

FREEDOM OF INFORMATION ACT 2000
Preparing for Implementation

PUBLICATION SCHEMES
APPROVAL DOCUMENTATION



April 2003

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SECTION A

INTRODUCTION AND CONTEXT

1. FREEDOM OF INFORMATION ACT 2000

- 1a) The Freedom of Information Act 2000 (FOIA) received Royal Assent on 30 November 2000. It gives a general right of access to all types of recorded information held by public authorities, sets out exemptions from that right and places a number of obligations on public authorities. A 'public authority' is defined in FOIA, and includes but is not restricted to, central and local government, non-departmental public bodies (NDPBs), the police, prosecuting bodies, the health service, and schools, nurseries, colleges and universities. The general right of access to the information held by a public authority is provided for under section 1 of the Act. Any person wishing to exercise this right, which will not come into force until January 2005, will have to make a written request to the public authority. Any person who makes such a request must be informed whether the public authority holds that information and, subject to exemptions, supplied with that information.
- 1b) However, the Act provides another mechanism for gaining access to information. Every public authority is required to adopt and maintain a publication scheme. A publication scheme is a guide detailing types of information which are to be made routinely available. This guide should provide the public with a simpler means of obtaining information and reduce the need for public authorities to respond to requests made under section 1.
- 1c) A publication scheme must set out the classes of information contained within the scheme, the manner in which the information is intended to be published, and whether or not a charge will be made for the information. The purpose of a scheme is to ensure a significant amount of information is easily and routinely available. Schemes are intended to encourage organisations to publish more information proactively and to develop a greater culture of openness.
- 1d) Once a public authority has prepared a scheme and approval for the scheme has been given by the Information Commissioner, the scheme is adopted by the public authority. On adopting a publication scheme the public authority is committed to making the information contained within the scheme routinely accessible, and to review the scheme periodically.
- 1e) The duty to adopt a publication scheme is being phased in. Public authorities should consult the approval timetable to confirm the scheme active date that will apply to them. It is from this date that they will be required to make the information contained in their scheme available. In all cases this will be in advance of the general right of access to information under section 1 which comes into force in January 2005.
- 1f) FOIA will be enforced by the Information Commissioner ("the Commissioner"), a post that combines regulation of both the Freedom of Information and Data Protection Acts. The Commissioner will be responsible for the approval of publication schemes. To ensure approval by the statutory scheme active date, schemes should be submitted by the approval deadlines shown in the approval timetable contained within this section.

2. THE LEGAL FRAMEWORK FOR A PUBLICATION SCHEME

- 2a) Section 19(1) provides that it shall be the duty of every public authority to adopt and maintain a publication scheme, to publish information in accordance with its scheme and, from time to time, to review its publication scheme.
- 2b) Section 19(2) of the Act sets out the requirements for a publication scheme as follows:
A publication scheme must:
 - (a) specify classes of information that the public authority publishes or intends to publish;
 - (b) specify the manner in which information of each class is, or is intended to be, published; and
 - (c) specify whether the material is, or is intended to be, available to the public free of charge or on payment.

- 2c) Section 19(3) states that "in adopting or reviewing a publication scheme, a public authority shall have regard to the public interest in allowing public access to information held by the authority and in the publication of reasons for decisions made by the public authority".

3. APPROVAL DOCUMENTATION

In order to approve a publication scheme, the Information Commissioner requires the submission of two documents from each public authority:

A publication scheme – text document and a completed **approval questionnaire**.

It is mandatory for a public authority to complete and submit both of these documents by the approval submission deadline date.

For submission dates refer to the timetable contained within this document under the heading Section A(6) The approval timetable.

The text document and approval questionnaire should be sent to:

Information Commissioner's Office,
FOI Section,
Wycliffe House,
Water Lane,
Wilmslow,
Cheshire SK9 5AF

or, alternatively, information on how to submit a publication scheme electronically is available on the ICO's website.

4. A PUBLICATION SCHEME – TEXT DOCUMENT

- 4a) A publication scheme in the form of a text document (hard copy or electronic version) must be submitted to the Information Commissioner by the approval submission deadline.

From this document the Information Commissioner will assess the scheme's compliance with the requirements set out in subsections (1) and (2) of section 19 of FOIA for public authorities to:

- adopt and maintain a scheme which relates to the publication of information by the authority which is approved by the Information Commissioner (a "publication scheme");
- publish information in accordance with its publication scheme;
- from time to time review its publication scheme;
- ensure that the publication scheme:
 - specifies classes of information, which the public authority publishes or intends to publish;
 - specifies the manner in which information of each class is, or is intended to be, published;
 - specifies whether the material is, or is intended to be, available to the public free of charge or on payment.

