

Freedom of Information Model Publication Scheme Guidance

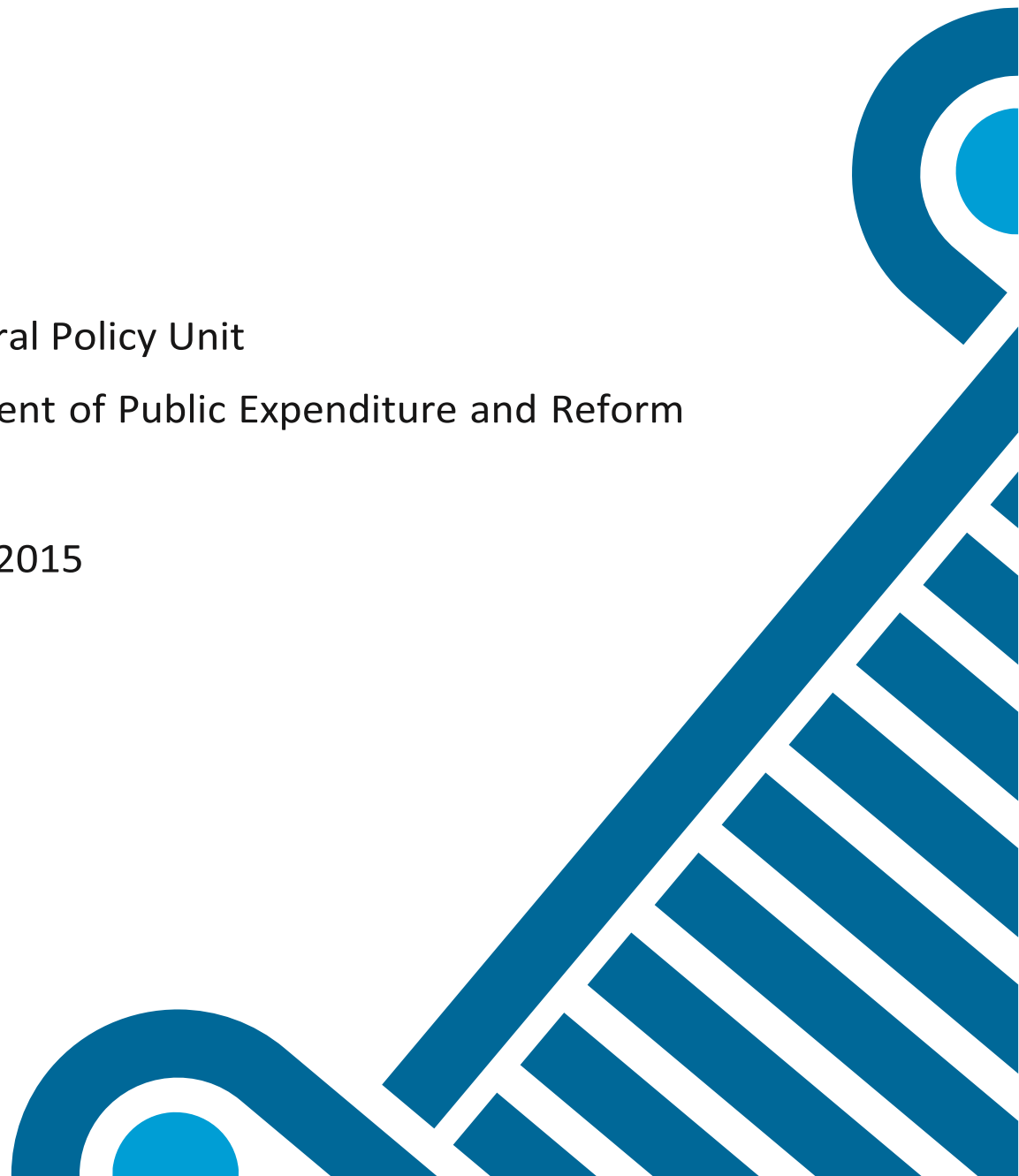
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FOI Central Policy Unit

Department of Public Expenditure and Reform

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Mr
Brend

October 2015



an Howlin, TD, Minister for Public Expenditure and Reform under Section 8(7) of the Freedom of Information Act 2014 and must be adopted by all FOI bodies in the required format as specified below. This does not preclude an FOI body from providing additional information as part of its publication scheme. This guidance is produced by the Minister pursuant to Section 8(1)(a)(ii) of the Freedom of Information Act 2014.

