



Department for
Constitutional Affairs

Freedom of Information

Annual report on bringing fully into force those
provisions of the Freedom of Information Act 2000
which are not yet fully in force

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Foreword

By Lord Falconer, Secretary of State, The Department for Constitutional Affairs



I am pleased to publish this report on bringing fully into force those provisions of the Freedom of Information Act 2000 which are not yet fully in force. I am particularly pleased to be doing this as the head of a new Department, the Department for

Constitutional Affairs. This new Department has a major responsibility in ensuring the well being of our institutions and the public's confidence in them. Freedom of Information forms a key element in this.

The Government is committed to bringing the Freedom of Information Act fully into force in January 2005. The Act presents a real opportunity for all public authorities to build trust and to make the process of government at every level more transparent and accountable, and for authorities at a local level to build closer links with the communities they serve.

With just over a year to go to full implementation this report details what action has been taken by my Department to bring the Act into force. It also details the actions taken by other departments as well as authorities across the whole of the public sector in preparation. Many authorities now have publication schemes in place and are putting into the public domain a far greater range of material than hitherto about the decisions they take.

A great deal of work is being done. Each organisation knows best its own business, its customers and the information it holds. It is therefore in the best position to plan how to use the Freedom of Information Act most effectively to meet its customers' needs and so build their trust and confidence. This report also provides information about what many different bodies have been doing: from the police service to local authorities alongside the health

and education sector. It provides a look forward to many of the projects that will assist all authorities with their preparations. In particular, my Department has together with the Information Commissioner's Office, under the guidance of a new Information Commissioner, Richard Thomas, developed a programme of work with five key strands. This comprises:

- a Communications and Awareness strategy;
- fostering and development of Networks;
- development and specification of IT management and monitoring systems;
- legislation programme;
- guidance on handling requests and applying the exemptions.

We have produced project plans setting out how this work will proceed and we are working up a model action plan to assist authorities in their preparations.

I hope that this substantial programme of work will give authorities the necessary set of tools with which to fashion their own approach to implementation. However, the major players in ensuring successful implementation will be the authorities themselves, who will need strong leadership and robust plans if they are to deliver the benefits of Freedom of Information.

A handwritten signature in black ink, appearing to read 'C Falconer'.

2 Major New Developments During the Year

2.1 Project Initiation Document.

The Department for Constitutional Affairs has established a project to link all areas of ongoing and new work in order to provide clear policy and implementation lead.

The Department decided to set up a formal project management structure in July 2003. The Project will run in two stages: the first from July 2003 until January 2005; and from January up to December of that year to enable evaluation of the early stages of implementation. In the course of 2005, a decision will be taken on the need for subsequent work to sustain the Act's momentum.

The Project sets out a timetable to ensure successful implementation. It aims to establish effective reporting systems to monitor that tasks are completed within the specified timescale. The Project comprises five strands of work as follows:

- **Communications and Awareness strategy**

Building on a series of seminars that the Department has already run, a communications strategy for raising awareness across central government and beyond, and stimulating the necessary cultural change, will be put in place. The Department is carrying out a customer needs analysis across the public sector in order to inform the priorities for successful implementation. A publicity campaign is also being planned to raise awareness.

- **Networks**

The Department will be fostering and developing networks of Freedom of Information practitioners (building on the existing Freedom of Information Practitioners Group), and encouraging the development of freedom of information work as a specialism in its own right. The aim is to provide a forum for discussion and resolution of common problems and development of common solutions.

- **Monitoring systems**

The Department will be analysing the work which has been done, both here and overseas in developing systems to assist organisations in monitoring and management of information requests. The intention is to develop a specification for an IT system to assist public authorities to process requests for information. This work will take account of the existing correspondence control systems in use; work currently in hand to develop Freedom of Information control systems; and the results of research into the systems in use in comparable jurisdictions overseas.

- **Legislation**

The Department will ensure that the Act is brought into force in an orderly manner, including undertaking the necessary work on fees and on the designation of private bodies as public authorities. Secondary legislation is required to keep the list of bodies covered by the Act up to date and to commence obligations under the Act. In parallel with this, there will be produced guidance on the designation of private bodies as public authorities for the purposes of the Act. The guidance on what authorities must do to meet their obligations under the Act, in the form of the Codes of Practice made under sections 45 and 46, will be revised. Regulations governing Fees under the Act will also be produced.

- **Guidance on Exemptions**

The Department will ensure a comprehensive range of guidance is produced concerning not only the handling of requests but also the way in which the various statutory exemptions should be applied. In order to make the best use of the resources available, and with a view to providing a coherent and co-ordinated set of guidance to practitioners, the Department has agreed with the Information Commissioner that there will be independent, but parallel, work on this area. In brief, the Department will take the lead in producing guidance on those exemptions which are of direct

relevance to central government (for example, National Security, International Relations, the Formulation and Development of Policy); the Information Commissioner will lead on exemptions which have more general relevance to the wider range of public authorities (for example, Audit Functions, Health and Safety and Environmental Information).

The Project Initiation Document was issued to members of the Senior Group on Information Policy, the Advisory Group on Freedom of Information and the Freedom of Information Implementation Practitioners' Group on 17 September 2003. The Document includes a business case and detailed analysis (including product descriptions and plans) of the five strands of work to be managed as sub-projects. The Document also includes a communication plan, details of reports and briefs to the Project team, Project Board, Senior Group on Information Policy and risk analysis. All deliverables will be approved by a Quality Assurance team, prior to submission to the Project Board. The Document will be placed in the library of both Houses of Parliament and also be published on the Department's website.

A Project Board is being established and will report to the Senior Group, though its reports will also be made available to the Advisory Group and the Practitioners' Group. The Project Team will consist of the Team leaders responsible for delivering each strand of work.

2.2 Increased coverage of public authorities under the Act.

Two orders have been made under section 4 of the Act to increase the number of bodies covered (as well as removing references to some bodies which no longer exist). Over 40 bodies were added to the Act's Schedule 1 including:

- the Disability Employment Advisory Committee;
- the Financial Services Authority;
- the Learning and Skills Council for England;
- the Office of Manpower Economics;
- the Northern Ireland Social Care Council.

The orders came into force in August 2003, and the majority of bodies will be required to have publication schemes in place by the end of February 2004.

2.3 New profile for the lead department

The lead Department for Freedom of Information has changed its name and acquired a new role. The Department for Constitutional Affairs will drive forward the reform and improvement of the justice system, and reform and safeguard the constitution so it serves the public effectively. The Department aims to increase the trust the public have in public authorities.

The new Department is a mainstream public service delivery Department, delivering a court and justice system which provides people with security that the system will fight crime effectively. It is charged with delivering the public's civil and political rights, including the right to a constitution that serves the needs of British citizens in the 21st century.

2.4 Approval by the Information Commissioner of Publication Schemes

The Information Commissioner has approved the publication schemes of all bodies in the first wave commencement (central government departments, non-departmental public bodies covered by the Code of Practice on Access to Government Information, Parliament and the National Assembly for Wales).

All local authority second wave bodies have had their publication schemes approved except for two local councils and a number of Port Health Authorities.

All third wave bodies have had their publication schemes approved (the police, prosecuting authorities and the armed forces).

Model publication schemes have been produced and approved for all sectors within the National Health Service other than special health authorities. Some representative bodies have, on behalf of independent practitioners, recently produced separate schemes to that of the NHS Project Board Model, although they are generally similar in nature.

Model schemes have been produced and approved for all sectors other than schools for Northern Ireland and Wales. The Welsh scheme is currently out for consultation with Welsh schools and the Northern Ireland scheme is being considered by the Information Commissioner's Office. The Commissioner's Office has sent out information packs to non-departmental public bodies highlighting their obligations and timescale for submitting a scheme. The Office has also written to 2,000 authorities highlighting the obligations of wholly publicly-owned companies to have an approved scheme.

2.5 The Hutton Inquiry

Over the summer the Government established the Hutton Inquiry. Lord Hutton's terms of reference are "urgently to conduct an investigation into the circumstances surrounding the death of Dr Kelly", and he has yet to report. The Department for Constitutional Affairs supplied the Secretariat for the Inquiry together with Press Office and clerical support as well as technical web support and content management.

On behalf of Lord Hutton, the Secretary to the Inquiry wrote to Parties seeking evidence. The letter quoted the terms of reference for the Inquiry, and sought disclosure of all relevant evidence. All evidence, with some exceptions and some editing of personal information, was published on the Inquiry website. There was considerable interest in the material both among the general public and in the media, the website receiving up to 30,000 hits per day.

More information on the Inquiry's work is in Section 3 of this Report.

2.6 The Code of Practice on Access to Government Information

The Code of Practice on Access to Government Information

The Code of Practice on Access to Government Information is the current information access regime for central government and various related non-departmental public bodies. The Code will continue in existence until the right of access under the Freedom of Information Act 2000 comes into force in January 2005. The Code is non-statutory, although the Parliamentary Commissioner for Administration has the power to investigate complaints referred through a Member of Parliament.

The Government has recently published its Monitoring Report on the Code for 2002 which show that there was a 11.6% increase on the number of Code requests recorded in 2001. This increase is welcome given that 2001 saw a 22% drop in the volume of recorded requests.

However, there was a drop in the number of requests answered within the 20 working day target for response, from 96.4% of requests in 2001 to 92.8% of requests in 2002. This is of some concern given that the Freedom of Information Act provides that requests be responded to as quickly as possible and not later than 20 working days. However, the overwhelming majority of Code requests are answered within the target timespan and many of the positive Freedom of Information benefits (such as in record management) have yet to reach full impact.

There was a rise in the number of refusals to disclose information, with 21.4% of recorded requests being refused in 2002 compared to 17.9% for 2001.

The Report also included the Memorandum of Understanding agreed between the Department for Constitutional Affairs, the Cabinet Office and the Parliamentary Commissioner. The Memorandum is designed to clarify understanding of the Parliamentary Commissioner's remit in investigating complaints.

2.7 National Assembly for Wales' Code of Practice on Public Access to Information

- 2.7.1 The National Assembly for Wales and its Assembly sponsored Public Bodies have had their own voluntary code of practice since 2001. The Code of Practice on Public Access to Information established an access to information regime which adopts much of the Freedom of Information Act and goes further by adopting a substantial harm test and shortening the time for responses to 15 working days. Although it is a voluntary code, complaints about access to information are dealt with by the Welsh Administration Ombudsman under the code.

3 Programmes and Plans to Assist Authorities to prepare for Freedom of Information

3.1 Project Plans

Project Plans are an excellent way to prepare for the implementation of such a wide-ranging piece of legislation as the Freedom of Information Act which has the potential to impact across the whole breadth of an authority's functions. Both the Department for Constitutional Affairs and the Information Commissioner's Office have established Project Plans whose aim is the successful implementation of the Freedom of Information Act. This will be achieved by managing the programme of implementing the Act and providing leadership and support to the wider public sector.

3.1.1 Department for Constitutional Affairs Project Plan

In late 2002 the Department conducted a review of the deliverable products under the Freedom of Information Act and identified that the project timelines were at risk. As a consequence, a formal project management structure has been put in place. The Project will run in two stages: first from July 2003 until the Act comes into force; and from then until December 2005 for evaluation and the early stages of Freedom of Information implementation. In the course of 2005 an early decision will be taken on the nature of the subsequent work needed to sustain the drive to greater openness.

The Project has prepared a timetable for the successful implementation of the Act. The Project aims to establish effective reporting systems to monitor that the tasks are completed within the specified timescale.

The Department will publish a Project Initiation Document including a business case, detailed analysis of five identified strands of work to be managed as sub-projects, a communication plan, details of reports to the Project Board and risk analysis.

The Project will work closely on interactions between bodies across Whitehall and the wider public sector through freedom of information networks, sub-groups producing guidance on exemptions, the Freedom of Information Practitioners Group, the Advisory Group on Implementation of the Freedom of Information Act and partnerships with other public and private sector organisations. In addition, the Project will involve close liaison with the Information Commissioner's Office and the National Archives on parallel or existing projects or initiatives, such as the guidance the National Archives are producing on Electronic Records Management.

The main benefits of the Project are that it will fulfil the Government's commitment that the Freedom of Information Act will be fully implemented by January 2005; that it will provide cost effective and efficient processing of requests and management of information by public authorities; and that in the long term, it will help to create better quality policy making and to increase confidence in the public sector.

The Project has identified a number of risks associated with successful implementation and taken steps to control these. The table on the next page illustrates this.

Risk	Control
The approach to FOI across Whitehall and the public sector will be fragmented and lacking in commitment.	The Department will engage Ministers and top management and also highlight the work of FOI officers.
The organisations across Whitehall and the public sector will be insufficiently prepared.	The Department will work in partnership with others through the Communications and Networks strands of the Project to tackle the shortfall of FOI experience.
Government Departments will be inconsistent in their monitoring and management of FOI requests.	The Department will work closely with the rest of central government in considering software and hardware solutions, the communications and networks strands will address issues on processing FOI requests and using the Internet to post summaries of responses to requests.
That there is slippage in preparation of the secondary legislation.	The timescales for preparation of secondary legislation will be closely monitored by the Project Board.
That the exemptions will be applied incorrectly.	The Department and the Information Commissioner will provide clear guidance on the exemptions. The Department, through the Communications and Networks strands of the Project, will ensure that training and learning opportunities on FOI are enhanced and officials are encouraged to complete all parts of the training appropriate to their level of responsibility.

3.1.2 Information Commissioner's Project Plan

The Information Commissioner's Project Plan addresses activities around those parts of the Act which are already in force, in particular the requirement to adopt and publish information according to publication schemes, and forward planning in particular the development of a casework system for 2005 and beyond.

The Commissioner will continue to approve publication schemes in accordance with the timetable established by the Government. The work comprises assistance to representative bodies in developing model schemes and the approval of these models and the bespoke schemes proposed by authorities such as central government departments for whom models are inappropriate.

From January 2005, the Commissioner will have a duty to consider complaints that public authorities have failed to comply with requests for information. Effective casework will be the key to success and the development of an electronic casework management system is therefore the focus of the Commissioner's preparations. Process mapping is underway and it is expected that the system will be available for user acceptance testing, piloting and training from March 2004.

There are four broad work streams developing the policy on the content of the casework system. These are:

- Work to understand the technical requirements of Part I of the Act (including fees, refusal notices and assistance to applicants) and to develop an approach to the statutory codes of practice envisaged by sections 45 and 46 of the Act.
- Work around the exemptions contained in Part II of the Act. This will involve extensive consultation with stakeholders and a programme of co-operative work with the Department for Constitutional Affairs.
- Development of the Commissioner's thinking around the public interest test.
- Clarification of the interface between the Freedom of Information Act and the Data Protection Act.

Policy development will be conducted primarily to equip the Commissioner to carry out casework from January 2005. However, as policy is developed and finalised, policy guidance for public authorities will be published. In addition, it is planned to publish other material (awareness guidance, a map of the lifecycle of requests for information and training materials) to assist authorities in their preparations for full implementation.

The Commissioner will consciously set out to build strategic relationships with other bodies, such as the Department for Constitutional Affairs, the National Archives, the Parliamentary Commissioner for Administration and the Scottish Information Commissioner, along with the major public authorities and their representative bodies and with likely users of rights under the Act. These contacts will inform the development of the Commissioner's policy and should support the promotion of the Act once fully in force.

3.2 Production of Guidance

Guidance is needed by public authorities on the exemptions from the right of access and on a variety of procedural matters under the Act. The Department for Constitutional Affairs has been working with the Information Commissioner to devise a method for producing this, and in general the Department will be concentrating on those exemptions of most relevance to central government and the Commissioner leading the work on guidance which will have broader application for all public authorities. For those topics on which the Department is in the lead, sub-groups of the cross Whitehall FOI Practitioners Group have been formed to produce the draft guidance. These sub-groups will also have a representative from the Information Commissioner's office as well as independent expert members, largely drawn from those serving on the Advisory Group on Implementation of the FOI Act (see Annex B).

It is intended that the guidance will be published on the Department's website chapter by chapter as it is completed, to give public authorities as much time as possible to become familiar with it. When the work on each section is completed the chapters will be drawn together into a comprehensive manual of guidance, with revision where necessary to ensure consistency and accurate cross-referencing. It is intended that the guidance will be most frequently accessed electronically in a web-based format.

During the course of the year, chapters on the exemptions for national security and commercial interests have been drafted and are nearing completion. Work has now started on drafting the guidance on the exemption for defence information and on the public interest test which applies to many of the Act's exemptions.

