fax*] of [*date*] and am writing to advise that I am unable to recommend to the Commissioner that he approve your application to adopt the [*insert name*] model publication scheme because: [*free text*]

I am therefore returning your Form OSIC 3.

Please re-submit your application no later than [*date – no later than 14 days*] for re-consideration. Your original application has not been formally refused, but you are being given a further opportunity to submit an acceptable application to the Commissioner.

Yours sincerely/faithfully

LETTER 6 – BESPOKE AND MODEL SCHEMES

[Style letters\let6Refusal18Feb04MK.doc](#)

(Note: The following letters must only be signed by the Commissioner, the Head of Investigations or the Head of Policy and Information. FOIOs will be permitted to refuse approval on behalf of the Commissioner once OSIC has further experience of dealing with these issues.)

Dear

(MODEL) PUBLICATION SCHEME - APPROVAL REFUSED

I refer to [*my/your letter/email/telephone call/fax or the letter/email/fax from xxx of date*] and [*on behalf of Kevin Dunion, the Scottish Information Commissioner,*] am writing to advise that your organisation's [*(model) publication scheme*] or [*model publication scheme*] has been refused in terms of [*section 23/24*] of the Freedom of Information (Scotland) Act 2002.

The reason(s) for the refusal is/are as follows [*free text*]:

As you will be aware, your publication scheme must be approved and in effect by [*date*]. **or (if model being submitted)**

As you will be aware, public authorities adopting this model scheme require to submit an application to the Commissioner by [*date*].

It is therefore essential that you resubmit an amended scheme which addresses the point(s) above no later than [*date two weeks from date of letter*]. Failure to have an approved publication scheme by [*insert date when scheme must be approved and in effect*] may lead to enforcement action being taken against [*you*] [*the public authorities wishing to adopt this model scheme*].

Should you wish to discuss this letter further, please contact [*FOI officer*].

Yours faithfully/sincerely

KD/MK/SH

LETTER 6A – ADOPTION OF MODEL SCHEME

[Style letters\let6ARefusal18Feb04MK.doc](#)

Dear

ADOPTION OF MODEL PUBLICATION SCHEME - APPLICATION REFUSED

I refer to [*my/your letter/email/telephone call/fax or the letter/email/fax from xxx of date*] and [*on behalf of Kevin Dunion, the Scottish Information Commissioner,*] am writing to advise that your organisation's application to adopt the [*name of model*] publication scheme has been refused in terms of section 23 of the Freedom of Information (Scotland) Act 2002.

The reason(s) for the refusal is/are as follows [*free text*].

As you will be aware, your organisation must have a publication scheme approved and in effect by [*date*]. It is therefore essential that you submit an amended application which addresses the point(s) above no later than [*date two weeks from date of letter*]. Failure to have an approved publication scheme by [*insert date when scheme to be approved and in effect*] may lead to enforcement action being taken against you.

Should you wish to discuss this letter further, please contact [*FOI officer*].

Yours faithfully/sincerely

KD/MK/SH

LETTER 7 – BESPOKE AND MODEL SCHEMES

[Style letters\let7Approval18Feb04MK.doc](#)

(Note: The following letters must only be signed by the Commissioner, the Head of Investigations or the Head of Policy and Information. FOIOs will be permitted to approve schemes on behalf of the Commissioner once OSIC has experience of dealing with such matters.)

Dear

(MODEL) PUBLICATION SCHEME – APPLICATION APPROVED

I refer to [*my/your/our letter/email/telephone call/fax or letter/email/fax from xxx of date*] and [*on behalf of Kevin Dunion, the Scottish Information Commissioner*] am pleased to advise you that your organisation's [*publication scheme*] [*model publication scheme*] has now been approved in terms of section [23/24] of the Freedom of Information (Scotland) Act 2002 (the Act). This approval is effective from today's date.

FOR BESPOKE SCHEMES: [As you will be aware, your publication scheme must come into effect by [*date*]. It is for you to decide whether to bring the scheme into effect now, or to delay bringing the scheme into effect until [*date*]. In making that decision, please bear in mind that once the scheme has been brought into effect, the information contained within it must be made available on request.

Your publication scheme has been approved for [*insert time*], but please remember that you have a duty under section 23 of the Act to review your scheme from time to time. Further guidance on reviewing your publication scheme and what to do if your publication scheme requires to be amended can be found on my/the Commissioner's website.]

FOR MODEL SCHEMES: [As you will be aware, public authorities wishing to adopt this model scheme have until [*date*] to submit their adoption paperwork. The fact that this model publication scheme has been approved will be publicised on my/the Commissioner's website but please contact the authorities likely to adopt this model as soon as possible to advise them that it has been approved.