1. Introduction

Section 8 of the Freedom of Information Act 2014 requires FOI bodies to prepare and publish a scheme concerning the publication of information by the body in conformity with a model publication scheme or guidelines made by the Minister. This allows for the publication or giving of records outside of FOI provided that such publication or giving of access is not prohibited by law. The Minister is of the view that FOI bodies should publish as much information as possible in an open and accessible manner on a routine basis outside of FOI, having regard to the principles of openness, transparency and accountability as set out in Sections 8(5) and 11(3) of the Act. The Minister has made the model scheme which is fully in compliance with Section 8 of the FOI Act for adoption by all FOI bodies. The scheme commits FOI bodies to make information available as part of their normal business activities in accordance with the scheme. Publication of documents which are not exempt under the Scheme is in line with the intention of the Directive on the Re-use of Public Sector Information, and the obligation under that Directive to publish information and ensure that it is accessible and re-usable for commercial and non-commercial purposes.

The Act requires that in preparing, reviewing or revising a publication scheme, an FOI body shall have regard to the public interest in:

- (a) allowing public access to information held by the FOI body;
- (b) the publication of reasons for decisions made by the FOI body; and
- (c) publishing information of relevance or interest to the general public in relation to its activities and functions generally.

2. Publication Methods and Review

Under the Publication Scheme, each FOI body shall:

- Set out information to assist members of the public in their understanding of the body and its functions;
- Publish the information it holds grouped under the information headings set out in Section 3 below; and
- Explain the procedures to get access to information or to establish what information the body holds.

There will be circumstances where an FOI body may indicate in its Publication Scheme that a particular item is “not applicable” (“N/A”). These circumstances arise where:

- the body does not hold the type of records concerned;
- the body is only subject to FOI in part and the type of records listed in the scheme are exempt; or
- the information is exempt under one of the FOI Act exemptions or is prohibited by some other statute, licence or regulatory decision.

The publication schemes of FOI bodies should be easily accessible to the public. In addition to publishing the scheme on the FOI body’s website, Section 8(6) of the FOI Act provides that each body should maintain a printed version of the scheme at the body’s Head Office which should be available for a member of the public to view during normal office hours at 24 hours’ notice. It is intended that the basic scheme is all that is required to be kept in a printed version. Information in the scheme which is available by way of a link

should be made available for viewing on-line on a case by case basis if required. There will be a limited number of cases where an FOI body comprises a committee, tribunal or Board that do not have ongoing functions. In such cases the FOI body can meet the requirements of the publication scheme by drawing attention to where the information is contained in its Annual Report, or on its website (if any).

An FOI body should publish its publication scheme not later than 6 months after the commencement of Section 8 of the FOI Act 2014 or not later than 6 months after the Minister has, under Section 8(7) of the FOI Act, made or revised guidelines on publication schemes or made or revised model publication schemes such that the publication scheme of the FOI body is no longer in conformity with the Minister's guidelines or model publication scheme.

An FOI body should review and update its publication scheme not later than three years after it is made and every three years thereafter. The material published under the publication scheme should be reviewed and revised/updated where appropriate at least on an annual basis and it is recommended that in the case of procurement or purchase order spends, information should be updated on a quarterly basis. Links should be deleted as they are replaced with more updated information. Information referred to in the Publication Scheme should be stored consistent with the FOI body's records retention policies. There is no requirement to provide information retrospectively, rather current information from the date of publication of the scheme or as otherwise indicated.

The Information Commissioner may, in accordance with Section 8(10) of the FOI Act 2014, examine and report in his annual report on the extent to which, in the opinion of the Commissioner, FOI Bodies are in compliance with Section 8.

3. Publication Format

The publication scheme should be displayed prominently on the FOI Body's website. It is recommended that a link to the publication scheme is placed on the homepage. Links to the publication scheme should also be made available in the FOI section of the website and in other areas that the FOI body deems appropriate e.g. About Us, Publications etc. The information should be grouped into the classes which are displayed below and should be easy to use with headings that are easily understood. The information should either be displayed as part of this scheme or by way of a link to information held elsewhere on the organisation's website. There is no requirement for an organisation to reproduce information on the webpage where the scheme is located, it is sufficient that a member of the public can click on a link to access the information.

The model Publication Scheme sets out the minimum level of information that should be provided by an FOI body on its website as part of its publication scheme. Consistency needs to be achieved in terms of the publication of the Information under this scheme, not only in terms of the type of information but also in terms of the format that this information appears on the websites of FOI bodies. On that basis, the model publication scheme requires information to be provided on the websites of all FOI bodies in tabular form under the 6 headings shown as set out below. This will ensure consistency and ease of access for all requesters. Within each tab, there should be a link to the relevant information. Where such information is extensive, or where it is otherwise deemed appropriate, the FOI body should use sub-headings within each tab to make the information more easily accessible. Sub-headings are provided in the model publication scheme. Further guidance to assist FOI bodies to complete the publication scheme is available in Annexe 1 of this document.