3.3 Model Action Plan

To assist public authorities with implementing the Act, the Department is producing a Model Action Plan on FOI implementation for use across the public sector. The plan will set out strategic aims in terms of leadership, training and awareness, information management, publications and communications, and systems to help ensure that feedback on the progress being made with implementation in the authority is received by those leading the work. The Model Action Plan will be published before the New Year.

3.4 IT Systems for Monitoring and Managing Requests for Information

The Freedom of Information Act does not have a requirement to keep data or produce statistics of the number or type of requests received. However, the code of practice under section 45 of the Act issued in 2002 made clear that for monitoring purposes public authorities should keep a record of all applications where either all or part of the requested information is withheld. This information will be needed in case the applicant is not satisfied with the authority's response to their request and complains to the Information Commissioner. Public authorities covered by the Act will also need to do some form of monitoring of the requests they receive to ensure they are being handled in a manner consistent with the requirements of the Act and to rectify any problems the monitoring highlights. The collation of data on freedom of information requests for central government will also be required by Ministers and Parliament to determine the effectiveness of the Act and how well it is operating.

The Department for Constitutional Affairs is examining how best to define what data should be collected for the purposes of reporting on the effectiveness of the Act and, for the purposes of monitoring, what a request under the Freedom of Information Act is. It is also looking at what the best systems are for monitoring requests, both for internal monitoring within central government departments, and monitoring of the overall effectiveness of the Act.

As part of this area of work, the Department has carried out research into what IT systems government departments have and plan to develop for handling correspondence and requests for information. It has also commissioned research into what IT systems are used in other jurisdictions with freedom of information legislation. Ways forward may include: a description of systems already available for use by departments which they could procure; development of a common specification of user requirements which the software supply market could respond to; or a decision to develop a product for use by departments.

3.5 Visit to Australia and New Zealand

Representatives of the Department for Constitutional Affairs visited Australia and New Zealand to examine the experience of two Westminster-style democracies that had operated Freedom of Information legislation for a significant number of years.

The objectives of the visit were:

- to identify problems, rubbing points and areas of organisational tension which made Freedom of Information less effective than it would otherwise be;
- to consider what implications these might have for the Department for Constitutional Affairs' implementation strategy for Freedom of Information in the United Kingdom; and
- to determine what longer term structures and systems would be most effective and economical in ensuring the long term success of Freedom of Information.

The conclusions of the visit were that freedom of information had improved and strengthened the decision taking process through greater accountability, that gains in public trust were discernible and that public participation in the process had increased. But there were four key risks which may either derail Freedom of Information during the implementation period or impair its effectiveness in the longer term. These are:

- cultural change takes time and sustained effort over many years to achieve;
- Freedom of Information can impact widely on an organisation, affecting not merely junior staff, but middle and senior managers – and on occasion demanding significant amounts of their time. Even (or particularly) an organisation which received only request per year could be seared by failing to locate all relevant information on the first attempt, or to appreciate the implications of a seemingly innocuous request;
- effective and properly resourced networks seem fundamental to success. On one level, they are necessary to ensure Freedom of Information officers do not get isolated or over-pressurised. From an organisational perspective, mutually supportive and efficient networks probably offer the most cost-effective means of achieving a co-ordinated and consistent approach, and of spreading knowledge and experience wide and fast; and
- in order to deliver its benefits, Freedom of Information needs care and maintenance. The challenge is so far as possible to create structures for producing and updating guidance, for providing central training resources, and for fostering expertise which will endure.

3.6 The Hutton Inquiry

On behalf of Lord Hutton, Lee Hughes, the Secretary to the Inquiry, wrote to the relevant parties seeking evidence. All evidence with only some exceptions and editing of personal information has been published on the Hutton Inquiry Website, which can be found at www.the-hutton-inquiry.org.uk.

The Hutton Inquiry Website was visited by 30,000 unique visitors a day. The site, which was created in less than a week, contains details of the Inquiry, including hearing dates, press notices, and biographical and contact details for the Inquiry Team. Throughout the Inquiry the site was updated frequently, providing immediate access to information, with documentary evidence heard in session being posted on the web within three hours. The website is clearly set out and easy to navigate. It avoids specialist terms and is accessible for the wider public.

The site makes available documentary evidence submitted by a range of different departments and people. For example, one can access and examine important documentary evidence including letters, minutes, e-mails, statements and transcripts from within Government, Parliament and the BBC.

4 Secondary Legislation

4.1 Section 4 Order

The largest group of public authorities to which the Freedom of Information Act 2000 applies are those bodies or offices which meet the conditions laid down in section 4 of the Act. These conditions are that:

- the body or office was established by the Crown prerogative, legislation, a Minister, a government department or the National Assembly for Wales; and that
- appointments to the office (or at least one appointment to the body) are made by the Crown, a Minister, a government department or the National Assembly for Wales.

Bodies or offices which meet these conditions are listed in Schedule 1 to the Act. This list is updated annually by Orders made under section 4 to add new bodies, and to remove references to bodies which have ceased to exist or ceased to meet either of the two criteria above. The Freedom of Information (Additional Public Authorities) Order 2003 (S.I. 2003/1882) and the Freedom of Information (Removal of References to Public Authorities) Order 2003 (S.I. 2003/1883) came into force on 11 August this year, adding 48 new public authorities, and removing 19 redundant references. The majority of these new public authorities fall within the fifth implementation wave, and will be required to have publication schemes in place by the end of February 2004.

The making of Orders under section 4 is an annual exercise to ensure that the coverage of the Act is kept accurate and up to date.

4.2 Fees Regulations

Sections 9, 12 and 13 of the Freedom of Information Act 2000 contain provisions enabling the Secretary of State to make fees regulations under the Act. These regulations will provide for fees which authorities may charge for dealing with a request for information. Draft fees regulations were prepared last year and these are being revised in the light of the discussions of a working group set up to review charging under the Act.

The working group comprises representatives from central government departments, other authorities covered by the Act as well as a couple of independent members from the Advisory Group on Implementation of the Act.

5 Review of Legislation Prohibiting the Disclosure of Information

The Government's review of legislation which prohibits the disclosure of information is ongoing. This review arises from the power given to the Secretary of State under section 75 of the Act to repeal or amend items of legislation passed prior to the Freedom of Information Act which would be capable of preventing disclosure under the general right of access in section 1.

Two reports have already been published on the Review and a third is in preparation. Currently some 391 separate items have been identified. Of these:

- 22 are listed for amendment;
- 2 have been amended;
- 14 are currently the subject of a consultation procedure with a view to their repeal or amendment;
- 59 are listed for repeal;
- 16 have been repealed;
- 147 will be retained;
- 70 remain under review; and
- 61 were wrongly identified as statutory prohibitions on disclosure in previous reports.

Of those to be retained:

- 24 protect information gathered under compulsion;
- 54 apply to bodies not covered by the Freedom of Information Act;
- 23 apply only to specified information and provide for a limited access regime; and
- 46 implement an international obligation.

6 Progress Towards Implementation

6.1 Report on the progress made by public authorities covered in the first waves of implementation of the Act.

In November last year the first waves of the publication scheme provisions of the Act came into force. This section reports on the publication schemes that have been introduced in the past year by those public authorities which were included in the first wave of the Act's implementation. These include central government departments, both Houses of Parliament, the National Assembly for Wales and non-departmental public bodies (NDPBs) covered by the Code of Practice on Access to Government Information. All these organisations have produced publication schemes which list the classes of information that they have made publicly available.

6.1.2 Central Government and NDPBs subject to the Code of Practice on Access to Government Information – Structures in Government

Overall responsibility for implementation of the Freedom of Information Act rests with the Secretary of State for the Department for Constitutional Affairs, the department with lead responsibility for the legislation. Two interdepartmental groups of officials continue to provide advice to central government on implementation of the Act. The Senior Group on Information Policy consists of those senior officials from across Whitehall, and the devolved administrations, who have responsibility for implementing freedom of information and data protection legislation in their organisation. The remit of the group extends to overseeing policy on privacy and data sharing issues, as well as proposed records and archives legislation.

This continuing involvement at senior level helps not only to ensure that implementation is taken seriously within departments, but also ensures a strategic and co-

ordinated approach to related issues across government. The Senior Group is supported by the Practitioner's Group on Freedom of Information. It consists of officials with knowledge and practical experience of dealing with open government issues and implementing freedom of information within their own departments. The Practitioners' Group deals with common issues relating to the implementation of the legislation and is a useful forum for sharing good practice and ensuring consistency in approach across central government. This has been of particular value in the preparation of departments' publication schemes.

The Practitioners' Group also serves as the vehicle through which the Department for Constitutional Affairs asks for reports on the progress made by departments in implementing freedom of information within their organisations. For this report, departments were asked to comment on the progress made across a range of areas, and illustrative extracts are provided in the sections below. Departments were also asked to provide an assurance that the non-departmental public bodies which they sponsor are aware of their own responsibilities and are on track to meet their publication scheme commitments.

In addition to the two groups of officials, the Secretary of State is also assisted by the Advisory Group on Implementation. This group, the formation of which was announced in the 2001 report, is made up of public sector representatives and independent experts. It advises the Secretary of State on the best practice to adopt and disseminate to public authorities in implementing the Act. Full details of the work of the Advisory Group over the last year appear in Annex B of this report.

6.2 Progress Report – Cultural Change, Training and Awareness

The Act will change the way public authorities conduct business, making them more transparent and therefore accountable. It will initiate a cultural change within public authorities whereby instead of everything being considered secret unless otherwise stated, information is to be regarded as public unless it falls under a specified class of exemption. Some departments are already showing early signs of such a culture change taking root.

A majority of departments have begun the first stages of their training programmes, offering a variety of training to senior management and staff involved in record management.

In addition to raising general awareness amongst employees, many departments are embarking on a training needs analysis to examine precisely what training will be required by different groups of staff. Some departments and non-departmental bodies have already produced detailed training plans for their staff. Departments are confident that by 2005 all staff will have received some type of Freedom of Information training.

Ministry of Defence: Awareness Campaign

A pan-MoD awareness campaign is underway. This is aimed at making staff aware of the main provisions of the Act and some of the preparatory activities (such as an Information Audit) that are in train. The leaflet that has been made available for general distribution is accessible and informative. In addition to this, articles have been published in departmental journals and these will continue in the run-up to 2005. A series of posters and a FOI wall calendar (for 2004) are also planned. Presentations about the Act have been delivered to a wide range of staff and some areas are now including background briefing material in the induction training for new staff. Arrangements are also being made for a seminar at senior management level.

Looking beyond this awareness-raising stage, a training needs analysis is being carried out in conjunction with the in-house training organisation. The intention is to examine precisely what training will be required by different groups of staff. For many, the MoD believes that general awareness is likely to be all that is needed, but for those staff who deal regularly with requests for information or have responsibility for overseeing the release of information or for authorising the use of an exemption to refuse information, there is a need for a greater depth of understanding. It is planned to use a mixture of delivery routes including interactive learning, seminars and courses to deliver training across the department.

During 2004 the MoD intends to have a period of 'shadow running' in order to test the procedures, support systems, and guidance in the form in which they are then available. The intention is to use this as an opportunity to test the current understanding of staff, learn from their experience of using the prototype procedures, systems and guidance and then make refinements and (if necessary) provide further training prior to January 2005.

Department for Constitutional Affairs: Training and Awareness

Over 600 members of staff have attended an awareness event. This represents over 50% of the total number of staff within DCA headquarters. In order to reach staff based in the courts, the DCA have arranged events on Data Protection and Freedom of Information which have been presented to Group and Circuit Managers. With the exception of South Eastern circuit, the department have visited each circuit. The Department's induction training includes 'good information handling', which explains about records management and obligations under the FOI Act, Data Protection Act and the Open Government Code.

The DCA's more formal awareness events consist of a 20-minute PowerPoint presentation, followed by time for questions and answers. The department has given presentations to individual branches, units and divisions which has ensured that the presentations are tailored to the specific work areas of the audience.

By Autumn 2004 the DCA will have in place an Access to Information Unit which will be the Department's centre of expertise in FOI procedures and the use of FOI exemptions. The Access to Information Unit will be responsible for monitoring the department's compliance with the FOI Act and its staff will require very different, more intensive training than other front-line staff. The DCA has a training strategy in place and intends to train 'FOI' staff, i.e. those who will oversee compliance with the Act, in September 2004 and to train 'front line' staff, i.e. those who have direct dealings with customers, from October through to December 2004.

By Autumn 2004 the department will have produced user-friendly guidance material on all aspects of FOI for all staff.

Home Office: Training Plan

The Home Office has drafted an outline training strategy. Stage one is ongoing and consists of a sixty minute awareness raising session targeted at a universal audience. The content will include a PowerPoint presentation and a discussion. The aim of the session is to give participants a broad awareness of the existence of the legislation and a need to think about FOI.

Stage two is anticipated to take place from September to December 2004 and will be targeted at middle management and below. It will involve a two and a half hour session and the content will be both theoretical and practical. The format will be a talk with slides and handouts as well as discussion and syndicate work. The main issues that will be covered include: the details of the Act, rights and exemptions, procedures, support mechanisms and case studies. The purpose is to enable staff to recognise and handle requests for information in accordance with the Act and to recognise when to seek advice.

Stage three is due to occur in November and December 2004. Half day specialist seminars will take place for senior staff. These seminars will focus on higher level implications of FOI and how the department responds, with emphasis on legal aspects and strategic thinking. The purpose is to create a pool of overarching expertise in senior management in order to manage the wider implications of FOI.

Department of Health: Training and Awareness

A regular monthly programme of specific FOI Awareness Training Sessions is being rolled-out across the whole Department starting in Autumn 2003. The events have been designed to use drama and case studies to bring FOI issues alive for staff. Other awareness, training and related activities undertaken include:

- open presentations on Freedom of Information and Data Protection, attended by over 300 staff;
- workshops with executive agencies, non departmental public bodies and sponsor branches;
- a lead article in the monthly staff newspaper;
- items in the NHS Chief Executive and Permanent Secretary's bulletin to all staff;
- briefings for Corporate Development Team representatives, focused specifically on publication schemes;
- inclusion of an integrated presentation covering Freedom of Information, data protection and records management in induction programme for all newly recruited staff; and
- inclusion of Freedom of Information awareness in presentations and training given to all staff in connection with implementation of electronic records management (covering over 2,800 staff to date, with plans to cover all staff by December 2003).

Northern Ireland: Training and Awareness

As many of the training needs identified are similar across the Northern Ireland Civil Service (NICS) the Interdepartmental Practitioners Group have developed a draft NICS wide training strategy, endorsed by the Senior Group on Freedom of Information and Data Protection. The strategy includes specifications for the following identified training requirements: advanced decision making training (including the application of exemptions) to all Departmental Information Managers and Senior Staff who will have a role in the review and appeal procedures; decision making and application of exemptions training to Local Information Managers; review of existing training courses; training for trainers; and basic awareness training to all other staff.

Department for Education and Skills: Cultural Change/Training and Awareness

Over the last 18 months the DfES have raised awareness by a series of presentations, seminars, tray-drops and guidance. Its presentations have been mainly targeted at key stakeholders such as internal audit, the Public Enquiry Unit, Legal Advisers and Procurement Unit, but the department has also responded to invitations to present to Divisional meetings and to its non-departmental public bodies. Presentations have varied in time and content depending on the target audience, more general ones have been around 45 minutes, those to senior management about 20 minutes and concentrating on high level background and impact. In addition, in November and December last year, 6 awareness presentations were carried out at each Departmental site and were open to all staff. They were very well-attended. In June, leaflets on FOI and on DP were issued to all staff in a Staying Ahead pack.

The DfES conducted a survey of the level of awareness of staff about Freedom of Information, Data Protection and Records Management and, based on the results, those teams which require more information are being contacted. The DfES is planning to step up its training with an Openness and Accountability publicity campaign running to 2005 and beyond which will bring together the related areas of Records Management, Data Protection and Freedom of Information and stressing the message that the department needs to change its attitude to the control, sharing and storing of information in order to respond effectively to the legitimate demands of the public. There will be general messages about procedures and ways of working as well as messages targeted specifically at team leaders and senior officers.

In addition, the department will have site-based open day events in November and December this year and a redesigned intranet site with role-based targeting of information, e.g. for Project managers, helpful tools such as generic risks checks and associated issues for their projects and DIY health checks for Team leaders to carry out.

