

Revising publication schemes under sections 19 and 20 of the Freedom of Information Act

Purpose and scope of the consultation

Under section 19 of the Freedom of Information Act 2000 (FOIA) all public authorities must adopt and maintain a publication scheme. A publication scheme must set out the classes of information a public authority will publish, explain the way they will publish the information and specify any charges for making certain information available.

The Information Commissioner's Office (ICO) currently provides a model publication scheme for public authorities to adopt. We also provide further guidance on the types of information we would expect public authorities in different sectors to publish and list in their 'guide to information'¹. This sector-based guidance is published in a range of 'definition documents'.

The ICO has decided to launch this consultation due to the following reasons.

- The ICO last updated its model publication scheme and accompanying guidance nearly three years ago. The Act clearly indicates that publication schemes should be regularly reviewed and the public interest in allowing public access to information should be considered.
- Some sectors have now made significant advances with their own transparency initiatives, which have pushed beyond some of the minimum standards in the current publication scheme guidance. The ICO has welcomed these initiatives and the wider government policy initiatives on open data and transparency.
- New web 2.0 technologies are creating new opportunities to analyse and use public information. There are many innovative examples emerging from across the public sector.

¹ http://www.ico.gov.uk/for_organisations/freedom_of_information/publication_scheme.aspx

- The Protection of Freedoms Bill² proposes to amend section 19 of the FOIA, adding a definition of dataset, requiring requested datasets to be added to publication schemes and to be made available in reusable formats.

The scope of this consultation is focused on public authorities updating their publication schemes in the short to medium term. The focus is on changes the ICO should make to publication scheme requirements within its current regulatory jurisdiction. In the long term it is clearly possible that the FOIA will be amended to upgrade the requirements of the legislation with respect to publication schemes.

The ICO will be responding the Cabinet Office open data consultation³ about what the longer term vision of publication schemes and transparency should look like. The ICO would also encourage other public authorities to respond to this consultation.

The scope of this consultation is not limited to datasets; it covers any information in structured and unstructured form, if suitable for general publication on a regular basis.

The ICO wishes to update publication scheme requirements to increase the level and range of information proactively available, reflecting the public interest. It is also important that our guidance reflects the demands of users to receive information open formats. In the current financial climate the ICO wishes to drive sustainable improvements to publication schemes, gradually improving the level and range of information available to the public.

² <http://services.parliament.uk/bills/2010-11/protectionoffreedoms.html>

³ <http://www.cabinetoffice.gov.uk/news/how-should-government-become-even-more-open>

Questions

Interim publication scheme updates - proposed timetable

Central and local government

1. As an initial first step in revising and updating publication schemes the ICO proposes to update the definition documents for central and local government to include the transparency initiatives already underway.

For local government this will mean incorporating the guidance in the 'Code of recommended practice for local authorities on data transparency'⁴.

For central government this will mean incorporating the publication standards set by the Cabinet Office for central government, eg information on senior staff remuneration, organograms, management and business plans, public spending, meetings, special advisers. The ICO proposes to update the definition documents by March 2012.

Is this deadline achievable?

Other sectors

2. The ICO will work with the relevant sectors to agree initial updates around the areas of public spending and salary disclosure. The ICO proposes to make interim updates to the definition documents for other parts of the public sector by July 2012.

Is this deadline achievable?

Overall approach

3. Is the ICO's approach of providing one model scheme under section 20 of the Act and accompanying sector based guidance in definition documents the right one to stick with for the immediate future?

⁴ <http://www.communities.gov.uk/publications/localgovernment/codepracticeladataconsult> currently published in draft

Classes and types of information: What further information should public authorities proactively publish?

4. Beyond the initial updating proposed above - are there any new classes of information which should be added to the ICO's current model publication scheme?
5. Are there any amendments which should be made to the types of information listed in the sector based definition documents?
6. Are there new types of information the public are regularly requesting that should be reflected in the amendments?

