

Model Publication Scheme

**Produced and approved by the Scottish
Information Commissioner on 01 November 2018**



Scottish Information
Commissioner

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Terms used

| Term used | Explanation |
|---------------------------------|--|
| FOISA | The Freedom of Information (Scotland) Act 2002 |
| EIRs | The Environmental Information (Scotland) Regulations 2004 |
| Model Publication Scheme | A standard framework for authorities to publish information under FOISA, approved by the Scottish Information Commissioner |
| MPS | The Model Publication Scheme |
| Guide to Information | A guide that every public authority adopting the MPS must produce to help people access the information it makes available |
| MPS Principles | The six key principles with which all information published under the MPS must comply |
| Classes of information | Nine broad categories describing the types of information authorities must publish (if they hold it) |
| Notification form | The form an authority must submit to notify the Commissioner of its adoption of the MPS |

Introduction

1. The Freedom of Information (Scotland) Act 2002 (FOISA) requires Scottish public authorities to adopt and maintain a publication scheme. Authorities are under a legal obligation to:
 - (i) publish the classes of information that they make routinely available
 - (ii) tell the public how to access the information they publish and whether information is available free of charge or on payment.
2. FOISA also allows for the development of model publication schemes which can be adopted by more than one authority. **The Commissioner's Model Publication Scheme (the MPS) was approved on 01 November 2018.**
3. The Commissioner has issued a [Guide for Scottish Public Authorities](#)¹ to accompany the MPS. This is **essential reading** for authorities adopting the MPS as it explains the requirements of the scheme in detail and provides lists of types of information the Commissioner expects authorities to publish.

Definition of “published” information

4. For the purposes of this MPS, to be “published”, information must be:
 - (i) already produced and prepared and
 - (ii) available to anyone to access easily without having to make a request for it.
5. Research and information services which involve the commissioning of new information are **not** “publications”.

Adopting the MPS

6. It is expected that the MPS will be adopted by any authority which is subject to FOISA. For more information about which bodies this applies to, please visit <http://www.itspublicknowledge.info/YourRights/Whocanlask.aspx>
7. Adoption of the MPS commits an authority to:
 - (i) using the MPS as its publication scheme, and accepting any updates to the MPS, without amendment
 - (ii) publishing the information, including environmental information, it holds which falls within the **classes of information** (see below)
 - (iii) ensuring that the way it publishes its information meets the **MPS Principles** (see below)
 - (iv) producing a **Guide to Information** which sets out:
 - (a) the information the authority publishes through the MPS;
 - (b) how to access it;

¹ www.itspublicknowledge.info/ScottishPublicAuthorities/PublicationSchemes/GuidesToInformation.aspx

- (c) whether there is a charge for it; and
- (d) how to get help to access information
- (v) notifying the Scottish Information Commissioner that it has adopted the MPS.

8. Where an authority fails to meet the above commitments, it cannot be considered to have adopted the Commissioner's MPS and may be failing in its duty to adopt and maintain a publication scheme in line with section 23(1) of FOISA.

Notifying the Commissioner

9. Authorities adopting the MPS for the first time must notify the Commissioner that they have done so. Thereafter no further notification is required unless either:
- (i) the Commissioner has revoked approval (because the authority is not complying with the MPS); or
 - (ii) The authority's legal status has changed (e.g. through a merger with another authority or a legal change of name).
10. The Commissioner will regularly review the MPS and update it from time to time, notifying authorities of any changes. The Commissioner will consult authorities before making any substantive changes.
11. The Commissioner will continue to monitor authorities' compliance with the MPS. As required, the Commissioner may contact individual authorities about practice issues (see the Commissioner's Enforcement Policy²).

MPS Principles

12. The following principles apply to all information published through the MPS by any authority.

Principle One: Availability and formats

13. Information published through the MPS should, wherever possible, be made available on the authority's website.
14. There must be an alternative arrangement for people who cannot reasonably access the information either online or by inspection at the authority's premises. An authority may e.g., arrange to send out information in paper copy on request (there may be a charge for doing so).

Principle Two: Exempt information

15. If information described by the **classes of information** (see below) cannot be published and is exempt under Scotland's freedom of information laws e.g., sensitive personal data or a trade secret, the authority may withhold the information or provide a redacted version for publication, but it must explain why it has done so.

Principle Three: Copyright and re-use

² www.itspublicknowledge.info/Law/FOISA-EIRsGuidance/Briefings.aspx#procedures

16. The authority's **Guide to Information** must include a copyright statement which is consistent with the fair dealing provisions of the Copyright, Designs and Patents Act 1988³. Where the authority does not hold the copyright in information it publishes, this should be made clear.
17. Any conditions applied to the re-use of published information must be consistent with the Re-Use of Public Sector Information Regulations 2015⁴.
18. The Commissioner recommends that authorities adopt the Open Government Licence and/or the non-commercial Government Licence, produced by The National Archives⁵ for their published information.

Principle Four: Charges

19. The Guide to Information must contain a charging schedule, explaining any charges and how they will be calculated.
20. No charge may be made to view information on the authority's website or at its premises, except where there is a fee set by other legislation e.g., for access to some registers.
21. The authority may charge for photocopying, computer discs, postage and packaging and other costs associated with supplying information. The charge must be no more than these elements actually cost the authority e.g. cost per photocopy or postage. There may be no further charges for information in Classes 1 – 7 and 9 below. An exception is made for commercial publications (see Class 8 below) where pricing may be based on market value.

Principle Five: Contact details

22. The authority must provide contact details for enquiries about any aspect of the MPS or Guide to Information.
23. The Act requires authorities to provide reasonable advice and assistance to anyone who wants to request information. This includes information which is not published through the MPS⁶. The authority's Guide to Information must provide contact details to access this help.

Principle Six: Duration

24. Once published through the Guide to Information, the information should be available for the current and previous two financial years. Where information has been updated or superseded, only the current version need be available (previous versions may be requested from the authority under section 1(1) of FOISA).
25. The Guide to Information should contain a 'last reviewed' date showing when the document was last reviewed, to ensure it contains the most up to date information.

³ www.legislation.gov.uk/ukpga/1988/48/contents

⁴ www.legislation.gov.uk/uksi/2015/1415/contents/made

⁵ www.nationalarchives.gov.uk/information-management/re-using-public-sector-information/uk-government-licensing-framework/

⁶ Section 15 of the Freedom of Information (Scotland) Act 2002 and regulation 9 of the Environmental Information (Scotland) Regulations 2004

The Classes of Information

| | Class | Description |
|----------|---|--|
| 1 | About the authority | Information about the authority, who we are, where to find us, how to contact us, how we are managed and our external relations. |
| 2 | How we deliver our functions and services | Information about our work, our strategies and policies for delivering our functions and services and information for our service users. |
| 3 | How we take decisions and what we have decided | Information about the decisions we take, how we make decisions and how we involve others. |
| 4 | What we spend and how we spend it | Information about our strategy for, and management of, financial resources (in sufficient detail to explain how we plan to spend public money and what has actually been spent). |
| 5 | How we manage our human, physical and information resources | Information about how we manage our human, physical and information resources. |
| 6 | How we procure goods and services from external providers | Information about how we procure goods and services and our contracts with external providers. |
| 7 | How we are performing | Information about how we perform as an organisation and how well we deliver our functions and services. |
| 8 | Our commercial publications | Information packaged and made available for sale on a commercial basis and sold at market value through a retail outlet e.g., bookshop, museum or research journal. |
| 9 | Our open data | The open data we make available as described by the Scottish Government's Open Data Strategy and Resource Pack, available under an open licence. |

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