Department for Constitutional Affairs: Cultural Change

The DCA, and its Ministers, are firmly committed to bringing about the necessary cultural change within public authorities. The Department has raised awareness of the requirements of the Act through roadshows, created and developed networks, and will assist with training and provide model action plans for implementation across all departments. The Department will also assist public authorities and IT suppliers in developing systems for managing records and for managing requests for information.

As the Department responsible for leading the implementation of the Freedom of Information Act, the DCA will lead by example in promoting a change of culture from secrecy to openness. It is doing this in a number of ways:

- DCA Ministers are personally committed to the culture change. Lord Filkin, the Minister with responsibility for Freedom of Information, will front a number of events for staff, as well as address them through the Department's in-house magazine.
- The brief for the FOI Implementation Project proposes that the project consider how the format of written work (minutes, submissions, reports etc) could be altered in order to facilitate the pro-active disclosure of information as a matter of course.
- The DCA has begun to embrace the changes in the way in which it works. It has run awareness seminars in Headquarters, and at other offices throughout the country, so that those who contribute to decisions taken by the Department have become aware of their obligations under the Freedom of Information legislation. It routinely publishes consultation papers and impact assessments. Much more information is published on the web than ever before.
- The DCA have already changed some business practices as a result of adopting a publication scheme. The publication scheme has opened up the internal workings of the Department to public scrutiny. For example, summary minutes of the Corporate Board meetings and internal guidance to staff on how to draft answers to Parliamentary Questions, answers to letters from Members of Parliament and speeches for Ministers are available through the Publication Scheme.

6.3 Organisational Responsibilities, Structures and Planning

Departments have begun establishing organisational structures for them to be able to co-ordinate implementation of the Act effectively and to enable them to deal with requests for information in an efficient way when, in January 2005, the right of access comes into force.

Since last year several more departments have successfully transformed their internal structures in order to prepare themselves for the changes that this Act will involve. In

many departments, responsibility for freedom of information has been brought together with related areas such as records management and data protection. In some cases a senior official has taken overall responsibility of all related information management issues.

A number of departments, including those which sponsor a good many non-departmental public bodies (NDPBs) have recognised the importance of establishing networks. The purpose of these networks is to ensure that there is co-ordination and create an arrangement whereby requests for information are dealt with efficiently and effectively.

Foreign and Commonwealth Office: Structures (Networks)

At the Foreign and Commonwealth Office, the Steering Group for the implementation of Data Protection and Freedom of Information exists to cascade information about FOI implementation across the Department and to NDPBs. In addition the Open Government Section of Records and Historical Development (RHD), which takes lead responsibility for FOI, maintains links with officials responsible for FOI within the FCO's NDPBs and will be organising seminars with them in the run up to 2005.

The FCO has a network of Open Government Liaison Officers (OGLOs) covering each FCO department and each overseas post. They act as the first point of contact on FOI issues and are offered specialised training. An Intranet Discussion Group and a programme of events is being established to support the OGLO network.

Home Office: Structure (Networks)

For some time, the Home Office has maintained an information access practitioners group. This comprises a representative from each directorate and agency. This is being reinforced with identification of senior level FOI champions. These will support Directors, Directors-General and Heads of Agencies taking forward the work of implementation. This is driven and co-ordinated by Records Management Services (RMS). RMS also provides an advisory and information resource, available to all staff. While this will remain, the Home Office intends to further raise levels of expertise among the networks and encourage self-reliance. NDPBs are advised and assisted through their sponsoring units, which are in turn represented in these networks

Department for Transport: Structures

In the past year a number of organisational changes have been made to deliver FOI in the Department for Transport (DfT). These centre on the establishment of the Department's own Project Board – chaired by the Department's Legal Director and with broad representation across the DfT family – and the recent creation of a new Corporate Secretariat Division, whose responsibilities will include delivery of the FOI project and working as the Department's central FOI nerve centre once the Act is implemented.

National Archives: Organisational Responsibility/Networks

The National Archives has undergone significant internal restructuring.¹ In February 2003, the FOI Project Board, which had been in place since 2001, became a Programme Board. It oversees two separate Project Boards. Each project board has lead responsibility for project products falling within the divisional remit they represent (Public Services, and Government and Archiving Services). Corporate products, such as records management, training and the publication scheme remain with the Project Manager, reporting directly to the Programme Board. The Historical Manuscripts Commission Director joined the Board earlier this year and it covers implementation across the National Archives.

Implementation of FOI is led by Information Management and Legislation Unit (IMLU) which sits within Central Management Department, the head of which reports direct to the chief executive. Since April 2003 the records manager and staff have been part of IMLU, thereby bringing together into one unit responsibility for information management and access issues.

An Open Government/Data Protection/FOI Link Group has existed for a couple of years. It brings together representatives of departments around National Archives to discuss issues of common concern. These representatives take the lead locally on Open Government, Data Protection and Freedom of Information matters and will be the local co-ordinators in the handling of FOI requests for corporate information. They will be the National Archives FOI network with IMLU providing the secretariat.

6.4 Administrative Procedures

It is important that departments have appropriate administrative procedures in place to deal with all requests within 20 working days of receipt and are able to meet publication scheme obligations.

Departments need to ensure that they have the capacity to publish information promptly if it falls into one of the specified classes included in their publication scheme. Many departments have established mechanisms to trigger the publication of information in cases where this material was previously unpublished. Some departments have developed or are in the process of developing content management systems.

Depending on their own unique needs, departments have been putting in place the appropriate structures that are necessary for dealing with requests. It has suited some departments to have a more decentralised system whereby requests are dealt with at the local level, whilst others prefer a more centralised approach.

Whichever structure departments adopt for processing requests, it is crucial that they are capable of tracking the progress of the handling of a request. Many departments have already established arrangements for doing so.

Department of Health: Monitoring

The Department of Health's FOI Unit monitors the commitments to publish made in the publication scheme with help from the Corporate Information Management and Web Development team. The Department is well advanced in implementing a content management system for managing internal material. This system will be used to prompt both teams that material is due for publication. This prompt will be forwarded to the person responsible for the class of information for action.

Exemptions claimed will be cleared in advance with the FOI Unit either specifically or generically in cases where a particular exemption might be similarly applied to all documents in a class of information.

Since FOI requests could be received at any point within the Department, the Department has continued with the process of developing a major infrastructural correspondence management system that will allow all staff to log information requests on receipt and record progress in responding to them. The system will help to ensure that responses are provided within the time limit, and will provide a fast track channel for referring complex cases to the FOI Unit and, if necessary, to lawyers. A request log to identify items regularly requested will be included as soon as practicable.

¹ The Public Record Office and Historical Manuscripts Commission have for most operational purposes functioned as a single entity, the National Archives, since their coming together in April 2003.

Development of the system has progressed steadily via:

- an initial scoping study to consider the suitability of the new Ministerial Correspondence System for the handling of Freedom of Information within the DH.
- a full business case with the following objectives:
 - facilitate provision of a comprehensive and efficient correspondence handling service that includes FOI cases;
 - ensure DH can meet FOI and Data Protection targets without diminishing performance in respect of correspondence handling;
 - provide reliable and integrated complaints handling system;
 - improve the speed of notification/transmission of letters for FOI cases between staff responsible for answering correspondence;
 - facilitate the workflow and the tracking of correspondence and FOI cases;
 - provide direct access to statistics and performance reports to meet the Central Government Monitoring Requirements, including those of the Department for Constitutional Affairs and the Information Commissioner;
 - improve the quality of the data available for statistical and management reporting;
 - enable ad-hoc queries to be made quickly by DH staff, in response to FOI complaints;
 - facilitate performance monitoring and management by managers in the Department;
- workshops for key staff to determine requirements across the Department; and
- a prototype system (now under development).

Department for Education and Skills: Administrative Procedures

The Department for Education and Skills intends to maintain the current decentralised system for dealing with enquires and requests for information whereby policy teams in divisions deal with enquires relating to their own area. The majority of enquires are routed through the Public Enquiry Unit and sent to the relevant team via the Department's Correspondence Handling System which records history and audit trail of the enquiry and response times.

Policy teams are to be responsible for both creation and disclosure of information. The DfES anticipates that only in cases where consideration is being given to withholding information is the Information Service Divisions Records and Information Openness Team contacted for expert advice.

Department for Constitutional Affairs: Administrative Procedures/Monitoring

In the Department for Constitutional Affairs, the Corporate Correspondence Unit receives requests made under the publication scheme and contacts the relevant action officer within the Department who then deals with the request, disclosing the relevant information. There are only two classes of information described in the department's publication scheme in such a way as to permit withholding exempt information. It will be up to the individual business area holding the information in question to determine what information is exempt.

The DCA expects that requests for information will be filtered through existing channels, i.e., either via the Corporate Correspondence Unit or direct to individual members of staff. Individual Action Officers will deal with simple requests (those that do not require a charge or where information will not be refused, for example). There will be an Access to Information Unit in place, which will provide a centre of expertise in respect of all access regimes. The Unit will be consulted when requests are more complex, e.g., a charge is to be made or exemptions to be invoked.

The DCA has expanded upon existing arrangements for dealing with Code requests in order to plan effective and efficient procedures for dealing with information requests. Code requests and Subject Access requests are monitored by the Access to Information Unit. The Unit also advises staff, senior management and Ministers on compliance with the Code (including refusals given in PQs) and the Data Protection Act.

Most new publications are published on the department's website. In order to ensure that the publication scheme can be broadened to include new classes of information, the web team contacts the FOI team as soon as any new publication is added to the website. New information is to be added to the scheme as part of the forthcoming review of the Publication Scheme. As part of the review, the DCA shall be looking to establish a network of divisional contacts as an additional way of keeping up to date on new publications.

Office of the Deputy Prime Minister: Administrative Procedures

In the Office of the Deputy Prime Minister, FOI handling procedures are being developed as part of the implementation project. A central enquiry team will deal with straightforward enquires, with the more complex enquires being dealt with in each policy or business area. It is planned to create a central advice team within Information Management Division which will liaise closely with the Department's legal team to provide detailed advice on handling requests and use of the exemptions in the Act.

6.5 Publication Schemes

Sections 19 and 20 of the Freedom of Information Act require each public authority to adopt and maintain a Publication Scheme. A Publication Scheme will specify the classes of information that the authority publishes or intends to publish; the form in which this is or will be done; and whether there is any charge for the information. Each scheme must be approved by the Information Commissioner.

The Information Commissioner's guidance concerning publication schemes states that a wide variety of information should be available:

'Public bodies should not restrict the content of their publication schemes to information about the services they provide. They should also include information about their own internal structures, at least in outline, how their decision-making processes work and how key appointments are made. This will help the public understand how decisions are taken and will help to demonstrate that the public body has discharged its obligation under section 19(3)(b).'

Many authorities including the Home Office, Department for Education and Skills and the Department for Constitutional Affairs have acted upon this guidance providing detailed information with regard to their own department in addition to the services that they provide.

Department for Education and Skills: Classes of Information

In line with the guidance produced by the Information Commissioner, the DfES Publication Scheme groups information into the following five classes:

- Customer relations
- Policies and policy development
- Inside the Department
- Grants and Loans
- Working with others

The publication scheme encompasses a wide variety of information on various different aspects of the department. The customer relations class provides internal guidance on interaction with the public. The class labelled policies and policy development gives access to information showing how the Department develops major policy decisions, and the legal framework in which it works. The 'inside the department' class provides access to information in relation to the DfES's role, function and management. The class entitled grants and loans shows the wide range of initiatives and financial support programmes that the Department makes available and 'working with others' lists the organisations and people that the Department works with to achieve its objectives.

There is a vast amount of information included within each of the above classes. For example, the web version of the publication scheme links from policies and policy development to six categories of information including consultations, keynote speeches, press notices, research, the department's publications and 'delivering results – our strategy to 2006'. The hyperlink for each of these groups leads to a page which informs the user where the relevant information can be found, either linking to another website or detailing where it can be obtained in hard copy.

Several departments have committed themselves to creating a 'culture of openness' demonstrated by their meeting the challenge of making public information that was previously unavailable.

Department for Constitutional Affairs: Publications

The Department for Constitutional Affairs (DCA) included several examples of previously unpublished material in its publication scheme, including agendas and summaries of Corporate Board meetings, Office Notices, record retention and disposal schedules and internal guidance.

Department for Work and Pensions: Publications

In the human resources and guidance manual classes, there are a range of documents included in the Publication Scheme that were not previously published but which are now available. These documents are in the areas of diversity and equality; recruitment; pay and conditions of service; and data protection. Additionally, the current review of the Publication Scheme suggests that there may be as many as 60 new documents to be added.

Department for Environment, Food and Rural Affairs

The Department for Environment, Food and Rural Affairs publication scheme includes, agendas and summaries of minutes of Management Board meetings, complaints procedures and papers underpinning the science and innovation strategy.

Planned further additions include:

- ministerial decisions: facts and analysis relating to major policy proposals and decisions;
- Science Advisory Council – agendas and summaries of meetings;
- intellectual property rights;
- animal experimentation;
- Human Resources strategy, Staff Handbook, pay ranges and grades; and
- annual statement of health and safety performance.

Foreign and Commonwealth Office: Publication Scheme

Since the introduction of the Publication Scheme a summary of the minutes of the monthly meeting of the FCO Board has been published.

The FCO also produces a quarterly list of new releases from the retained archive. Since 1992, the FCO has been reviewing the whole of its withheld archive as part of its commitment to Open Government. The quarterly list contains details of the previously retained papers released to the National Archives.

The FCO has taken steps to promote its publication scheme. The Freedom of Information Section of the FCO website is featured prominently on the home page and the publication scheme is easily accessible via this site. An information leaflet about the Scheme has been produced and distributed in public areas of the FCO in London, to members of the public attending FCO Open Days and to all staff attending the FCO's FOI/DP Awareness Course. A wider and systematic distribution will start later this year when the Publication Scheme leaflet and a new Access to Information leaflet are distributed to all FCO departments and overseas posts as part of an ongoing FOI awareness campaign. Wider dissemination to the public might be achieved by routinely including a copy of the Publication Scheme leaflet with all replies to requests for information under the Code of Practice. The FCO is currently assessing the feasibility of this with a view to implementation later this year.

In order that authorities can provide the most up-to-date and informative publication schemes, the Information Commissioner advises that '... it would be good practice for authorities to keep a log of requests made for information which is not included in their publication

schemes and to consider adding the class of information into which it falls as a new class to be covered by the scheme. The log itself could also fall into a class for publication under the scheme.' Public bodies are under a duty to keep their publication schemes under review.

Foreign and Commonwealth Office: Review of Publication Schemes

In the FCO, responsibility for FOI sits with the Open Government Section of Records and Historical Development (RHD). RHD is about to trial a database (developed in-house) that will keep track of all Data Protection, Code of Practice, EIR and FOI requests. This will be accessible to all Open Government Liaison Officers by 2005, enabling central record to be kept of all requests received in the FCO. This database will show any frequently requested information and this will be considered by Open Government Section for publication through the Publication Scheme.

The FCO has put structures in place so that it can keep its publication scheme under review. It has a Publication Scheme officer who reviews the Scheme every three months to check that factual information and contact details are still correct. Classes of information are also kept under review on a regular basis. Centrally managed Code of Practice requests are assessed to identify trends and type of information requested with a view to including categories of information for which there appears to be new demand. In addition, the FCO Bulletin Board is used to remind staff to consider whether any new classes of information or previously unpublished information should be included. A regular six monthly review, reminder and monitoring exercise across the Office will start in November.

Department of Health: Review of Publication Schemes

Following approval by the Information Commissioner of the Department's publication scheme in November 2002, the Department is continually seeking new material to add to its scheme which is under constant review. Secretaries of DH Committees and Sub-Committees have been approached with a view to summaries of their minutes being added to the Scheme. A new class of information has been added covering the Code of Practice to Government Information and new items are sought on a regular basis across the whole Department.

Questions and requests to the Customer Service Centre are monitored to identify information that should be included in the scheme.

The scheme will also make available a wider selection of internal guidance, papers and minutes of meetings not previously published including the Permanent Secretary's monthly bulletins to staff and NHS Chief Executives.