Information About the FOI	Services Provided or to be	Decision Making process for
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Body	provided to the Public	major policy proposals
Financial Information	Procurement	FOI Disclosure Log and Other Information to be Published Routinely

Annexe 1

Model Publication Scheme Guidance - FOI Bodies

This guidance is produced by the Minister pursuant to Section 8(1)(a)(ii) of the Freedom of Information Act 2014. This guidance explains to public authorities how to fulfil their obligations to make certain information routinely available. It is intended to help FOI bodies to fully understand their obligations under section 8(2) of the Freedom of Information Act 2014 and to promote good practice.

It sets out the classes of records FOI bodies would be expected to hold and gives examples of the kinds of information that we would expect FOI bodies to provide in order to meet their commitments under the model publication scheme. The nature of records held will be dependent on the functions of each body. It is expected that FOI bodies would make the information in this document available unless:

- the body does not hold the type of records concerned;
- the body is only subject to FOI in part and the type of records listed in the scheme are exempt; or
- the information is exempt under one of the FOI Act exemptions or is prohibited by some other statute, licence or regulatory decision.

The guidance is not meant to give an exhaustive list of everything that could be covered by a publication scheme.

Information Contained in the Publication Scheme

A. Information about the FOI Body

Who we are and what we do

Organisational information, structures, locations and contacts. We would expect information in this class to be current information only.

In this section FOI Bodies should provide details of:

- **Establishment of organisation**
- **Roles, responsibilities and functions** Details of the nature, role, responsibilities of the FOI body and a general description of the classes of records held by the body. Classes of records may comprise notes, letters, legislation, minutes of meetings etc.
- **Governance/Management arrangements** Details of the membership and functions of any governance Boards of the Body. In the case of Management Boards of Government Departments this may be provided by linking to the published Framework of Assignments.
- **Corporate Plans and Strategies**
- **Annual Report**
- **Organisation and Pay/Grading Structures** Pay and grading structures except where publication would lead to identification of individual staff members pay. In the case of Government Departments and non-commercial bodies, this may be provided by linking to relevant pay circular and providing details of the number of staff at each grade. Commercial bodies should publish the pay in appropriate bands and the number of staff in each band having regard to commercial sensitivities.

The structure of the body should be shown, including the divisional/functional areas by way of an organisation chart displaying all staff at least as far as Principal in the civil service, or equivalent level in other public bodies, (unless the head of the body reasonably believes that publication of that information could threaten the physical safety or well-being of the persons) and their related functions. FOI bodies should provide details at Principal, or equivalent, or below that level if this is necessary for an

understanding of assignments of functions. In the case of Government Departments, this may be provided by way of links to published Frameworks of Assignments. Commercial FOI bodies and the HSE should show such information to a level that is appropriate having regard to their size and structure.

- **Locations and contact details for the organisation** Contact points and addresses of the organisation for each of its functional areas covered by FOI should be shown, including contact details in relation to access regimes under legislation (e.g. FOI, AIE, etc.). Contact details for the provision of information to the media and to the public should also be displayed e.g. a link to the Contact Us section of the website.
- **Links to agencies/other bodies under the FOI body's remit**
- **Details of Service Level Agreements/Memoranda of Understanding, if any** Details of Service Level Agreements/Memoranda of Understanding, if any, between two or more public bodies e.g. parent Department and Agency in relation to the provision of public services.
- **Customer Charters** Charters which normally include customer complaint mechanisms.
- **Codes of Practice or Guidelines, if any.**

B. Services Provided or to be provided to the Public

The services we offer

Details of functions and services that the organisation provides and the decision making process

In this section FOI bodies should provide details of:

- **Services provided for public including Administration of an enactment/scheme (e.g. grants)** Details of the public services provided by the body, or provided by another party on its behalf. Appropriate information in relation to the manner of administration of any enactment or scheme (e.g. involving grants), including rules, practices (and precedents, if any), used by the body in administering the enactment or scheme in terms of rights, benefits and penalties to which members of the public may be entitled or subject under the enactment or scheme. Section 8(2)(e) of the FOI Act 2014 refers here. Details of the timelines for the administration of these schemes or the review or appeals processes.
- **How such services can be accessed** Details of how the public services can be accessed or applied for, including Information Leaflets or criteria available.
- **How much such services cost to access, if any** Details of any fees or charges for availing of public services.
- **Administration of such services**
- **Review or appeal rights relating to such services** Details of the rights of review or appeal in relation to any of the aforementioned schemes and in respect of any decisions made by the body under these schemes or other matters. Details of the timelines for the administration of these schemes or the review or appeals processes.
- **Research projects undertaken in respect of these functions/services** Details of any research projects undertaken in relation to its public services e.g. A body administering research on school literacy on behalf of the Department of Education and Skills.

