



the future of FOIA publication schemes

Under the Freedom of Information Act (FOIA), publication schemes were intended to be a showcase for information held by public bodies that could be readily accessed without the need for a formal request under FOIA. Schemes were meant to enable the public to see at a glance what information was readily available, how it could be accessed and whether a fee was payable. The evidence however is that the publication scheme regime has been poorly understood by members of the public and by employees of public bodies alike and that consequently schemes have fallen into disuse. Since publication schemes first came into being there has been an explosion in the use of the internet by the public and there is now a general expectation that organisations will make information available on-line. Publication schemes, in the form of detailed lists and sub lists of categories of information that can be accessed on request have come to be seen as old fashioned, irrelevant and unhelpful.

Nonetheless all public bodies are required to have in place a publication scheme that has received Information Commissioner (ICO) approval and schemes are subject to periodic re-approval by the ICO. The period of approval for existing schemes has however been extended until 31 December 2008 in order to enable the ICO to carry out a much needed review of the format and use of publication schemes.

Following a process of consultation the ICO has now formulated a revised policy on publication schemes that points to an entirely new approach. In future the use of detailed classes and sub classes to describe or list information that can be accessed through the publication scheme will cease. Instead schemes will amount to a simple and clear commitment to publish information in the following broad categories.

- Information about the organisation, its location, contact details and governance.
- Financial and commercial information
- Information about performance and future strategy

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- Information about decision-making processes
- Information about policies and procedures
- Information held in lists and registers relating to functions of the authority.
- Information about the services provided by the authority

The information categories listed in the model publication scheme will be expanded upon in “sector specific manuals,” detailing the kind of information the ICO would expect to be made available to the public under each of these heading. The expectation is that any information that would not be exempt from disclosure under FOIA should be accessible via the publication scheme. A specific manual for PCTs has been prepared by the ICO following consultation with health sector representatives.

All public bodies, including PCTs will have to prepare guidance for the public explaining what kind of information can be obtained from the PCT and how this can be accessed. Increasingly information is likely to be accessed directly from organisations’ websites so that website maintenance and compliance with publication scheme obligations will go hand in hand (although information should still be available in hard copy on request). This guidance for the public will not however need to be submitted to the ICO for approval. ICO efforts are to be directed at informing the public about the right to access information covered in organisations’ publication schemes and auditing the extent to which PCTs, in their dealings with the public, comply with their publication scheme commitments.

The new model publication scheme will formally be launched in Summer 2008 and may be formally adopted by public bodies on 1 January 2009. Organisations wishing to devise their own schemes will be free to do so but will have to obtain ICO approval before 31 December 2008 when current approvals expire.