Office of the Deputy Prime Minister: Review of Publication Schemes

The policy of the Office of the Deputy Prime Minister (ODPM) will be to keep the Scheme under ongoing review and the Department intends to establish supporting procedures to further this policy. In this way the ODPM aims to ensure that consideration is given to the pro-active publication of appropriate information whenever new policies or initiatives are being launched. It is intended that this will become standard office procedure. Similarly, consideration will be given to publication in the light of individual requests. The ODPM Scheme will then be updated periodically to reflect the availability of information, with new classes being notified to the Commissioner as a matter of course. Detailed processes and procedures to support these aims will be worked up through the FOI Project by the end of 2003.

Departments are encouraged to be proactive and put structures in place that will trigger the publication of information. Some departments have already created a system to achieve this, although it will take time for all departments to make similar arrangements.

NI Department for Employment and Learning: Triggering the Publication of Information

In the Department for Employment and Learning, Local Information Managers act as the trigger for publication of information, as does the annual review process for the Publication Scheme. A recent modification to the DEL internet website has resulted in all information published on the site being linked to the Publication Scheme by the appropriate class, the process is monitored by the Information Management Branch. An evaluation exercise is to be undertaken six months following implementation of the new website arrangements.

NI Department of Health, Social Services and Public Safety: Triggering the Publication of Information

The Department of Health, Social Services and Public Safety aims to proactively make as much information as possible available to the public in electronic format via the Departmental Internet site. This is done through the publication scheme section of the Internet site. Documents are placed on the website by the Department's Information Office and IT Group and must include details of the group and class of information the document belongs to, a date for publication, a date for disposal and details of the appropriate Records Liaison Officer to whom requests can be directed. These details are also provided to Records Administration and Business Support Branch to ensure that the clerical copy of the publication schemes is kept up to date and synchronized with the electronic version.

Many departments have made their publication schemes readily available on the internet. This has enabled the public to have easy access to the vast amount of information that is being included in Publication Schemes. The Department for International Development's Publication Scheme has received over 26,720 hits since its inception. The MoD's Publication Scheme has received approximately

71,600 hits. From December 2002 to the end of July 2003 the Department for Work and Pensions Publication Scheme received about 850 hits a month. This makes the Publication Scheme one of the most viewed areas on the DWP website. During the month of July 2003 alone, the publication section of the Cabinet Office internet site received 4,956 hits, averaging 159 hits per day.

6.6 Records Management

The Modernising Government White Paper sets a target of 2004 for government departments and agencies to manage their records electronically. Many departments are consequently reviewing their records management procedures both to meet this requirement and to ensure that procedures meet the requirements laid down in the code of practice on records management made under section 46 of the Freedom of Information Act. The Department of Trade and Industry was the first to successfully meet the target. Departments have appointed a Minister with specific responsibility for Electronic Document and Record Management Systems (EDRMS).

The National Archives monitors progress towards the 2004 target by departments and agencies on behalf of the Secretary of State for the Department of Constitutional Affairs. The most recent assessment indicated that the majority of larger departments were on schedule to meet the 2004 target with most of the remainder to complete the following financial year. There had also been good progress amongst the smaller agencies and departments. As most current records are created electronically, the ability to manage them is fundamental for departments to effectively carry out their duties under FOI as well as modernising their service delivery and policy making.

Northern Ireland: Record Management

The Office of the First Minister and Deputy First Minister is leading a project to develop a corporate approach to the procurement of Electronic Document and Records Management Systems. An advert has been placed in the Official Journal of the European Communities to procure a framework of products for NI public authorities listed in parts 1-5 of Schedule 1 of the Freedom of Information Act 2000.

The driving force for the project is the modernisation of records management within the Northern Ireland Civil Service (NICS) to deliver effective Information Management across the service and to assist with the provision of information under the Freedom of Information Act.

The NICS procurement exercise will ask suppliers to identify in their proposals the specific features of their system which will facilitate FOI compliance. These are expected to include document imaging, rapid retrieval and transmission of documents, structured storage and archiving.

Three departments are due to commence implementation projects in January 2004. The lessons learned from these implementations will be documented and provided to all other departments for use in their subsequent implementation projects

Department of Health: Record Management

The Department of Health plans to sustain promotion of good practice in records management as part of its support for the Freedom of Information and Data Protection Acts. The principal tasks in the year ahead are the continuing roll out of electronic records management facilities to all staff, monitoring and collecting further information for the publication scheme, and preparation of infrastructure support for the FOI access regime. A key part of the awareness approach will be to develop local good practice in retention, management and disposal of records, in conjunction with complementary guidance on email and network housekeeping.

A review of records management services was carried out in 1999/2000 and identified a need:

- to improve integration of records management advice and guidance with support for data protection and ultimately freedom of information;
- to make better use of electronic facilities to support records management audit work;
- to upgrade existing basic training to include a records management element in induction training for all staff, and training on reviewing and retention management;
- to review and upgrade the package of guidance available on the Department of Health intranet.

Work is proceeding to implement these recommendations.

The Department of Health is on course to meet the 2004 target, having now started a full roll-out after delivering the EDRMS facilities to about 2800 volunteer users over the last three years. In support of FOI compliance, the EDRMS will provide for the first time central access to filelists for both paper and electronic records of all business units, to complement the full index already established for the Department's filestore.

Land Registry: Record Management

In the Land Registry the EDRMS project will be piloted and rolled-out during 2004. Extensive training will be provided to all staff. Records management will be included in the induction process given to all new entrants. The EDRMS has a separate Intranet site. This describes how the System will affect staff in terms of desktop, scanning and casework. FAQ's are being compiled to help staff understand the processes and procedures. EDRMS training will not be divorced from FOI training.

Department for International Development: Record Management

The Department for International Development has conducted an inventory of electronic records to provide the analysis and stock taking needed to introduce QUEST, DFID's forthcoming EDRMS.

The Department's plans to introduce an EDRMS are well advanced and it expects to meet the 2004 target. The Knowledge and Communications Committee has endorsed a 'building block' approach to implementation (i.e. establishing a robust EDRMS which meets DFID's need to share information, but allows additional features to be incorporated at a later stage – e.g. workflow, portals/personalisation, auto classification and intelligent retrieval).

Awareness of QUEST is seen as an important prerequisite to effective implementation. To date awareness has been raised through targeted presentations at senior management and departmental level and through DFID's intranet. Clear guidelines and good practice are seen to be key: the Department is about to expand existing information handling guidelines into an Information Management Policy for all staff, supported by new task-focused (rather than system-focused) training provision.

Ministry of Defence: Records Management

In the Ministry of Defence a project is underway to procure, configure and rollout an EDRMS. A pilot scheme has begun to look at configuration and use issues. The FOI policy branch is a part of this pilot and this will allow the MoD to provide input on the interface between EDRMS and FOI. The system will be deployed within the Head Office as part of the Department's reoccupation of its main Whitehall Building in Summer 2004 and it will become available to the rest of the MoD in a similar timescale.

The FOI toolkit will make use of the facilities of EDRMS as they become available and mature. The major features of use are expected to be the ability to maintain an audit trail of records and use of metadata to track information that has been released under the FOI Act.

Department for Constitutional Affairs: Record Management

The Department of Constitutional Affairs has comprehensive plans in place to implement EDRMS. The DCA in conjunction with its PFI partners Liberata has selected TRIM Context as the software and is currently negotiating with Liberata the final costs for implementation. This should result in the first division within the Department receiving EDRMS in March 2004 following the implementation of the necessary hardware and network upgrade.

As EDRM requires not only front-end software for the user but also a repository in which to store the data, much investigation has been carried out by Liberata, the EDRMS team and the Technical Design Authority. This has resulted in the decision to use a bespoke filestore designed by Liberata and their sub-contractors.

A pilot has been conducted with 35 users from a policy division and 20 users from the EDRMS project team. This ran from November 2002 to February 2003. All users are continuing to use the EDRMS as their corporate record.

The roll out to the Department has been carefully planned to take into account the need for comprehensive change management, training and support. A change management programme has been designed which incorporates awareness events, advertising campaigns and regular updates utilising a variety of media including the staff magazine and website. In order to ensure that the same service is provided to the staff based in offices outside of central London, a programme of road-show style awareness events is being designed. To date, 6 awareness events have been carried out covering: change, the drivers behind the project, the principles of records management, the principles of electronic records management, the impact of FOI and the changes to Data Protection, how the rollout will be managed, what is expected of each member of staff, the training process and an overview of the system.

To complement this, a training package based on computer-based training is being created for use within the Department. This will take users through the software covering all of the tasks they will need to carry out. This package will also be available to staff on their desktop PCs after their dedicated session to allow them to check back if necessary. For staff who require more training than this, a classroom based course will be available.

Each division is to appoint an Information Manager. This person forms the first point of contact for the staff within their division and the EDRMS team. The Information Manager is also responsible for the development of the record plan for their division.

The development of the record plan is overseen by a dedicated Records Management Team comprising specialist records managers. Although the file plan is developed primarily by the Information Manager, the Records Management Team provide advice, support and editing. In addition, the Records Management Team ensure that each of the individual file plans fits into the corporate file plan. This ensures that all of the work each division carries out is captured, that any overlap with other divisions is catered for and that the overall file plan continues to be developed on a functional basis. So far, the file plans have been created and signed off for 8 divisions and the development of a further 8 is in progress. As a result at least 16 divisions will be ready to receive the software and training in March 2004. Following this, the remainder of the department will be rolled out on a structured basis approximately 6 weeks apart with an estimated finish date of late spring 2005.

The EDRMS chosen has been approved by the National Archives against their 2002 requirements, which include provision for measures that assist in complying with FOI. The Department is also employing back-up, destruction and retrieval processes that ensure that data held by the Department on back-up is compliant with FOI and Data Protection.

Foreign and Commonwealth Office: Records Management

The Foreign and Commonwealth Office already holds comprehensive information about the records in its archive (4-30 years old) and in the current registry system (Firecrest). As part of the records management actions preparing for FOI implementation, the Open Government Section of Records and Historical Development which has responsibility for FOI in the FCO, plans to extend the scope of the archive inventory to include details of special collections and to capture details of unregistered collections. In parallel with this, the FCO are reviewing existing disposal schedules, with a view to expanding the coverage so that the Department can implement an agreed disposal policy across FCO record collections.

In the National Archives' Spring 2003 monitoring report on progress towards corporate-wide electronic records management by 2004 FCO was rated as green with a medium risk rating.

The FCO's long standing policy is that all staff who use the Registry systems receive training. The FCO uses a variety of fora to get the records management message across to staff at all levels: RHD run training courses for departmental registry staff and monitor practice in departments; Data Protection/FOI training courses; records presentations by RHD staff; participation of RHD staff at departmental meetings. In addition, all records guidance is available on the FCO intranet. A new records campaign, directly linked to FOI and Data Protection requirements and targeting the whole of the FCO, is being planned for 2004 as a follow-up to a similar campaign in 2002. The new campaign will have a broader focus and will be spear-headed by the new team of Open Government Compliance Officers, which is being formed as a result of internal re-structuring designed to bring the records and Open Government sides of RHD still closer together.

National Archives: Records Management

A survey of business processes and associated records was conducted as part of the development of the EDRMS. National Archives conducted audits of personal information in 2000 and earlier this year. The Department is currently exploring and reviewing the contents of departmental i-drives.

The Department's EDRMS is being rolled out at present and it is expected that the 2004 target will be met.

National Archives have provided for metadata items relating to disclosure at document level: a disclosability tag, to be entered by the person filing the record, and a disclosed tag, to be entered if or when a document is disclosed.

Department for Environment, Food and Rural Affairs: Records Management

DEFRA has a Records Management Education Unit responsible for the audit function. It has an on-going programme that focuses on the quality of the 'record' in individual business units; it also provides advice on wider information type issues. The Unit completed a full inventory of electronic record systems in 2002.

DEFRA is currently in the planning phase of its Catalyst programme to roll out EDRMS across the Department. The programme envisages a pilot phase running from August to December 2004 prior to full roll out from January 2005. Assisting compliance with FOI act is a key requirement of the programme

6.7 Houses of Parliament**6.7.1 House of Lords**

The House of Lords publication scheme has been made available on the parliamentary website and in hard copy. It has been distributed to libraries and promoted at events including the London open house weekend. Work has started on identifying additional information for later inclusion. A decision has been taken by the House that the publication scheme should be amended to include information relating to Members' expenses from autumn 2004. This information will be published annually, broken down by the main categories of expenses available, namely:

- travelling expenses;
- day subsistence;
- night subsistence;
- secretarial costs; and
- the costs of post-paid envelopes.

In 2004, expenses relating to the financial years 2001-02, 2002-03 and 2003-04 will be published. Consideration is being given to the detailed implementation of this decision.

6.7.2 House of Commons

Preparations for the implementation of FOI have continued during 2003 and the House's FOI working group has met at regular intervals to monitor progress. Awareness raising sessions have been held for groups of managers in order to identify new material for the publication scheme. The publication scheme was updated in July 2003. Work is in progress to add a new class for Members' allowances information in late 2004 and a new class for procurement information is also being considered. Work on describing some areas covered by parliamentary privilege is underway. This is being conducted jointly with the House of Lords.

6.7.3 Records Management in Parliament

A common policy for the management of records has been adopted by both Houses, requiring the improvement and maintenance of their records management processes. Central to the improvements to be made is the implementation of a common classification scheme for all Parliamentary records. It is envisaged that all departments and offices will use it to describe their records by April 2004. The development of the Authorised Disposal Practice for Parliamentary Records began in early 2003. Linked to the classification scheme, it will state how long records should be held by Parliamentary offices, and whether they should be destroyed or preserved in the Parliamentary Archives. All new members of staff now receive a presentation outlining the value placed by both Houses on good records management as part of their induction programme. Parliamentary records management guidance and training material for staff has been made available on the Parliamentary website and has generated considerable interest.

6.8 Northern Ireland

Publication Schemes

The timetable for the introduction of publication schemes in Northern Ireland is the same as that for England and Wales. All public authorities required to have their publication schemes in place by 31st October 2003 have had their schemes approved and implemented on time.

Freedom of Information and Records Management Preparations

N.I.C.S departments have all established and are progressing formal projects for putting in place the

necessary policies, processes and procedures in relation to implementing the requirements of the Freedom of Information Act and the code of practice on Records Management, made under section 46 of the Act, in time for January 2005. Through practitioner networks Departments are also co-operating on a number of common issues such as training, procedures manuals, file plans and the selection and implementation of Electronic Document and Records Management systems. A number of sectoral networks have been established, notably in the Health sector.

6.9 Report on the progress made by public authorities in the remaining waves – Local Government

Final agreement is expected to be reached shortly on the revision and updating of 'Freedom of information: practical guide to the Freedom of Information Act 2000 for local authorities' which was jointly produced by the Local Government Association and the University of London Constitution Unit. The revised guide will also include the identification of best practice and indicate areas where additional support is essential or desirable. This information will also be made progressively available through an upgraded Freedom of Information section on the Local Government Association website.

The Local Government Association is represented on the Access to Information Review Group and on the Freedom of Information Fees Regulations working group and ad hoc meetings are being held with the Information Commissioner on issues such as the policy development in relation to a number of exemptions including parliamentary privilege, formulation of government policy, prejudice to effective conduct of public affairs and communications with Her Majesty, and with the National Archives on the work of the Records Management Advisory Service. The Local Government Association will continue to work with advisers on providing guidance to local authorities and plans to hold a practitioners conference in Winter 2003. The Association has supported a number of conferences by providing speakers from the local government sector.

The Local Government Association has agreed to participate with the National Archives cross sector advisory group to monitor the development of the Records Management Advisory Service and monitor its performance within the local government arena.

The National Association of Local Councils is dealing with individual freedom of information enquiries from member councils on a day to day basis as and when they arise. Most enquiries focus on how to deal with requests for information from members of the public. The National Association is giving thought to a timetable for further advice to member councils regarding the general right of access effective from 2005. It is anticipated further advice will be disseminated early in 2004. The local council Model Publication Scheme was completed in February 2003 and general advice issued in the form of briefing notes to all member councils via County Offices. Specific training days will be organised as and when requested on a regional basis.

6.10 Police and Prosecuting Bodies

In June, all forces adopted the Model publication scheme and all schemes were approved by the Information Commissioner.

All forces' project managers have been given access to Centrex FOI Genesis database which will be used as the forum for communication between all forces up to and after January 2005.

Forces have been split into six regional groups and tasked to research set exemptions and topic areas in conjunction with the Information Commissioner's Office so that an Association of Chief Police Officers manual of guidance on Freedom of Information can be produced by April 2004.

