

Freedom of Information Act Environmental Information Regulations



Information Commissioner's Office
Promoting public access to official information
and protecting your personal information

Practical guidance

What should be published: minutes and agendas

The Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) provide rights of public access to information held by public authorities. This is part of a series of guidance notes produced to help public authorities understand their obligations and to promote good practice.

This guidance is to help public authorities decide when they should publish the minutes and agendas of meetings and in what cases they can be edited.

What minutes and agendas should be published under our publication scheme?

Every public authority is required to publish certain information, in keeping with the Information Commissioner's [Model Publication Scheme](#). The definition documents on our website explain the kind of minutes which your authority is expected to make public.

As a general rule, you should publish:

- minutes and agendas of public meetings;
- documents you are required to make public by other legislation, such as the Local Government Act 1972;
- minutes of senior-level policy and strategy meetings, eg board meetings; and
- any background documents which are referred to in the agenda or minutes, or were circulated in preparation for the meeting. These are considered part of the agenda.

You do not need to include:

- any information which would be exempt under the Freedom of Information Act (FOIA) or the Environmental Information Regulations (EIR);
- any personal information which it would be unfair to disclose or would otherwise breach the Data Protection Act 1998 (DPA);
- minutes of meetings more than three years ago; or
- lower-level internal meetings which would be of less interest to the public.

Publishing minutes and agendas in accordance with the publication scheme

When producing your guide to the documents you publish, be specific about the types of meeting for which minutes and agendas will routinely be made available. This would include any meetings which are open to the public. Omit categories of meeting which would not be suitable for routine disclosure, such as discussions of individual social services cases.

For certain types of meeting, you may wish to routinely produce public minutes or summaries of the minutes suitable for publication. These would generally contain enough information to be useful to the public without disclosing anything which should not be made public. However, they may not always contain everything which would be released in response to a freedom of information request.

Alternatively, you could consider each set of minutes on a case-by-case basis and delete only those sections which are exempt from disclosure. In either case, you should make it clear that these are not the full and unedited minutes.

You should:

- publish the unedited agenda and minutes where possible;
- publish as much as you can, even if it is not possible to publish the unedited documents; and
- make it clear that certain documents are edited versions.

When a meeting or part of a meeting is dealing with sensitive or potentially confidential issues, it is good practice to state this at the meeting. This will ensure that all attendees have the same understanding about whether the meeting or certain parts of it are private. Note-takers should mark the sections which are confidential so that these can be removed from any published minutes. **Please note:** this does not guarantee confidentiality in all circumstances - you should make it clear that information may be requested under the FOIA even if it is not on the publication scheme.

Requests for minutes and agendas

You may receive a request for minutes or agendas which are not included in your guide to routinely published information, or for the full versions of documents which are usually published in an edited or summarised form. You are obliged to consider these requests in the normal way. **Remember:** even if you have already considered the information and have decided that it cannot be released, you should consider it again when you receive a request. In many cases, information which would have been exempt at the time it was created will become less sensitive over time. New circumstances may also have arisen which affect the public interest in disclosure.

Example:

In relation to DfES meetings about school funding, the Information Tribunal said that policy makers “are entitled to time and space ... to hammer out policy” and that this was a “highly relevant factor” in favour of keeping the minutes private at the time. However, it had “little if any weight” eighteen months later once the policies being discussed had been implemented. (Tribunal decision in [DfES v IC and Evening Standard EA/2006/0006](#), Jan 2007).

Because meetings may be on a range of matters, almost any exemption could be relevant to some minutes or agendas. The exemptions which are most likely to be relevant are section 36 (conduct of public affairs) section 40 (personal information), section 41 (information obtained in confidence), and section 43 (commercial interests). For central government, Northern Ireland departments and the Welsh Assembly, section 35 (formulation of government policy) may also be relevant.

The EIR contain an exception for internal communications, regulation 12(4)(e). For the purposes of the EIR, internal communications includes:

- minutes and agendas of internal meetings;
- notes of meetings with external bodies, if the notes are only circulated internally, and
- documents which are internal to government, such as communications between government departments or between an executive agency and its controlling department.

This exception is subject to a public interest test.

Even if large parts of a document are exempt, this does not mean the whole document should automatically be withheld. You should release any information which does not fall within an exempt category or does not meet any relevant public interest test.

- In nearly all cases, it will be possible to give the dates and times of meetings and the names of the organisations represented.
- In most cases, it will be possible to give broad headings of what was discussed.
- In many cases, it will be fair to give the names of individuals who attended the meeting in a professional capacity. It may not always be fair to attribute specific comments or opinions to named individuals.

Example:

The Commissioner found that section 35 and 36 did not allow the Cabinet Office to withhold the names of those who met with the Prime Minister or the dates of the meetings. The information did not reveal the topics of discussion or the views of those present so would not prejudice the conduct of public affairs (ICO decision notice re. Cabinet Office [FS50121390](#), May 2008).

Guidance on all exemptions and exceptions is available on our website.

More information

This guidance will be reviewed and considered in line with new decisions of the Information Commissioner, Tribunal and courts on freedom of information cases. It is a guide to our recommended approach in this area.

If you need any more information, please contact us.

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