We are interested to hear from both public authorities **and** the public.

We are interested in views about information all public authorities should disclose and information authorities in specific sectors should disclose.

Open data formats

7. Should the ICO make a recommendation about the format a publication scheme's guide to information is published in? Should this recommendation be that the 'guide to information' must be in an open format and PDFs should not be used?
8. The ICO proposes to provide new guidance that recommends that public authorities provide all datasets listed in publication schemes in open reusable formats, in line with current data.gov.uk guidance. Should the ICO provide general guidance that recommends this or include this in the model publication scheme?

Re-use of information published in publication schemes

9. Increasingly, there is an expectation that any public sector information that is accessible should also be re-usable. The Open Government Licence (OGL) represents an effective means of achieving this end. The OGL is a simple set of terms and conditions under which information providers in the public sector can license the use and re-use of their information. Re-use of public sector information is regulated by The National Archives.

Should the ICO update its overall model publication scheme or definition document guidance for certain sectors, to include a reference to the availability of the OGL?

Any reference will explain that the licence would not extend to the copyright (and/or database right) in any material which is owned by a third party. It should also be made self-evident to the user which material is owned by a third party.

Awareness and findability

10. What can be done to improve the public's awareness of publication schemes?
11. Should publication scheme indexes be developed for each main sector? Should the ICO or sector-based bodies maintain these indexes? How could this be done sustainably?
12. Should the ICO recommend that all web-based publication schemes have a permanent URL that could enable automated harvesting of publication scheme locations and content?

Monitoring

13. The ICO will always have limited resources for monitoring the compliance of 100,000 plus public authorities – what other methods could be used to improve publication scheme compliance, in addition to the ICO's monitoring role?

Details of the ICO's monitoring policies and publication monitoring reports are available on the ICO website⁵.

⁵ www.ico.gov.uk/what_we_cover/monitoring_compliance.aspx

and http://www.ico.gov.uk/upload/documents/library/freedom_of_information/practical_application/monitoring_strategy.pdf

The final document

The closing date of this consultation is 21 December 2011. Shortly after, we will publish a document setting out our plan for publication schemes, taking into account consultation responses.

The document will be published on the ICO website.

A summary of consultation responses will also be made available at the same time.

How to take part in this consultation

We welcome your responses to this consultation paper. We have proposed specific questions but feel free to leave any that are not of interest to you, or add anything you think we may have missed.

Your responses can be submitted in one of the following ways.

- Complete this document and email to: consultations@ico.gsi.gov.uk
- Complete this document, print and post to:

Publication Scheme Consultation
Policy Delivery
Information Commissioner's Office
Wycliffe House
Water Lane
Cheshire
SK9 5AF

- Complete this document, print and fax a copy to: 01625 524510
- Request a copy of this document to be posted to you, complete it and post or fax it back to us.

To request a copy, you can either telephone 0303 123 1113 or email: consultations@ico.gsi.gov.uk

If you would like a copy of the consultation document in an alternative format, please telephone 0303 123 1113.

Accessibility

The ICO has a Translations Policy that covers the publications and correspondence it produces. The policy states that, on request, the ICO will arrange for written information to be made available in Braille or on tape for blind or visually impaired users.

The ICO website also has a Browsealoud feature that reads web pages for people who find it difficult to read online.

As a publicly funded organisation we do not have the budget to undertake translation of all publications as a matter of course, but we will respond to individual requests in line with our Translations Policy, which can be found on our website.

Privacy statement

Following the end of the consultation we shall publish a paper summarising the responses. Information you provide in your response to this consultation, including personal information, may be published or disclosed in accordance with the Freedom of Information Act 2000 (FOIA). If you want the information that you provide to be treated as confidential, please tell us but be aware that, under the FOIA, we cannot guarantee confidentiality

If you are replying as an individual, the ICO will process your personal data in accordance with the Data Protection Act 1998 and this will mean that if you request confidentiality your personal information will not be disclosed to third parties