A Generic Police Records retention and disposal guide has been created. This guide will be used by all forces who are undertaking information audits. This document will then be worked on further after forces have completed their audits in approximately 6-8 months. A complete guide on all policing records will then be ratified and published after the audit process. Information sharing protocols with police partners will be worked on from April 2004.

Centrex have agreed the following freedom of information training:

- A 2 day central decision makers course from April 2004 – April 2005.
- A 1 day local decision makers package which forces can deliver locally.

The regional workshops have been very successful as the workload has been shared between the 44 forces so that the areas can be researched effectively. The meetings have also ensured cross border issues and best practice is shared by the police service as a whole.

The Genesis database is currently being used to share best practice and lessons learnt. This database will also be used post 2005 as the main forum of communication to all forces so that a national perspective can continue. This will mean a consistent approach to interpretation of requests and exemptions by the Police Service. This will also allow an overview of requests.

Serious Fraud Office

In the Serious Fraud Office, the implementation of FOI is led by the Policy Division which also advises on Data Protection Issues. Operationally the SFO Publication Scheme is managed by the Information Systems Unit, with legal and policy advice from the Policy Division.

The SFO has produced its Publication Scheme and implemented a system for dealing with requests for information. This will be supported by training and written guidance. The SFO staff policy and procedures manual will be substantially re-written to facilitate the public's access to information. The SFO publication scheme is published through the SFO web page and is available in hard copy. Requests for information are made to a central point – to the Information Manager in the Information Systems Unit. This person is also responsible for Data Protection subject access requests. Advice on exemption material is taken from the Policy Division. The Information Manager will monitor all requests and will feedback the results of this to Policy Division after six months.

The Management Board of the SFO has received presentations and written guidance on FOI over the past two years. The FOI Records Management Group have expert knowledge of FOI issues through their work and by attending conferences and training seminars. Training to date has been organised either through attendance at outside seminars and conferences, or through written guidance or presentations on FOI issue within the SFO. Future training will be by way of Powerpoint presentation seminars to staff, supported by written guidance on policy and practice. All SFO staff will have received FOI training by 2005.

The Information Manager is auditing all records and case related material. The intention is to ensure that the SFO is Data Protection compliant, FOI compliant and that storage costs are economical. The audit will cover all registered files and related case material. SFO are currently considering an EDRMS solution that is appropriate for the organisation. It is estimated that the software will be tested and installed on the network in June-July 2004. Formal training and roll-out is likely in October-November 2004.

6.11 Health Service

All of approximately 700 NHS organisations were compliant with the requirement to agree their publication scheme in advance of the deadline for publication of 31 October 2003. Model publication schemes have been used by all hospital trusts, primary care trusts, mental health trusts, ambulance trusts and strategic health authorities. An amended scheme has been adopted by the small number of care trusts. Special Health Authorities have agreed their own publication schemes, based on the good practice and learning established through the project and the model schemes which are most applicable.

Of the 11,898 independent practitioners practices in England (GPs, dentists, optometrists and pharmacists), 4,490 have to date registered on the established NHS freedom of information website and 1,170 have posted completed publication schemes on line. All of these can be viewed at www.foi.nhs.uk/practice. The website continues to support shared learning and knowledge exchange. To date there have been over two million hits, with over 34,000 visits to the site.

A freedom of information network for NHS organisations has been launched as a subscriber based 'knowledge club' to support further implementation.

The NHS freedom of information project offers ad hoc advice. Separate networks are being set up and encouraged on a geographic basis and a formal subscriber network is planned for launch soon. Key areas of learning and other developments identified by the project are:

- effective Records Management Policies;
- Records Management Systems;
- managing e-mails;

- E-ability;
- Confidentiality;
- Data Protection; and
- third party information

These are being pursued by individual trusts etc and with the support of the various networks and the website.

6.12 Education Sector

Articles on Freedom of Information have been placed in Governors and Teachers magazine. An update was placed in September issues, and, in addition, one will shortly appear in Parents Plus.

Consultation took place during July with various interested parties on the draft model publication scheme produced by the Department for Education and Skills. This was subsequently approved by the Information Commissioner's Office. The Department issued an advance copy to Local Education Authorities on 18 September and the Commissioner's Office issued a letter to schools during that month reminding them of their responsibilities and of the availability of the model on the Internet. Many Education Authorities are issuing newsletters and additional guidance to support schools and encourage them to adopt the model scheme. Schools have been made aware of 31 December deadline should they wish to produce their own bespoke scheme.

6.13 The Information Commissioner's Office

A new Information Commissioner, Richard Thomas, has been appointed and the Commissioner's Office has reorganised into three teams: Compliance Team (publication schemes, complaints, enquiries), Procedural Team (Part 1 issues, records management, casework development etc), and Exemptions Team.

The Office has:

- adopted a plan for reviewing the effectiveness of publication schemes, designed to inform approvals criteria for renewal;

- developed a draft Memorandum of Understanding with the Keeper of the Public Records;
- conducted preliminary process mapping for its casework system;
- developed a template for exemptions work, carrying out preliminary work focusing on the following sections of the Freedom of Information Act: section 29 (the economy), section 30 (Investigations and proceedings), section 31 (Law enforcement), section 32 (Court records), section 33 (Audit functions), section 34 Parliamentary privilege), section 35 (Formulation of government policy), section 36 (Prejudice to effective conduct of public affairs), 43 (Commercial interests); and
- met with the National Archives, PRONI, the Parliamentary Commissioner for Administration, Northern Ireland Senior Practitioners Group, the Scottish Information Commissioner, as well as officials from the National Assembly for Wales, Westminster Parliament, the National Audit Office, the Association of Chief Police Officers, the Magistrates' Courts committees and the Court Service.

Around 200 questionnaires have been sent to all central government and Northern Ireland Departments, major non-departmental public bodies, the National Assembly for Wales, together with a sample of primary local authorities, police authorities and police forces. Responses to the questionnaire are still being analysed. There was a good response rate from central government and Northern Ireland Departments and a 25%-30% response rate from others.

Research is being conducted into the likely volumes, sensitivity and complexity of casework. A contract for this work will be awarded in December and the research completed by March 2004.

Awareness guidance is being published on the following sections of the Freedom of Information Act: section 40 (Personal information), section 41 (Confidentiality), section 42 (Legal professional privilege), section 43 (Commercial interests) and the public interest test. Also prepared for publication is guidance on the life-cycle of information requests and a paper on charging under publication schemes.

A programme of work with the Parliamentary Commissioner for Administration is being agreed, including the development

of a Memorandum of Understanding. A detailed process mapping for the Office's casework system is underway.

The Commissioner's Office has published 'The Freedom of Information Act 2000 – An Introduction' together with an updated generic power point presentation for use by training officers, and plans to publish a series of training scenarios and trainers' notes by the end of the year.

The Deputy Information Commissioner visited Australia in September 2003 for a series of meeting and discussions on experience of Freedom of Information. This included:

- visits to the Western Australia Information Commissioner, the Queensland Information Commissioner and the New South Wales Ombudsman;
- discussions with the Presiding Judge at the New South Wales Administrative Appeals Tribunal, the New South Wales Premier's Office, the Western Australia Department of Justice and the Department of Community Development; and
- presentations to the New South Wales Freedom of Information and Privacy Practitioners Network and the Western Australia Freedom of Information Practitioners Network.

6.14 National Archives

The National Archives' implementation planning is co-ordinated to cover the constituent bodies of the National Archives, the Public Record Office and the Historical Manuscripts Commission.

National Archives have continued contributing to roadshows organised around the country by the Department for Constitutional Affairs, and those organised for the health service by Public Partners. They have also participated in sector-based events, e.g. for archivists arranged by Regional Archives Councils, for military museums organised by the Ministry of Defence, and for individual bodies such as English Partnerships.

The Archives continue to undertake cross-government liaison on fees, the Environmental Information Regulations etc, and liaison with the Information Commissioner's Office on working together on promoting good records management.

Internally, the Archives' implementation programme is gathering pace. Recent work has been in three main areas:

- Handling requests for information: the basic procedures for handling requests for corporate information and for information in the archives have been agreed. These have fed into flowcharts and statements of requirements for a tracking system. It is expected that the stage of investigating products on the market and deciding whether any are suitable will be reached by the end of the year;
- Clarifying processes in relation to requests relating to records not previously released;
- Training and awareness: completing a training needs analysis and associated planning. Staff involved in implementation work have received awareness training; the rest should receive it early 2004. More specialised training will follow in the second half of 2004.

The Archives have initiated consultation on a draft model action plan for reaching conformance with the records management code, aimed at schools.

The National Archives have launched a Records Management Advisory Service. Aimed initially at local government, it is an attempt to extend to that sector the guidance, on electronic records management in particular, provided to central government. The archives community is grappling with preparations for Freedom of Information. Archives offices face particular problems because they hold not only their own authority's records but also wide-ranging collections of records acquired from other public and private sector sources. Many of these collections will be subject both to the Freedom of Information Act and the Environmental Information Regulations. While catalogues – some detailed – are generally available, inevitably there are some cataloguing backlogs: records which are in a queue for analysis and description. Surveys done in recent years suggest approximately 25% of the holdings of archives offices are uncatalogued. Requests for information relating to these collections will present particular difficulties.

6.15 Department for Constitutional Affairs – Roadshows

The Department held 13 Freedom of Information awareness-raising seminars in England, Wales and Northern Ireland between March and September. The events were aimed at public sector employees with responsibility for day to day implementation of the Freedom of Information Act and Environmental Information Regulations within their organisations. By the closing date for nominations, the seminars were oversubscribed, and the Department organised an additional event in London.

This series of seminars followed on from the awareness raising roadshows, led by the then Minister Michael Wills, for chief executives and other senior decision makers, held during 2002.

A total of approximately 1600 people from local authorities, Government Departments and a range of other public sector bodies including representatives from health authorities, the police, the probation service, the National Blood Service and the Magistrates Courts attended the events.

There were presentations by policy experts on the legal requirements of the Freedom of Information Act and the Environmental Information Regulations, the interface between the Data Protection and Freedom of Information Acts and practical considerations for managing information from the National Archives. The second half of the day consisted of syndicate sessions on the two Acts as well as Records Management and Privacy and Data Sharing. These enabled delegates to examine practical issues in more depth, and to focus on the development of implementation strategies.

All of the events stimulated lively question and answer sessions and delegates appreciated the opportunity to raise their concerns with experts. The events were successful in raising the awareness of a diverse audience with varying levels of knowledge and experience.

The vast majority of those who completed the evaluation questionnaires found their knowledge of what is required to help their organisations to prepare for FOI increased. Additionally there was identified a need for guidance, particularly on provisions of the Freedom of Information Act, as well as more advice on practical approaches and policy making in order to ensure successful implementation of the legislation.

A more in-depth analysis of customer needs, as identified by those attending the seminars, is underway and will inform Departmental policy as to further efforts to ensure full implementation of the Freedom of Information Act in 2005.

ANNEX A

Commencement Timetable

1 Implementation timetable for the Act

The Freedom of Information Act will be implemented in stages. The publication scheme provisions of the Act will be implemented first, on a rolling programme, as described in section 3 below. The individual right of access to information will be brought into force for all public authorities in January 2005; eleven months before the deadline set out in section 87(3) of the Act.

The following section sets out the provisions of the Act that are already in force, while section 3 gives a more detailed timetable for bringing into force the remaining provisions of the Act.

2 Provisions of the Act already in force

The Freedom of Information Act received Royal assent on 30 November 2000. The Act provides that all of its provisions must be in force by 30 November 2005. Those provisions of the Act already in force are, by and large, those which are necessary to have in place in advance of implementation of the Act's main provisions. The provisions in force include those which:

- allow secondary legislation and codes of practice to be made under the Act;
- establish the office of the Information Commissioner and relate to the appointment and period of office of the Information Commissioner;

- allow the Information Commissioner to approve publication schemes and to prepare and approve model publication schemes;
- allow the Commissioner to give advice and to arrange for the dissemination of information about the operation of the Act, about good practice, and any other matters within the scope of his functions under the Act;
- rename the Data Protection Tribunal as the Information Tribunal and enable appointments to be made to it and allow designation of persons to hear appeals against national security certificates under section 60 of the Act;
- are needed as a consequence of the renaming of the Data Protection Commissioner as Information Commissioner and the renaming of the Data Protection Tribunal; and
- require the Information Commissioner to lay an annual report before Parliament on the exercise of his functions under the Act.

Under section 87(1) certain provisions of the Act came into force on Royal Assent, i.e. 30 November 2000. These are listed in the table opposite:

Provisions	Effect
Sections 3 to 7, and Schedule 1	Defines meaning of a public authority; defines a publicly owned company for the purposes of the Act; and confers upon the Secretary of State certain order making powers, for example, to amend by order the list of public authorities in Schedule 1, and to designate as a public authority for the purposes of the Act bodies (or persons) exercising functions of a public nature or providing under contract with a public authority a service whose provision is a function of that authority.
Section 8	Defines what 'a request for information' means for the purposes of the Act.
Schedule 2, paragraphs 2 and 17 to 22 (and section 18(4) so far as relating to the provisions of Schedule 2 brought into force)	Provisions consequential on the renaming of the Data Protection Commissioner and Tribunal.
Sections 19 (insofar as relating to approval of publication schemes) and 20 (insofar as relating to approval and preparation by the Commissioner of model publication schemes)	Confers powers on the Commissioner to approve publication schemes and approve and prepare model schemes, but these two sections are not yet commenced insofar as to place the obligation on public authorities to adopt and maintain schemes.
Section 47 (2) to (6)	Places certain duties on and gives certain functions to the Commissioner, including the giving of advice and the dissemination of information about the operation of the Act, about good practice (a term which is defined in subsection (6)), and other matters within his scope.
Section 49	Requires the Commissioner to lay an annual general report before Parliament on the exercise of his functions under the Act and allows him to lay before Parliament any other reports in respect of her functions as he sees fit.
Schedule 5, paragraph 4 (and section 67 so far as relating paragraph 4 of Schedule 5)	Inserts a new paragraph 3A in Schedule 1 to the Public Records Act 1958 which confers a power to extend the meaning of 'public records'.
Schedule 6, paragraph 8 (and section 73 so far as relating to that provision)	Extends a transitional exemption in paragraph 2(1) of Schedule 14 to the Data Protection Act 1998.
Section 74	Confers power on the Secretary of State to make provision relating to environmental information to implement the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters ('the Aarhus Convention').
Section 75	Confers power on the Secretary of State to amend or repeal enactments prohibiting disclosure of information.
Sections 78 to 85	Various miscellaneous and supplemental provisions.
Part I of Schedule 8 (and section 86 so far as relating to that part of Schedule 8)	Repeal coming into force.
Section 87	Commencement.
'and so much of any other provision of the Act as confers power to make any order, regulations or code of practice.	

Certain other provisions came into force on 30 January 2001 (see section 87(2) of the Act). They are:

Provisions	Effect
Section 18 (1)	Renames the Data Protection Commissioner as Information Commissioner.
Schedule 2: paragraphs 1(1), 3(1), 4, 6, 7, 8(2), 9(2), 10(a), 13(1) and(2), 14(a), 15(1) and (2) (and section 18(4) as far as relating to those provisions of Schedule 2)	Provisions consequential on renaming the Data Protection Commissioner as Information Commissioner.
Section 76 and Schedule 7	Provides for the exchange of information between the Commissioner and specified public sector ombudsmen.
Part II of Schedule 8 (and section 86 so far as relating to that Part	Lists repeals coming into force.

Section 87(3) and (4) of the Act provides that the remaining provisions of the Act shall come into force five years after the date of Royal Assent (i.e. would come into force on 30 November 2005) unless they have already been brought into force by commencement order(s). There is flexibility to allow different commencement dates for different purposes within the five year period and allowance for savings and transitional provisions to be made.