C. Decision Making process for major policy proposals

How we make decisions on policies

Decision Making processes and records of decisions

In this section FOI bodies should provide details of:

- **Major policy proposals including any public consultation exercises** Major policy proposals, including any public consultation exercises and the results of such consultations. Regard is to be had to the Consultation Guidelines published and a link should be provided, as appropriate, to information required under those guidelines.
- **Background information relating to major policy proposals and decisions** Reports, papers, facts and analyses provided for consideration which are relevant and important to framing major policy proposals and decisions.
- **Reports on the operation of public services by the FOI body**
- **Expenditure reviews, Policy assessments**

D. Financial Information

What we spend

Financial information relating to income and expenditure

FOI bodies should provide the following information in this section:

- **Financial statements** Financial Statements, including annual accounts, and any regular update statements.
- **Plans for major Capital Expenditure** Information should be made available on any major expenditure plans.
- **Payments or Purchase Orders for goods and services** Details, on a quarterly basis, of payments or purchase orders for goods and services of more than €20,000, or in the case of the HSE a threshold of €100,000, or in the case of commercial bodies, having regard to commercial sensitivities, details published by category with a total value of more than €20,000.
- **Governance Board Member remuneration** Non executive Governance Board Member remuneration for attendance at Board meetings, or work as a Board member (where applicable).
- **Funding/Sponsorship of non-public bodies** For funding by way of grants or sponsorship over a threshold of €10,000 per annum provide the name of each non-public body and amount provided on annual basis (Jan-Dec). This should be provided for 2016 and updated annually thereafter. This refers to public funds.

The requirement above relates to current information only beginning from date of publication of the FOI body's Scheme and in relation to funding/sponsorship amounts should be published in Jan 2017 Once the full year 2016 data is collated

E. Procurement

How we spend

Information relating to how we procure goods and services – current information beginning from date of publication of Scheme

FOI bodies should provide the following details in this section:

- **Procurement policies**
- **A link to all current tender competitions on the eTenders website** Details of current tender competitions over €10,000 for ICT and €25,000 for all other competitions are available on www.etenders.gov.ie
- **Public contracts awarded including contract type, contractor, value, award date,**

duration and brief description (tabular format) over €10k for ICT and over €25k for other contracts On a quarterly basis, details of public contracts awarded for values over €10,000 for ICT and €25,000 for all other contracts (exclusive of VAT) should be published including:

- ✓ Whether this is an award for a single contract or an award from a framework,
- ✓ Name of winning contractor and legal address,
- ✓ Value of the contract (exclusive of VAT),
- ✓ Type of Contract (works, supplies, services),
- ✓ Contract Award Date,
- ✓ Duration of contract in months,
- ✓ Brief description of contract.

This requirement does not extend to contracting entities operating under the Utilities Directive. In the case of those public bodies in line with this directive they should publish the advertisement on eTenders, including the indicative amount, the duration of the contract and the winner.

F. FOI Disclosure Log and Other Information to be Published Routinely

Other information

FOI bodies should publish the type of information listed below as appropriate, in addition to any other information that would provide information to the public. For example:-

- **FOI Disclosure Log** Details of the FOI disclosure log in relation to non-personal requests which have been handled by the body under FOI, as set out in the Code of Practice on FOI. CPU Notice 16 is relevant here and particular care needs to be taken to ensure that privacy rights are not infringed, that persons are not subject to commercial disadvantage through the inadvertent release of records and that exempt information is not published erroneously e.g. If a request was received in relation to state security issues a statement could be published in the log to say that a request was received pertaining to the security of the state and that the request was refused, thus ensuring accuracy in the log but not disclosing details.
- **Reports** e.g. Annual Reports, Reports on Expenditure Reviews, Policy Assessments, as appropriate. FOI bodies should publish such reports as soon as practicable.
- **Commercial publications and relative charges**
- **Information held by the body which is sought regularly**¹ Information which is held by the body and is sought on a regular basis. This does not include details which would be exempt under FOI. This information should be published proactively and at regular intervals and the timelines for its publication should be available also. This information will vary from body to body but *may* include:
 - Ministerial Diaries
 - Minutes of Management Meetings / Board Meetings
 - T&S, if any, for Governance Board Members
 - Information released under Access to Information on the Environment Regulations

¹ Such information should not include details which would be exempt under FOI