The model scheme has been approved for [*insert time*], which means that it will remain approved until [*insert date*]. Section 23 of the Act states that publication schemes must be reviewed from time to time. However, this duty will fall upon those bodies adopting the scheme and not on you.

Yours faithfully/sincerely

KD/MK/SH

LETTER 7A – ADOPTION OF MODEL SCHEMES

[Style letters\let7AApproval18Feb04MK.doc](#)

(Note: The following letter must only be signed by the Commissioner, the Head of Investigations or the Head of Policy and Information. FOIOs will be permitted to approve on behalf of the Commissioner once OSIC has experience of dealing with such matters.)

Dear

ADOPTION OF MODEL PUBLICATION SCHEME – APPLICATION APPROVED

I refer to [*my/your/our letter/email/telephone/fax or letter/email/fax from xxx of date*] and [*on behalf of Kevin Dunion, the Scottish Information Commissioner*] am pleased to advise you that your application to adopt the [name] model publication scheme has now been approved in terms of section 23 of the Freedom of Information (Scotland) Act 2002. This approval is effective from today's date.

As you will be aware, your publication scheme must come into effect by [*date*]. It is for you to decide whether to bring the scheme into effect now, or to delay bringing the scheme into effect until [*date*]. In making that decision, please bear in mind that once the scheme is brought into effect, the information contained within it must be made available on request.

The model publication scheme which you have adopted has been approved until [*insert date*], but please remember that you have a duty under section 23 of the Act to review your own scheme from time to time. Further guidance on reviewing your publication scheme and what to do if your publication scheme requires to be amended can be found on [*my/the Commissioner's*] website.

Yours faithfully/sincerely

KD/MK/SH

LETTER 8

[Style letters\let8FailuretoSubmit18Feb04MK.doc](#)

Dear

FAILURE TO SUBMIT PUBLICATION SCHEME FOR APPROVAL

I am writing to advise you that you fall within the definition of a Scottish public authority under section 3 of the Freedom of Information (Scotland) Act 2002 (the Act) and that you therefore have a duty to adopt and maintain a publication scheme relating to the publication of information by you. This is in terms of section 23 of the Act. Your publication scheme must be approved by the Scottish Information Commissioner.

I note that you have not submitted a publication scheme to the Commissioner for approval, despite the fact that, in terms of the timetable agreed by the Scottish Ministers and the Commissioner, a publication scheme should have been submitted to the Commissioner for approval by [*date*] and should be approved and come into effect by [*date*].

Further information on publication schemes (including publication scheme guidance) can be found on our website (www.itspublicknowledge.info).

The Commissioner has the power to take enforcement action against a public authority which fails to submit a publication scheme within the time limits set out above. Please contact me by [*insert date within 7 days*] to discuss your duties under the Act and to advise me of your plans in relation to your publication scheme.

Yours faithfully/sincerely

Name
Job title

LETTER 9

[Style letters\let9FailuretoResubmit18Feb04MK.doc](#)

Dear

FAILURE TO RESUBMIT PUBLICATION SCHEME FOR APPROVAL

I am writing to advise you that, as a Scottish public authority under section 3 of the Freedom of Information (Scotland) Act 2002 (the Act), you have a duty to adopt and maintain a publication scheme relating to the publication of information by you. This is in terms of section 23 of the Act. Your publication scheme must be approved by the Scottish Information Commissioner.

I note that in his/her letter dated [date], [*the Commissioner, Head of Investigations, Head of Policy and Information*] formally refused to [*approve your publication scheme*] [*approve your adoption of [name] model publication scheme*] and that you have not resubmitted a scheme for approval. As you are aware, in terms of the timetable agreed between the Scottish Ministers and the Commissioner, you must have a publication scheme approved and into effect by [date].

Failure to resubmit a publication scheme may lead to the Commissioner taking enforcement action against you. I should therefore be grateful if you would contact me by [*insert date within 7 days*] to discuss your duties under the Act and to advise me of your plans in relation to your publication scheme.

Yours faithfully/sincerely

Name
Job title

APPENDIX E

PUBLICATION SCHEME APPROVAL CHECKLIST

Name of public authority _____

Type of public authority _____

Contact details for public authority _____

Criteria for approval	Yes	No	Action required	Approved
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1. General

Text version of scheme and correct questionnaire received	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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2. PS text document

The following criteria are taken from Appendix B of the Publication Scheme guidance which sets out what information is mandatory in a publication scheme. The publication scheme should therefore be checked to ensure that all of the following information appears in the scheme. If it does not, the scheme will require to be resubmitted.