The first commencement order, the Freedom of Information Act 2000 (Commencement No. 1) Order 2001 (SI 2001 No. 1637 (C56)) was made, and came into force on 14 May 2001. It brought into force certain, for the most part, technical provisions which are needed in advance of implementation of the Act's main provisions. They are:

Provisions	Effect
Section 18(5), (6) and (7)	Provisions relating to the appointment and period of office of the Information Commissioner.
Section 18(2) and (3), Schedule 2, paragraphs 1(2), 3(2), 5, 8(1), 9(1), 11, 12, 13(3), 14(b) and (15)3; and section 18(4) as far as relating to those provisions	Provisions renaming the Data Protection Tribunal as the Information Tribunal and making consequential provision.
Schedule 2 Paragraph 16 and section 18(4) as far as relating to that provision; Schedule 4, paragraphs 1 and 4, and section 61 as far as relating to those provisions	Provisions enabling appointments to be made to the Information Tribunal of lay members to represent the interests of individuals and public authorities under the Act, and provisions enabling the designation of persons who are capable of hearing appeals under section 60(1) or (4) of the Act and provisions enabling the Secretary of State to make rules for regulating the exercise of the rights of appeal conferred by section 57(1) and (2) and section 60(1) and (4) of the Act.
Schedule 6, paragraph 1 amends section 7(3) of the DPA to make its wording consistent with section 1(3) of FOIA; Schedule 6, paragraph 6 amends the exemption in paragraph 3(b) of Schedule 7 to the DPA to include a reference to 'dignity' as well as honours; Schedule 6, paragraph 7 amends paragraph 10 of Schedule 7 to the DPA to correct the reference to the Scottish equivalent of legal professional privilege; and section 73 as far as relating to these provisions in Schedule 6	Provisions making minor amendments to the Data Protection Act 1998.

3 Timetable for bringing the rest of the provisions into force

The timetable for the implementation of the Freedom of Information Act was announced to the House of Lords on 13 November 2001. (Copies of the timetable were placed

in the libraries of both Houses). The publication scheme provision of the Act will be implemented first, on a rolling programme, finishing in June 2004 (see table opposite).

The individual right of access will be brought into force for all public authorities in January 2005.

November 2002	Central Government (except the Crown Prosecution Service and the Serious Fraud Office), Parliament, National Assembly for Wales and Assembly sponsored public bodies, non- departmental public bodies currently subject to the Code of Practice on Access to Government Information. (Part I sections (1),(2),(3), and (5) and some of Part VI of Schedule 1).
February 2003	Local Government (except police authorities). (Part II).
June 2003	Police, police authorities, Crown Prosecution Service, Serious Fraud Office, Armed Forces. (Part V not relating to Northern Ireland and Part I (6)).
October 2003	Health Service. (Part III relating to England and Wales).
February 2004	Schools, Universities, remaining NDPBs. (Part IV relating to England and Wales and some of Part VI)
June 2004	Remaining public authorities.

3.1 The Freedom of Information Act 2000 (Commencement No. 2) Order 2002

A second commencement order was made to bring further provisions of the Act into force on 30 November 2002.

This order implements the first three stages of the timetable and is an important step in implementing the substantive provisions of the Act. The provisions that have come into force:

- place a duty on those bodies listed to comply with the publication scheme provisions of the Act (from 30 November, 28 February 2003 and 30 June 2003 respectively for the bodies indicated); and
- ensure that the publication scheme provisions can be enforced, insofar as they apply to any authority at any time.

Various other provisions have been brought into force, including those which:

- place a duty on the Information Commissioner to promote the following of good practice;
- allow the codes of practice under sections 45 and 46 to be issued, and allow the Information Commissioner to issue practice recommendations relating to provisions in the code of practice under section 45 where they concern publication schemes; and
- allow the functions of the Advisory Council on Public Records to be extended to include matters relating to the application of the Freedom of Information Act to public records which are also historical records.

The provisions are listed in detail on the next page:

COMMENCEMENT ON 30 NOVEMBER 2002

Provisions	Effect
Sections 19(5) to (7), and 20 insofar as they are not already in force	Provisions concerning any of the Commissioner's powers and duties relating to publication schemes and model publication schemes not already in force.
Sections 45 and 46 insofar as they are not already in force	The requirement on the Secretary of State to issue codes of practice relating to the discharge of public authorities' functions under Part I of the Act and records management.
Section 47(1)	Duty on the Information Commissioner to promote the following of good practice by public authorities.
Sections 48(1) and (2), 54, 55 and Schedule 3, so far as they relate to: <ul style="list-style-type: none"> the issue of practice recommendations, and the issue and enforcement of information notices, relating to the conformity with the code of practice under section 45 of the practice of public authorities in relation to the exercise of their functions under the publication scheme provisions. 	Allows the Commissioner to issue practice recommendations if an authority does not appear to be conforming with provisions relating to publication schemes in the section 45 code. Also allows the Commissioner to issue an information notice to determine whether an authority is conforming with publication scheme provisions in the s45 code.
Sections 51, 52 and 54, 55 and Schedule 3, so far as they relate to the enforcement of the requirements on public authorities under the publication scheme provisions and section 56.	Allows the Commissioner to issue information and enforcement notices and other enforcement provisions as far as is necessary to allow the Commissioner to enforce authorities' compliance with obligations in respect of publication schemes.
Sections 57(2) 58, 59 and 61 (2), Paragraph 10(b) of Schedule 2 (and section 18(4) insofar as it is not already in force), Paragraph 3 of Schedule 4 (and section 61(1) so far as relating to that provision)	Provisions to enable appeals to be heard by the Information Tribunal and related provisions.
Paragraph 1 of Schedule 5 (and section 67 so far as relating to that provision)	Makes minor amendment to the Public Records Act 1958 by extending the functions of the Advisory Council on Public Records to include matters relating to the application of freedom of information to public records which are historical records.
Section 72	Makes minor amendment to the Data Protection Act necessary as a consequence of the Freedom of Information Act.
Section 88	Short title and extent.
Sections 19 (1) to (4) and 20 (2)	Publication scheme provisions of the Act. (See below).

PUBLICATION SCHEME PROVISIONS

The publication scheme provisions place a duty on public authorities to adopt and maintain a scheme which relates to the publication of information by the authority, which has been approved by the Commissioner; to publish information in accordance with the scheme, and to review the scheme from time to time.

The publication scheme provisions of the Act are contained in sections 19 (1) to (4). The second commencement order brought the publication scheme provisions into force on 30 November 2002 for the public authorities listed in Paragraph 1 of Part I of Schedule 1 to the Act (government

departments), except for the Crown Prosecution Service and the Serious Fraud Office. Paragraphs 2, 3 and 5 of Part I of Schedule 1 to the Act (The House of Commons, the House of Lords and the National Assembly for Wales).

Part I of Schedule 1 to the second commencement order (some of the bodies and offices listed in Part VI of Schedule 1 and bodies added to Part VI by order under section 4 of the Act, being either bodies and offices subject to the Code of Practice on Access to Government Information or Assembly-sponsored public bodies as agreed with the National Assembly for Wales). Part II of Schedule 1 to the second commencement order (some of the bodies and offices listed in Part VII of Schedule 1 and

bodies added to Part VII by order under section 4, as agreed with the devolved administration in Northern Ireland).

COMMENCEMENT ON 28 FEBRUARY 2003

The second commencement order brought the publication scheme provisions into force on 28 February for the public authorities listed in Part II of Schedule 1 to the Act (Local Government) and Schedule 2 to the second commencement order (small number of NDPBs/ASPBs/public bodies in Northern Ireland).

COMMENCEMENT ON 30 JUNE 2003

The second commencement order brought the publication scheme provisions into force on 30 June 2003 for The Crown Prosecution Service and the Serious Fraud Office. Public authorities listed in (i) Paragraph 6 of Part I of Schedule 1 to the Act (Armed Forces), (ii) Paragraphs 57-64 of Schedule 1 to the Act (Police), other bodies listed in Schedule 3 to the second commencement order: (the Central Police Training and Development Authority, the National Crime Squad, the Police Information and Technology Organisation, and the Service Authority for the National Crime Squad).

3.2 Further Commencement Orders

A further commencement order brought the publication scheme provisions of the Act into force as follows (in line with the announced programme).

For commencement on 30 October 2003 – Part III of Schedule 1 to the Act (Health Service).

For commencement on 29 February 2004 – Part IV and some of Parts VI and VII of Schedule 1 to the Act (schools, universities etc, remaining NDPBs and other public bodies and offices including publicly-owned companies as defined in section 6 of the Act).

For commencement on 30 June 2004 – any remaining authorities not already included in an order.

As stated above, provisions relating to the individual right of access (which effectively means all provisions not already commenced or commenced in full) will come into force on 1 January 2005.

The Freedom of Information Act will thus be fully implemented by January 2005, eleven months before the date set out in section 87(3) of the Act.

ANNEX B

Work of the Advisory Group on Implementation of the Information Act 2000

Introduction

The Advisory Group met three times during the second year it has been operating. Members are also contributing to the work of groups administered by the Department for Constitutional Affairs which are drafting guidance and developing policy on aspects of the Act. They have also participated in the Department's series of regional awareness-raising seminars. Advisory Group minutes and papers form part of the Department for Constitutional Affairs Publication Scheme and are available from the Department's website.

Work of the Advisory Group in the last year

Monitoring the progress on implementation

Advisory Group members from the sectors covered by the Freedom of Information Act produced regular written updates on the progress towards implementation. These have proved a useful tool, forming the basis of discussion at meetings and sharing of experiences and good practice.

Receiving reports on preparations being made by the Information Commissioner

Richard Thomas became joint Chair of the Advisory Group when he took up the post of Information Commissioner in December 2002. The Advisory Group receives regular updates on progress towards implementation from the Commissioner's office, including details of approvals of authorities' publications schemes, approval of model publication schemes developed by representative bodies in the various sectors and awareness raising activities undertaken by the office. Policy developments have been discussed, including the dates when public authorities will need to seek renewal of the Commissioner's approval of their publication schemes. The Group has been kept in touch with changes in the Commissioner's office as it prepares to deal with casework and has recently discussed

the approach to implementation the Commissioner has adopted in his project plan.

Publication Schemes

Trends in how publication schemes are developing have been identified and areas where further guidance was needed have been responded to. The Group received a presentation from the Local Government Association on the lessons that had been learnt by those local authorities who had piloted publication schemes, and from the police on the culture change and preparations for Freedom of Information they have been working on as part of their preparations to adopt a publication scheme.

Learning from other Jurisdictions

Anne Brennan, Director of Information and Security Policy and Head of the Canadian Treasury Board Secretariat Freedom of Information team, gave a presentation to the Advisory Group on federal Access to Information legislation in Canada and lessons for the UK. Canada has been operating Access to Information legislation for 20 years and a review has recently been undertaken on the operation of the Act. Key areas where the UK could learn from the Canadian experience were through their use of software to assist in processing requests and monitoring the operation of the Act and the bi-monthly meetings held for Access to Information and Privacy co-ordinators. Canada has found that continuing challenges to the operation of their legislation were information management, particularly managing electronic communication, and training and recruitment of officials responsible for dealing with requests for information. More details of this presentation can be found in the minutes of the February 2003 meeting of the Advisory Group.

Edward Adams, Head of Information Rights Division at the Department for Constitutional Affairs, presented a report at the October meeting on his research trip to Australia and New Zealand. The main conclusions were

that freedom of information does lead to better decision making and that self-sustaining networks of officials with responsibility for FOI are crucial to the proper functioning of the Act, especially in the long term.

Issues the Group plans to examine in the coming year

The Advisory Group will be continuing to monitor closely progress towards implementation. It will be identifying those sectors and those themes where there are particular difficulties, and examining the level of preparedness in detail. It will also be looking at what steps should be taken to ensure that freedom of information works for the public, that people are aware of how to use their rights and that there is clarity over what the public can expect from the Freedom of Information Act.

Terms of Reference

The terms of reference of the Advisory Group on Implementation of the Freedom of Information Act 2000 are as follows:

- To provide advice to the Secretary of State at the Department for Constitutional Affairs to assist him in preparing his annual report to Parliament in accordance with section 87(5) of the Freedom of Information Act 2000 by:
- Monitoring progress on implementation.
- Identifying best practice in information management and recommending approaches to its dissemination in and between types of public authorities.
- Advising on the needs of users of the Freedom of Information Act, how authorities might best meet those needs, and proposing ways of raising the public's awareness of their rights.
- Receiving reports on, and advising on, the preparations being made by the Information Commissioner to ensure procedures are established and guidance produced in a timely manner.

- Promoting a new culture of transparency in public authorities by assisting in the development of training and education programmes.

To undertake other tasks related to the implementation of the Freedom of Information Act as may be agreed by the Secretary of State at the Department for Constitutional Affairs and the Information Commissioner.

The group will meet at least three times a year until the Act is fully implemented.

Membership of the Advisory Group

JOINT CHAIRMEN

Richard Thomas
Information Commissioner

Lord Filkin
Parliamentary Under-Secretary, *Department for Constitutional Affairs*

REPRESENTATIVES OF PUBLIC AUTHORITIES

Jeremy White
National Assembly for Wales

Nigel McCormick
Office of the First Minister and Deputy First Minister, Northern Ireland

Christine Miles
Chief Executive, The Royal Orthopaedic Hospital NHS Trust, *The Health Service Confederation*

Ian Readhead
Deputy Chief Constable, Hampshire Constabulary, *The Association of Chief Police Officers*

Jim Duvall
Head of Information Services, *The Local Government Association*

Ian Mark
Senior Legal Executive, *National Association of Local Councils*

Dr Michael Wilks
Chairman of the Ethics Committee, *The British Medical Association*

Mr Michael Malone-Lee
Vice Chancellor, Anglia Polytechnic University, *Universities UK*

Jane Phillips

Chair, *The National Association of Governors and Managers*

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Director, The Constitution Unit, *University College London*

David Hencke

Westminster Correspondent, *The Guardian*

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Andrew McDonald

Constitution Director, *Department for Constitutional Affairs*

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Head of Information Rights Division, *Department for
Constitutional Affairs*

Andrew Ecclestone

Head of Freedom of Information Policy, *Department for
Constitutional Affairs*

Katherine Fox

Secretary to the Advisory Group, Freedom of Information
Policy Branch, *Department for Constitutional Affairs*

Graham Smith

Deputy Information Commissioner

ANNEX C

Guidance for Central Government and Non-Departmental Public Bodies on Publication Schemes under the Freedom of Information Act 2000

1 Introduction

The Freedom of Information Act 2000 requires all public authorities to make information available proactively by virtue of the publication scheme provisions set out in section 19 of the Act. Publication schemes give details of the classes of information that an authority makes available proactively and how they are accessible. The plans indicate a commitment to publish proactively as much information as possible and will look at how best to transmit the information to those who need to know more.

This paper sets out guidance for government departments and non-departmental public bodies (NDPBs) as to the issues that they should consider when deciding what information they will commit to make publicly available in their publication schemes. This is guidance not instructions; neither is it intended to be a model publication scheme. How the commitments in their schemes are delivered is a matter for individual departments and NDPBs. But where departments or NDPBs depart from the guidance in this

paper, they should know why they are doing so and be prepared to justify their approach if asked by the Information Commissioner or other interested parties. Executive agencies are not required to have their own publication schemes, but should be included within the scope of the scheme applied by their parent department.

Given the different nature of the business of departments and NDPBs it is impossible to have prescribed rules on what each one will include in the publication scheme. The aim of this guidance is to achieve as much common ground as possible.

All central government departments and those non-departmental public bodies covered by the Code of Practice on Access to Government Information are required to have their publication scheme approved and in place by 30 November 2002. The scheme will have to be submitted to the Information Commissioner for approval between 1 July and 30 September 2002.

THE LEGAL REQUIREMENT

Section 19 of the Act places a duty on every public authority to:

- a) adopt and maintain a scheme which relates to the publication of information by the authority and to have that scheme approved by the Commissioner;
- b) publish information in accordance with that scheme; and
- c) review the scheme from time to time

Each authority's publication scheme must specify:

- a) the classes of information which the public authority publishes or intends to publish;
- b) the manner in which information of each class is, or is intended to be, published; and
- c) whether the material is, or is intended to be, available free of charge or on payment.

In adopting or reviewing a publication scheme, the Act requires that a public authority should have regard to the public interest in:

- a) allowing public access to information held by the authority; and
- b) the publication of reasons for decisions made by the authority.

2 Content

In deciding the content of their publication scheme, departments and NDPBs should have regard to the public interest in the information that they hold. Some information held by an organisation will be of particular interest to the public; and departments and NDPBs should consider what information they hold that they could make available proactively to meet this demand. The information included in an organisation's publication scheme should focus on the key areas of accountability of the organisation.

Departments and NDPBs will also need to consider when the information included in their publication scheme will be made available. For example, facts and analysis of the facts relating to policy decisions will normally be made available when policies and decisions are announced. Papers relating to meetings may need to be made available a number of weeks or months before or after the event. Allowance should be made for the time taken to approve minutes or to obtain transcripts. Items will then be held in accordance with the department's or NDPB's record disposal policy as normal in light of their business needs. The scheme should specify the usual retention period for each class of information.