- 4b) The Information Commissioner has identified specific information, to be included in schemes by authorities, which will assist him in determining whether these requirements have been satisfied. Such information is referred to within this document under the heading Section B, Publication scheme specifications.

- 4c) The publication scheme – text document will also be used to determine whether the scheme is written in clear, jargon-free language, and is understandable without specialist knowledge.

5. AN APPROVAL QUESTIONNAIRE

- 5a) An approval questionnaire must be submitted to the Information Commissioner before the submission deadline.
- 5b) The Information Commissioner will refer to the completed approval questionnaire when assessing the scheme's compliance with the requirements set out in section 19(3) of the Freedom of Information Act, that, in adopting or reviewing a publication scheme, a public authority shall have regard to the public interest in allowing public access to information held by the public authority and in the publication of reasons for decisions made by the authority.
- 5c) The approval questionnaire is available at the end of this booklet under the heading Section C, Approval questionnaire. We also envisage that it will be available for completion on line in the future.

6. THE APPROVAL TIMETABLE

- 6a) A phased approach has been taken to the approval of publication schemes; the timetable for each sector is shown below.
- 6b) We urge authorities to submit publication schemes as soon as possible after the relevant acceptance date. It is essential that we receive all schemes by the Final Deadline date.

If a public authority fails to submit a scheme by this date the Information Commissioner cannot ensure that the scheme will be approved by the scheme active date.

Failure to have a scheme approved by the scheme active date will mean that the authority will have breached the statutory requirements set out in section 19 (1), (a). In this instance the Information Commissioner may issue an Enforcement Notice to the public authority.

- 6c) Correspondence regarding the scheme will be made to the public authority via e-mail or by post. In the event of the Commissioner refusing approval of a scheme, the reasons for rejection will be clearly stated and a revised submission date given, which may or may not precede the scheme active date. Revised submission dates will be determined by the date of submission of the initial scheme and the amount of work likely to be required before approval could be reconsidered.
- 6d) It is the Information Commissioner's intention to publish a list of those schemes that have been submitted and those that have been approved on the ICO website.

Sector*	Submissions accepted	Final deadline	Scheme active
Central government, some NDPBs	1 July 2002	30 September 2002	30 November 2002
Local government	1 October 2002	31 December 2002	28 February 2003
Police and prosecuting bodies	1 February 2003	30 April 2003	30 June 2003
Health Service	1 June 2003	31 August 2003	31 October 2003
Education, remaining NDPBs, publicly owned companies	1 October 2003	31 December 2003	29 February 2004
Remaining public authorities	1 February 2004	30 April 2004	30 June 2004

* For more detailed information concerning which bodies are included in these sectors see section 3 of the Guidance, in the Information Commissioner's Guidance & Methodology booklet.

7. MODEL SCHEMES

- 7a) Section 20 of the Act provides that the Information Commissioner may approve model publication schemes for public authorities falling within a particular group. We will endeavour to take all reasonable steps to make public authorities aware of any model schemes that may be available to them. The model schemes will also be published on the ICO website.
- 7b) A public authority wishing to adopt a model scheme will not need to follow the procedures detailed in this booklet. There will no need to submit a text document or complete the approval questionnaire. Where necessary, accompanying notes will explain the process for adopting the model scheme and what information needs to be submitted to the Information Commissioner.

SECTION B

PUBLICATION SCHEME SPECIFICATIONS

TEXT DOCUMENT (MANDATORY)

The text document will be used to assess a public authority's compliance with the FOIA s19 (1), (2).

The specifications below should be clearly identifiable within your scheme.

- 1. Each publication scheme should state the identity of the public authority operating the scheme, a brief description of the authority's responsibilities and an explanation of the purpose and aims of the scheme.**
 - 1a) State the full title of the public authority operating the publication scheme.
 - 1b) State the job title at a senior level that contains responsibility for the scheme on behalf of the organisation.
 - 1c) Name the job title and name of the individual who takes responsibility for maintaining the scheme on a day to day basis.
 - 1d) If appropriate list all agencies that are contained within the publication scheme ensuring that access routes and information relating to the agencies are clearly and easily identifiable.
 - 1e) The Information Commissioner's Office has provided a standard statement within paragraphs 1a), 1b), 1c) and 1d) of section A of this booklet which explains the purpose and aims of a publication scheme. However, you may find it appropriate to compile a bespoke statement.
- 2. Each scheme must specify classes of information which the public authority will publish, or which they intend to publish.**
 - 2a) List and define all classes of information which are contained within the scheme, in a manner which is easily identifiable.
 - 2b) List all classes which are to be published at a later date, giving timescales and reasons for delays.
 - 2c) Any classes that could contain information which may be subject to exemptions should be clearly identified as such and the reasons given.
 - 2d) Provide an overview of the approach used in determining which classes are to be included.
- 3. Each scheme must specify the manner in which the information of each class will be, or is intended to be, published.**