Appendix B paragraph 1

Full title of public authority	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Statement of responsibilities of the authority	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Title of senior manager with FOI responsibility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Title of day to day FOI contact	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Statement of purpose and aims of scheme	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appendix B paragraph 2

Classes named and easily identifiable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Classes adequately defined	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Classes to be published later listed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Timescales and reasons for delay	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exemptions affecting particular classes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Overview of how classes arrived at (i.e. has the public interest been sufficiently taken into account?)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appendix B paragraph 3

List of formats in which information available	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Where information can be obtained	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appendix B paragraph 4

Individual classes show whether charges apply	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Statement of charge or how charge to be calculated	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. Questionnaire

The following criteria are taken from Part II of OSIC Forms 1 and 2. The forms are designed to provide the Commissioner with information about how a public authority set about preparing its publication scheme with a view to ensuring that the authority has complied with section 23(3) of the Act by having regard to the public interest in what it makes available in its publication scheme.

FOIOs must therefore read over the form, taking account of the details given in response to each question, to decide if the work which has been carried out to decide what is in the public interest has been sufficient.

	Yes	No	Action	Approved required
Information audit carried out?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Consultation on contents of scheme?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Provision of services covered?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cost of services covered?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Standards of services covered?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Facts/statistics on which decisions based covered?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reasons for decisions covered?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FAQs considered when deciding contents of scheme?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Information published wider than previously?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Any information omitted that was previously available?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Is scheme being made available in alternative formats?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Overall assessment of public interest adequate	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Checklist approved by _____

Date _____

NOTES

Insert details of correspondence or discussions with the public authority together with links to emails, letters or notes of telephone calls.

APPENDIX F

MODEL PUBLICATION SCHEME APPROVAL CHECKLIST

Name of body submitting model publication scheme _____

Contact name and job title _____

Contact details of person with overall responsibility for the scheme _____

Type of public authority for which the model scheme will be suitable _____

Criteria for approval	Yes	No	Action	Approved required
1. General				
Text version of scheme and correct questionnaire received	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. PS text document

The following criteria are taken from Appendix B of the Publication Scheme guidance which sets out what information is mandatory in a publication scheme. As this is a model scheme, the actual details of public authorities are not expected, but an indication that they will be inserted once the scheme is adopted is essential. If the scheme does not indicate that this information will be added at the adoption stage, it will require to be resubmitted.

Appendix B paragraph 1

Full title of public authority	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Statement of responsibilities of the authority	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Title of senior manager with FOI responsibility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Title of day to day FOI contact	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Statement of purpose and aims of scheme	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appendix B paragraph 2

Classes named and easily identifiable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Classes adequately defined	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Classes to be published later listed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Timescales and reasons for delay	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exemptions affecting particular classes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Overview of how classes arrived at (i.e. has the public interest been sufficiently taken into account?)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appendix B paragraph 3

List of formats in which information available	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Where information can be obtained	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appendix B paragraph 4

Individual classes show whether charges apply
Statement of charge or how charge to be calculated

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. Questionnaire

The following criteria are taken from the Guidance and Part II of OSIC Form 2. The form is designed to provide the Commissioner with information about how a public body set about preparing a publication scheme for a particular class of public authorities. In particular it is designed to show how a model scheme will ensure that the relevant authorities comply with section 23(3) of the Act by having regard to the public interest in what they make available in their publication scheme.

FOIOs must therefore read over the form, taking account of the details given in response to each question, to decide if the work which has been carried out to decide what is in the public interest has been sufficient. They should also consider whether any optional sections are appropriate.

	Yes	No	Action	Approved required
Public authorities involved in preparation of scheme	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Consultation on contents of scheme?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Provision of services covered?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cost of services covered?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Standards of services covered?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Facts/statistics on which decisions based covered?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reasons for decisions covered?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FAQs considered when deciding contents of scheme?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Information published wider than previously?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Any information omitted that was previously available?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Is scheme being made available in alternative formats?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Overall assessment of public interest adequate	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Optional sections appropriate	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Checklist approved by _____

Date _____

NOTES

Insert details of correspondence or discussions with the public body together with links to emails, letters or notes of telephone calls.

MODEL PUBLICATION SCHEME ADOPTION CHECKLIST

Name of public authority _____

Type of public authority _____

Contact details for public authority _____

Name of model scheme to be adopted _____

Criteria for approval	Yes	No	Action required	Approved
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1. General

Correct questionnaire received	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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2. Questionnaire

The following criteria are taken from Part II of OSIC Form 3. The form is designed to provide the Commissioner with information about any options in the model scheme adopted by the public authority.

FOIOs must read the form carefully and check if the options are in fact contained in the model scheme which has been approved, or if they amount to modifications which require the scheme itself to be submitted as a bespoke scheme – see Guidance paragraph 10.3.

	Yes	No	Action required	Approved
Options contained in model scheme	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Checklist approved by _____

Date _____

NOTES

Insert details of correspondence or discussions with the public authority together with links to emails, letters or notes of telephone calls.