There are some kinds of information which all departments and NDPBs should consider for inclusion within their publication schemes. These are detailed in paragraphs 7.1 to 7.12 below. The headings are not intended as specific 'classes of information' although departments and NDPBs may choose to use them as such.

3 Guidance to Staff

It is expected that publication schemes will provide access to explanatory material on departments' and NDPBs' dealings with the public and other organisations. This includes such rules, procedures, internal guidance to officials, and similar administrative manuals as will assist better understanding of the organisation's interaction in dealing with the public. It will also include internal guidance to officials on implementing/operating the Code of Practice on Access to Government Information (before 2005), the Freedom of Information Act (after 2005), the Environmental Information Regulations and the Data Protection Act 1998.

4 Background to Policy

The Code of Practice on Access to Government Information already commits departments and NDPBs to publishing the facts, and analysis of the facts, which Government considers relevant and important in framing major policy proposals and decisions. This commitment should be carried forward to the publication scheme.

5 Management Information

The Code of Practice on Access to Government Information requires Departments and NDPBs to publish:

- i. full information about how public services are run, how much they cost, who is in charge, and what complaints and redress procedures are available; and
- ii. full and, where possible, comparable information about what services are being provided, what targets are set, what standards of service are expected and the results achieved.

These commitments should be carried forward to the publication scheme.

In addition, publication scheme commitments are also likely to provide access to the following in relation to the role, function and management of the public authority:

- i. mission, objectives and functions of the authority;
- ii. organisation of the authority, including information about who is responsible for which function and how to contact him or her;
- iii. information about board meetings. This may include the agendas and minutes of the meetings and associated papers or summaries where appropriate;
- iv. targets, including those set for standards of service and financial performance, together with results achieved and comparative information; and
- v. sources of income, and how effectively money is raised and spent, for example, on different aspects of administration.

The information described above often appears in departmental reports, management statements, financial memoranda etc. Agency framework documents are also useful as they encapsulate the essential management operating arrangements for each agency with regard to its organisation of a department. For the purpose of this guidance it is the information itself and not the form in which it is presented that is important.

On (ii) above, departments and NDPBs will want to consider the appropriate level of seniority of the staff about which this kind of information is to be published. It is important that the public can identify a person who can provide the information they require. How this is achieved may well vary between departments and NDPBs and, in some instances, requests for information may be channelled through call centres.

Departments and NDPBs should also consider for which formal meetings it is appropriate to publish the agenda, papers and minutes or summaries of these documents. It is likely that departments and NDPBs will want to specify what information will be made available proactively for which meetings, or type of meetings. Regular formal committees or advisory groups are more likely to be included in the publication scheme than ad-hoc or impromptu discussions.

6 Public Consultation

The Cabinet Office guidelines on consultation should be followed. Responses submitted in confidence should have that confidence respected if the information submitted is properly confidential. The number of confidential responses should be published.

7 Departmental Circulars

There are many different types of circular and they are used to communicate a variety of information. It is probable that some of these circulars will be relevant for inclusion on a publication scheme. Many departments and NDPBs already have this sort of information on their websites and for some circulars it may be helpful to provide an index to improve accessibility. The scale of this task will therefore vary and departments and NDPBs may find that some of this information will be subsumed within other commitments within their scheme.

8 Information placed in the Libraries of the Houses of Parliament

Departments and NDPBs should consider whether documents placed in the library of either Houses of Parliament should be included within the publication scheme.

9 Decisions

Decisions of the Information Commissioner in relation to the Freedom of Information Act and Data Protection Act 1998, and the Parliamentary Ombudsman in relation to the Code of Practice on Access to Government Information, relating to the organisation, are also items to which a publication scheme is likely to provide access. Some of these decisions are published by the Ombudsman and if so it may be appropriate simply to provide a link to that information. However, not all of the decisions are published and this information should be considered for inclusion. The public availability of details of departmental infractions under the Environmental Information Regulations should also be considered.

10 Decisions of other bodies relating to the department should be accessible where appropriate.

Reasons should be published for decisions made by the department where the decision affects a significant number of interested parties. An example is the Charity Commission, which is making more information available in relation to its decisions, particularly when there is considerable public interest. The decisions, and reasons, most likely to be appropriate to include in a publication scheme are those which affect a significant number of people. This may sometimes include a decision in relation to an individual, but which sets a precedent or has ramifications for the future handling of similar cases. Personal data relating to individuals should be handled in accordance with the Data Protection principles.

11 Speeches

Keynote speeches by Ministers and senior officials are likely to be made available proactively. In practice these are often already made available through a department's press office.

12 Legislation and Related Information

It is helpful to the public to know more about the legal framework within which departments and other public authorities operate. Collating a list in a single place and giving a brief description of the relationship between the legislation and the department's structure and functions should be considered, as should providing details of legislation or codes of practice that give rights of access to information.

Her Majesty's Stationery Office in the Cabinet Office have responsibility for the publication of UK legislation including Acts of Parliament, Statutory Instruments (including those made by the National Assembly for Wales), Acts of the Northern Ireland Assembly, Statutory Rules of Northern Ireland, Church of England Measures and Explanatory Notes to Acts of Parliament and Explanatory Notes to Acts of the Northern Ireland Assembly. Details of these categories of publications will be featured on HMSO's publication scheme with details of where users can view or purchase the documents. It follows that there is no need for organisations to provide full details of legislation which they have policy responsibility for in their own publication schemes. They may, however, wish to feature a reference in their publication scheme to the HMSO website where all newly enacted legislation can be viewed.

Parliament is responsible for the publication of Bills before Parliament and Explanatory Notes to Bills. This material can be viewed on the Parliamentary website. Again, there is no necessity for departments to feature details in their own publication schemes although they may wish to provide a link to the Parliamentary website.

HMSO also arranges for the publication of the London, Edinburgh and Belfast Gazettes. Details of these will be featured on HMSO's publication scheme. Organisations should, however, refer in their publication schemes to the categories of individual notices which are submitted for publication in the Gazettes.

Departments should provide details of Command Papers, White Papers and Green Papers which they have responsibility for publishing. For reference, a list of all Command Papers is published on HMSO's website.

Texts of international treaties, conventions and agreements should be accessible if not provided elsewhere. Departments

may wish to provide cross-references to relevant documents of European Community legislation. It is suggested that details could be supplied of websites where the material can be viewed or from where the information can be obtained.

13 Procurement, grants, loans and guarantees

Departments and NDPBs are encouraged to be as open as possible when considering making available information in relation to procurement, grants, loans and guarantees.

In particular, the publication of procurement and supplier policies should be considered for publication as should the details of contracts awarded. Departments and NDPBs should also consider the provision of information on specific projects including notification of bidding opportunities, decision criteria, contract performance standards, results of regular performance reviews, and results achieved where appropriate. Good examples of the type of information that can be provided can be found on the websites of Southampton Council and the National Assembly for Wales. The Office of Government Commerce can provide further advice about the provision of information on Government procurement.

Departments and NDPBs should consider including their policies on the awarding of grants, loans and the provision of guarantees in their publication scheme, as well as background information on schemes administered by the organisation. Publishing an account of how grants have been dispensed under a particular scheme, including overall funds dispensed and an assessment of the benefit of the scheme in terms of its objectives, should be considered. The publication of details of guarantees such as the guarantee recipient, purpose and amount should be considered for inclusion in departmental publication schemes whilst respecting legitimate personal and commercial confidentiality.

Information relating to the items above need not include all such information but could be covered in a generic fashion or include information on projects above a particular cost threshold as decided by the department or NDPB. 7.10.5 The code of practice on the discharge of the functions of public authorities under Part 1 of the Freedom of Information Act requires that departments and NDPBs ensure that they consider the implications for freedom of information before agreeing to confidentiality provisions

in contracts and accepting information in confidence from a third party more generally. In particular, departments and NDPBs should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of their functions. They should not agree to hold information received from third parties 'in confidence' which is not confidential in nature. Acceptance of any confidentiality provisions must be for good reasons and capable of being justified to the Information Commissioner.

14 Information required to be published under other legislation

This includes a wide range of information, some of which will be specific to individual organisations. In particular, information relating to the environment that would be accessible under the Environmental Information Regulations such as estate management information and greening government reports as well as environmental impact assessments and departmental sustainable development strategies should be made available where appropriate.

15 Research Reports; Risk & Impact Assessments etc.

Appropriate guidance on the publication of scientific research from the Office of Science and Technology and on risk assessment should be followed when considering the content of a publication scheme. Regulatory Impact Assessments are also likely to be accessible.

16 Information disclosed under the Code of Practice on Access to Government Information

Where information is disclosed to an individual in response to a request under the Code of Practice on Access to Government Information, or, from 1 January 2005, in response to a request under the Act, departments and NDPBs should consider whether the information disclosed is of general interest and include released information in the publication scheme where appropriate.

17 Presentation and Delivery

Publication schemes are intended to increase access to government information. Therefore the accessibility of the scheme and the information in it is very important. It is best practice to include:

18 Copyright

A general copyright statement should be included at the head of the publication scheme. Documents accessible under the scheme should feature an appropriate copyright notice whether published in print or on official websites in accordance with guidance issued by HMSO.

19 Formats

Details of the formats that the scheme itself and the information accessible under it are available in e.g. Braille, Welsh, other languages, electronic, paper etc should be given. The decision to publish information in alternative formats is a result of normal business deliberations and should be considered when a document is produced and is not a matter for a publication scheme.

The scheme itself should be provided on paper and electronically. Consideration of other formats should be in line with the relevant accessibility criteria for publications including the organisation's Welsh language scheme.

Departments and NDPBs may not be able to rely wholly on the internet as a means of making information available proactively. There are many ways by which information can be made available proactively.

20 Access to the Information

Departments and NDPBs should make clear how information can be obtained by the public under the scheme. They should publish a guide for users on applying for information and exercising associated rights under the Code of Practice on Access to Government Information (before 2005), under the Freedom of Information Act (after 2005), under the Data Protection Act 1998 and under the Environmental Information Regulations. Links to information that is part of the organisation's commitment

to publish but is provided elsewhere should be provided, including an indication of any on-line resources, such as databases, which can be interrogated directly by requesters where this is reasonable and practicable to do so.

21 Relationship with Information Asset Register

The Information Asset Register (IAR) details Government information assets that can be reused under licence. The IAR focuses primarily on unpublished data holdings and thus provides a guide to the unpublished information resources held by departments. The IAR can help identify what information a department holds, how useful that information is and how to access it. For further information about the Information Asset Register and their links with publication schemes, see HMSO's Guidance note 18.

The department's information asset register should be directly referred to in its publication scheme and should form an important part of their preparations for freedom of information. Each department is responsible for creating its records within its own departmental asset register.

22 Archiving

Archiving of the publication scheme for records management purposes should be considered whenever the scheme is updated or otherwise amended. It is suggested that departments and NDPBs should keep their initial scheme, and subsequent versions of the scheme that contain significant changes.

23 UK Official Publications

Departments and NDPBs are reminded of their responsibilities for providing information in relation to maintaining the complete bibliographic record of all United Kingdom Official Publications. For details please see HMSO's Guidance Note 17.

24 Plain Language

Publication schemes should be in plain language. The Cabinet Office Plain Language guide should be followed.

25 Public Interest and Consultation

When having regard to the public interest in the information held by the organisation, it is best practice to consider all the different stakeholders who might be interested in the information and to consult with these groups where possible – this may have to be after the publication scheme is in place with initial assessment of the public interest based on information the organisation already holds e.g. Minister's Cases, website hits etc.

Consultation can take a variety of forms. These include traditional written consultation, listening events, seminars with, and visits to, representative groups. Having an e-mail address for comments or an on-line feedback form can encourage user feedback. Internet discussions are also a valid way of consulting with your 'public' as is both quantitative and qualitative research including surveys and focus groups.

26 Charging

A publication scheme must state whether documents in the scheme will be available free of charge or for a charge.

27 Interpreting the law

The Environmental Information Regulations permit charges in respect of costs reasonably attributable to the supply of information, *provided* a schedule of the charges that may be levied is made available to all persons requesting environmental information. The EI Regulations apply to both published and unpublished information, including EI supplied under other enactments. (Treasury and DEFRA will let departments have further advice on charges for Environmental Information when the negotiations on the revised EI Regulations have reached a firmer point). Some organisations may also have legislation on non-environmental matters under which they publish certain information.

The FOI Act does not require that a schedule of charges is included within the publication scheme, but only that the publication scheme specify whether the material is, or is intended to be, available free of charge or on payment. This is important as the Information Commissioner proposes to approve a publication scheme for three to five

years. Organisations will therefore be seeking in their classes of information to anticipate the document types or subject areas which the department will be publishing during that period, but it is unlikely to be either practical or possible to anticipate every future title or charge.

It is suggested that in their publication schemes, organisations should therefore set out their charging policy, but indicate that, where charges are made, the charge for each publication will be listed by the title of the publication on the up-to-date publications list. A link to the up-to-date list or a note of where it can be obtained is recommended. For information published under another enactment, this may in some cases take the form of a link to the relevant fees order.

For the purposes of defining the potential coverage of a publication scheme, we must have regard to both section 19 and section 21 of the FOI Act. The latter indicates that where information is available from the public authority on request, it can be regarded as reasonably accessible to the applicant where it is made available in accordance with the authority's publication scheme, and any payment required is specified in, or determined in accordance with, the scheme.

28 Definition of charging

For the purposes of charges, HM Treasury is assuming that a publication is material which:

- has appeared on a public website;
- has been advertised on a public website, or in a commercial publisher's list, as available, and which is already held by, or immediately available in store to, the department's public enquiry unit in its final format for supply to the public, or similarly by the department's commercial publisher; or
- is available from book shops, public libraries, etc. supplied by the department or the commercial publisher. Information which is held by an organisation, but which it has not been intended to publish, and has to be extracted specifically for the requestor, is not covered by a publication scheme.

29 Form of words for use in publication schemes

A possible approach is to describe some broad pricing categories which could be applied either to an organisation's publication scheme as a whole or to individual classes. A single pricing category may apply to a particular class, but two or more pricing categories to other classes.

The appendix to this guidance contains a suggested form of words which assumes that any payment can be requested in advance before a publication is supplied, but this is not yet certain for information supplied under the revised EI Regulations. Square brackets indicate where departments or NDPBs are most likely to need to adapt the wording to their own circumstances.

30 Review

The Information Commissioner has said in his publication scheme Guidance that will want to review publication schemes every three years although this might be extended slightly for the very first approvals (Central and Local Government) but in any event that period will not exceed five years. The Information Commissioner will require notification of any additions to a Scheme during that period and will require departments and NDPBs to seek approval of the removal of any commitment made in the publication scheme over the same period.

31 Conclusion

When developing their publication schemes, departments and NDPBs should keep in mind that publication schemes are intended as a tool for openness, to increase transparency and accountability and improve decision-making. All schemes should have the public interest as their driver and should help to promote trust between the Government and the electorate. In developing their publication schemes, departments are encouraged to look at the experience of their counterparts in other countries with freedom of information legislation and keep in mind that other openness regimes frequently over-estimated perceived risks associated with openness.

APPENDIX TO PUBLICATION SCHEME GUIDANCE

Suggested Form of Words for Charging on Publication Schemes

'Is information free of charge or on payment?'

We indicate [for each class of information] in our publication scheme which of the following categories could apply to information you intend to use for your private research/study:

- a. free of charge on website (i.e. there is no charge by us, although the user would of course have to meet any charges by their Internet service provider, personal printing costs, etc). For those without Internet access, a single print-out as on the website would be available by post from [.....] [or by personal application at [.....]. However, requests for multiple print-outs, or for archived copies of documents which are no longer available on the web, may attract a charge for the cost of retrieval, photocopy, postage, etc. We would let you know this at the time of your request [the charge would be payable in advance];
- b. free of charge leaflets or booklets on, e.g. services we offer to the public. List available from [.....], material itself from [.....];
- c. free of charge to view at [local office or wherever but charge for [certified] photocopy [a schedule of charges for [.....] is available from [.....] [For other items, we would let you know the relevant charge at the time of your request [the charge would be payable in advance];
- d. information available via a website, but a charge would have to be paid before the main part of the information could be accessed. [This is the exception.] This may arise, e.g. where the website is used to deliver a value-added customised service, particularly where the basic data is also available to private sector users who may provide their own value-added service. Where this applies, the reason for the charge and the level of charges would be advertised [where?].