For each class provide the list of formats available and from where that information can be obtained.
- 4. Each scheme must specify whether the material is, or is intended to be, available to the public free of charge or on payment.**

Indicate whether or not a class includes chargeable material.

This relates to charges for materials available within the publication scheme, not charges made for material disclosed in response to individual access requests made under section 1 of FOIA.

SECTION C

APPROVAL QUESTIONNAIRE

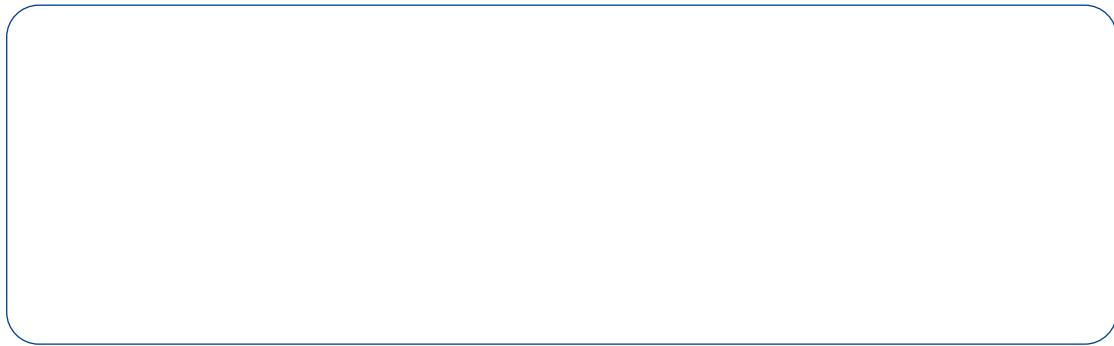
(MANDATORY)

The following will be used to assess a public authority's compliance with the Freedom of Information Act s19 (3).

1. Each scheme must have regard to the public interest

- 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



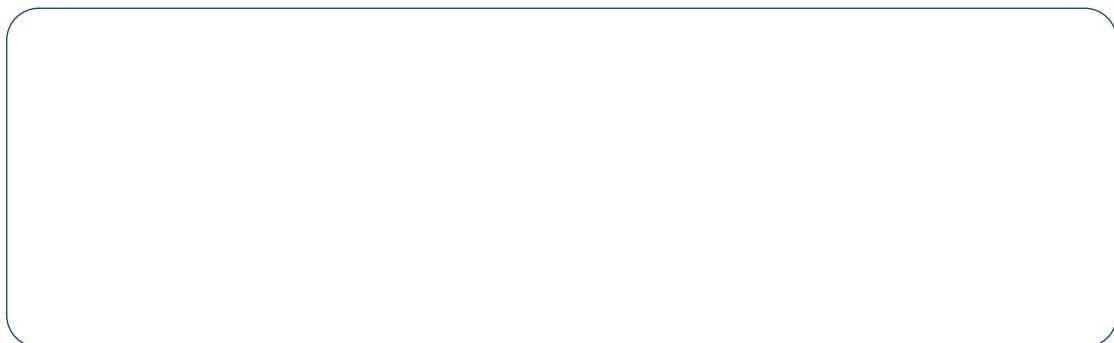
- 2) How does your scheme provide access to records of the decisions taken by your authority together with the information upon which those decisions were based and the decision making process?

Please give specific examples



- 3) Have you considered frequently asked questions and specific areas of interest when determining your classes of information?

Please give specific details



- 4) Have you made information available within your scheme that has not previously been made available under other information regimes?

If YES, please give details of new information

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

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

If YES, please give specific details

- 6) What steps have been taken to produce your publication scheme in alternative formats and languages so that it is accessible to individuals with disabilities, those who do not have English as their first language or those in disadvantaged communities?

Please give specific examples



Information Commissioner

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FOI/PSAD/0403/120k