(Note: some 'information' accessible on our website is not published for the information of the general public, but is part of our electronic delivery of services, for example where applications for licences can be made on-line or where tax returns can be filed on-line. In that case, access to records bearing details about a named individual or company is limited to the individual or company concerned and other authorised persons. We explain the conditions applying on our website so that you can read them before you begin to use the relevant on-line service);

- e. 'glossy' or other bound paper copies, or in some cases a CD Rom, video or other media, are for charge as in our publication lists available at [.....] [or those of our publisher available at [.....].

If you want to re-use or reproduce our publications, e.g. commercially or for circulation for education, etc. purposes, you will in most cases need to apply for a copyright licence for this. This [Department] [is a Crown body and our information is subject to Crown copyright administered by Her Majesty's Stationery Office]. For HMSO Guidance Notes on a range of copyright issues, see the HMSO website <http://www.hmso.gov.uk/guides.htm> or write to [.....].

[We own the copyright in our information. Our charging policy for re-use and reproduction is [.....] [Note: this applies only to NDPBs which are non-Crown and other non-Crown public sector bodies.].

More details of the Government's policy on where charges are made and on determining the level of charges is available in 'Charges for Information: When and How – Guidance for Government Departments and other Crown Bodies' www.hm-treasury.gov.uk/about/open_government/opengov_charging.cfm

ANNEX D

Existing Schemes for Providing Access to Information

Introduction

This Annex sets out the main access regimes currently in operation which govern how authorities should make information available to the public.

- Part 1 reproduces the Code of Practice on Access to Government Information which applies to all central government departments, as well as those non-departmental public bodies who fall within the remit of the Parliamentary Commissioner for Administration (the Parliamentary Ombudsman). A list of the bodies covered by this code of practice can be found on the Ombudsman's website. The code of practice has been in force since 1994 and was revised in 1997. Although it does not provide a statutory right to information it is regulated by the Parliamentary Ombudsman who has the power to investigate breaches of the Code brought to his attention by a Member of Parliament.
- Part 2 reproduces the Code of Practice on Openness in the NHS which sets out the basic principles underlying public access to information about the NHS. Like the Code of Practice on Access to Government Information it does not confer a statutory right to information, although complaints can be investigated by the Health Service Ombudsman. More information about the Health Service Ombudsman can be found on the Ombudsman's website.
- Part 3 summarises people's legal rights to obtain personal information held about them by both public and private sector organisations under the Data Protection Act 1998. It also explains how to make a subject access request under the Data Protection Act. The list of data controllers can be found on-line. Further information and guidance about the Data Protection Act can be found either on the DCA website or on the website of the Information Commissioner.
- Part 4 summarises the legal rights that govern access to environmental information held by public authorities under the 1992 Environmental Information Regulations. More information about these can be found on the website of the Department for the Environment, Food and Rural Affairs.
- Part 5 summarises the rights that exist to local government information. The Local Government Act 1972 and The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 set out the public's rights of access to the agendas, minutes and papers of meetings of principle councils (district, borough, and county councils) when these met in public, and to the background papers officers rely on when drawing up their reports. There are also rights of access to papers used in decision taking by some individuals. The public can also inspect the bills, receipts, and invoices issued and received by the council at the time of the annual audit under the Accounts and Audit Regulations 1996.

Section 1

Open Government Code of Practice on Access to Government Information Second Edition (1997)

Part 1

Purpose

- 1 This code of practice supports the Government's policy under the Citizen's Charter of extending access to official information, and responding to reasonable requests for information. The approach to release of information should in all cases be based on the assumption that information should be released except where disclosure would not be in the public interest, as specified in Part II of this Code.
- 2 The aims of the Code are:
 - to improve policy-making and the democratic process by extending access to the facts and analyses which provide the basis for the consideration of proposed policy;
 - to protect the interests of individuals and companies by ensuring that reasons are given for administrative decisions, except where there is statutory authority or established convention to the contrary; and
 - to support and extend the principles of public service established under the Citizen's Charter.

These aims are balanced by the need:

- to maintain high standards of care in ensuring the privacy of personal and commercially confidential information; and
- to preserve confidentiality where disclosure would not be in the public interest or would breach personal privacy or the confidences of a third party, in accordance with statutory requirements and Part II of the Code.

Information the Government will release

- 3 Subject to the exemptions in Part II, the Code commits departments and public bodies under the jurisdiction of the Parliamentary Commissioner for Administration (the Ombudsman):¹
 - i. to publish the facts and analysis of the facts which the Government considers relevant and important in framing major policy proposals and decisions; such information will normally be made available when policies and decisions are announced;
 - ii. to publish or otherwise make available, as soon as practicable after the Code becomes operational, explanatory material on departments' dealings with the public (including such rules, procedures, internal guidance to officials, and similar administrative manuals as will assist better understanding of departmental action in dealing with the public) except where publication could prejudice any matter which should properly be kept confidential under Part II of the Code;
 - iii. to give reasons for administrative decisions to those affected;²
 - iv. to publish in accordance with the Citizen's Charter:
 - full information about how public services are run, how much they cost, who is in charge, and what complaints and redress procedures are available; and
 - full and, where possible, comparable information about what services are being provided, what targets are set, what standards of service are expected and the results achieved.

¹ In Northern Ireland, the Parliamentary Commissioner for Administration and the Commissioner for Complaints.

² There will be a few areas where well-established convention or legal authority limits the commitment to give reasons, for example certain decisions on merger and monopoly cases or whether to take enforcement action.

iv. to release, in response to specific requests, information relating to their policies, actions and decisions and other matters related to their areas of responsibility.

- 4 There is no commitment that pre-existing documents, as distinct from information, will be made available in response to requests. The Code does not require departments to acquire information they do not possess, to provide information which is already published, or to provide information which is provided as part of an existing charged service other than through that service.

Responses to requests for information

- 5 Information will be provided as soon as practicable. The target for response to simple requests for information is 20 working days from the date of receipt. This target may need to be extended when significant search or collation of material is required. Where information cannot be provided under the terms of the Code, an explanation will normally be given.

Scope

- 6 The Code applies to those government departments and other bodies within the jurisdiction of the Ombudsman (as listed in Schedule 2 to the Parliamentary Commissioner Act 1967).³ The Code applies to agencies within departments and to functions carried out on behalf of a department or public body by contractors. The Security and Intelligence Services are not within the scope of the Code, nor is information obtained from or relating to them.

Charges

- 7 Departments, agencies and public bodies will make their own arrangements for charging. Details of charges are available from departments on request. Schemes may include a standard charge for processing simple requests for information. Where a request is complex and would require extensive searches of records or processing or collation of information, an additional charge, reflecting reasonable costs may be notified.

Relationship to statutory access rights

- 8 This Code is non-statutory and cannot override provisions contained in statutory rights of access to information or records (nor can it override statutory prohibitions on disclosure). Where the information could be sought under an existing statutory right, the terms of the right of access takes precedence over the Code. There are already certain access rights to health, medical and educational records, to personal files held by local authority housing and social services departments, and to personal data held on computer. There is also a right of access to environmental information. It is not envisaged that the Ombudsman will become involved in supervising these statutory rights. The White Paper on Open Government (Cm 2290) proposed two new statutory rights to information:

- an access right to personal records, proposed in Chapter 5; and
- an access right to health and safety information, proposed in Chapter 6.

Where a statutory right is proposed but has yet to be implemented, access to relevant information may be sought under the Code, but the Code should not be regarded as a means of access to original documents or personal files.

Public records

- 9 The Code is not intended to override statutory provisions on access to public records, whether over or under thirty years old. Under s12(3) of the Parliamentary Commissioner Act 1967, the Ombudsman is not required to question the merits of a decision if it is taken without maladministration by a government department or other body in the exercise of a discretion vested in it. Decisions on public records made in England and Wales by the Lord Chancellor, or in Scotland and Northern Ireland by the Secretary of State, are such discretionary decisions.

³ In Northern Ireland the Code applies to public bodies under the jurisdiction of the Northern Ireland Parliamentary Commissioner for Administration and the Commissioner for Complaints, with the exception of local government and health and personal social services bodies, for which separate arrangements are being developed as in Great Britain. Some Northern Ireland departments and bodies are expressly subject to the jurisdiction of the Parliamentary Commissioner under the 1967 Act.

Jurisdiction of courts, tribunals or inquiries

- 10 The Code only applies to Government-held information. It does not apply to or affect information held by courts or contained in court documents. ('Court' includes tribunals, inquiries and the Northern Ireland Enforcement of Judgements Office). The present practice covering disclosure of information before courts, tribunals and inquiries will continue to apply.

Investigation of complaints

- 11 Complaints that information which should have been provided under the Code has not been provided, or that unreasonable charges have been demanded, should be made first to the department or body concerned. If the applicant remains dissatisfied, complaints may be made through a Member of Parliament to the Ombudsman. Complaints will be investigated at the Ombudsman's discretion in accordance with the procedures provided in the 1967 Act.

Part 2**Reasons for confidentiality**

- 12 The following categories of information are exempt from the commitments to provide information in this Code. In those categories which refer to harm or prejudice, the presumption remains that information should be disclosed unless the harm likely to arise from disclosure would outweigh the public interest in making the information available.
- 13 References to harm or prejudice include both actual harm or prejudice and risk or reasonable expectation of harm or prejudice. In such cases it should be considered whether any harm or prejudice arising from disclosure is outweighed by the public interest in making information available.
- 14 The exemptions will not be interpreted in a way which causes injustice to individuals.

1 Defence, security and international relations

- a. Information whose disclosure would harm national security or defence.
- b. Information whose disclosure would harm the conduct of international relations or affairs.
- c. Information received in confidence from foreign governments, foreign courts or international organisations.

2 Internal discussion and advice

Information whose disclosure would harm the frankness and candour of internal discussion, including:

- proceedings of Cabinet and Cabinet committees;
- internal opinion, advice, recommendation, consultation and deliberation;
- projections and assumptions relating to internal policy analysis; analysis of alternative policy options and information relating to rejected policy options; and
- confidential communications between departments, public bodies and regulatory bodies.

3 Communications with the Royal Household

Information relating to confidential communications between Ministers and Her Majesty the Queen or other Members of the Royal Household, or relating to confidential proceedings of the Privy Council.

4 Law enforcement and legal proceedings

- a. Information whose disclosure could prejudice the administration of justice (including fair trial), legal proceedings or the proceedings of any tribunal, public inquiry or other formal investigations (whether actual or likely) or whose disclosure is, has been, or is likely to be addressed in the context of such proceedings.

- b. Information whose disclosure could prejudice the enforcement or proper administration of the law, including the prevention, investigation or detection of crime, or the apprehension or prosecution of offenders.
- c. Information relating to legal proceedings or the proceedings of any tribunal, public inquiry or other formal investigation which have been completed or terminated, or relating to investigations which have or might have resulted in proceedings.
- d. Information covered by legal professional privilege.
- e. Information whose disclosure would harm public safety or public order, or would prejudice the security of any building or penal institution.
- f. Information whose disclosure could endanger the life or physical safety of any person, or identify the source of information or assistance given in confidence for law enforcement or security purposes.
- g. Information whose disclosure would increase the likelihood of damage to the environment, or rare or endangered species and their habitats.

5 Immigration and nationality

Information relating to immigration, nationality, consular and entry clearance cases. However, information will be provided, though not through access to personal records, where there is no risk that disclosure would prejudice the effective administration of immigration controls or other statutory provisions.

6 Effective management of the economy and collection of tax

- a. Information whose disclosure would harm the ability of the Government to manage the economy, prejudice the conduct of official market operations, or could lead to improper gain or advantage.
- b. Information whose disclosure would prejudice the assessment or collection of tax, duties or National Insurance contributions, or assist tax avoidance or evasion.

7 Effective management and operations of the public service

- a. Information whose disclosure could lead to improper gain or advantage or would prejudice:
 - the competitive position of a department or other public body or authority;
 - negotiations or the effective conduct of personnel management, or commercial or contractual activities; and
 - the awarding of discretionary grants.
- b. Information whose disclosure would harm the proper and efficient conduct of the operations of a department or other public body or authority, including NHS organisations, or of any regulatory body.

8 Public employment, public appointments and honours

- a. Personnel records (relating to public appointments as well as employees of public authorities) including those relating to recruitment, promotion and security vetting.
- b. Information, opinions and assessments given in confidence in relation to public employment and public appointments made by Ministers of the Crown, by the Crown on the advice of Ministers or by statutory office holders.
- c. Information, opinions and assessments given in relation to recommendations for honours.

9 Voluminous or vexatious requests

Requests for information which are vexatious or manifestly unreasonable or are formulated in too general a manner, or which (because of the amount of information to be processed or the need to retrieve information from files not in current use) would require unreasonable diversion of resources.

10 Publication and prematurity in relation to publication

Information which is or will soon be published, or whose disclosure where the material relates to a planned or potential announcement or publication, could cause harm (for example, of a physical or financial nature).

11 Research, statistics and analysis

- a. Information relating to incomplete analysis, research or statistics, where disclosure could be misleading or deprive the holder of priority of publication or commercial value.
- b. Information held only for preparing statistics or carrying out research, or for surveillance for health and safety purposes (including food safety), and which relates to individuals, companies or products which will not be identified in reports of that research or surveillance, or in published statistics.

12 Privacy of an individual

Unwarranted disclosure to a third party of personal information about any person (including a deceased person) or any other disclosure which would constitute or could facilitate an unwarranted invasion of privacy.

13 Third party's commercial confidences

Information including commercial confidences, trade secrets or intellectual property whose unwarranted disclosure would harm the competitive position of a third party.

14 Information given in confidence

- a. Information held in consequence of having been supplied in confidence by a person who:
 - gave the information under a statutory guarantee that its confidentiality would be protected; or
 - was not under any legal obligation, whether actual or implied, to supply it, and has not consented to its disclosure.

- b. Information whose disclosure without the consent of the supplier would prejudice the future supply of such information.

- c. Medical information provided in confidence if disclosure to the subject would harm their physical or mental health, or should only be made by a medical practitioner.

15 Statutory and other restriction

- a. Information whose disclosure is prohibited by or under any enactment, regulation, European Community law or international agreement.
- b. Information whose release would constitute a breach of Parliamentary Privilege.

Section 2

Code of Practice on Openness in the NHS (1995)

Part I: Basic Principles

1 Introduction

This code of practice sets out the basic principles underlying public access to information about the NHS. It reflects the Government's intention to ensure greater access by the public to information about public services and complements the Code of Access to Information which applies to the Department of Health, including the NHS Executive. It also builds on the progress already made by the Patient's Charter which sets out the rights of people to a range of information about the NHS.

Because the NHS is a public service, it should be open about its activities and plans. So, information about how it is run, who is in charge and how it performs should be widely available. Greater sharing of information will also help to foster mutual confidence between the NHS and the public. The basic principle of this Code is that the NHS should respond positively to requests for information, except in certain circumstances identified in the Code. For example, patients' records must be kept safe and confidential.

2 Scope

The code of practice covers the following NHS organisations in England: Regional Health Authorities, Family Health Services Authorities, District Health Authorities, Special Health Authorities, NHS Trusts, the Mental Health Act Commission and Community Health Councils. It also covers family doctors, dentists, optometrists (opticians) and community pharmacists. Specific requirements for most of these organisations are detailed in parts 2-5 below. Organisations not covered in these sections must apply the general principles of the Code in their dealings with the public.

3 Aims

The aims of the Code are to ensure that people:

- have access to available information about the services provided by the NHS, the cost of those services, quality standards and performance against targets;
- are provided with explanations about proposed service changes and have an opportunity to influence decisions on such changes;
- are aware of the reasons for decisions and actions affecting their own treatment; and
- know what information is available and where they can get it.

4 General Principles

In implementing the Code, the NHS must:

- respond positively to requests for information (except in the circumstances identified in paragraph 9);
- answer requests for information quickly and helpfully, and give reasons for not providing information where this is not possible;
- help the public to know what information is available, so that they can decide what they wish to see, and whom they should ask; and
- ensure that there are clear and effective arrangements to deal with complaints and concerns about local services and access to information, and that these arrangements are widely publicised and effectively monitored.

5 Information Which Must be Provided

Apart from the exemptions set out in paragraph 9 below, NHS trusts and authorities must publish or otherwise make available the following information:

- information about what services are provided, the targets and standards set and results achieved, and the costs and effectiveness of the service;
- details about important proposals on health policies or proposed changes in the way services are delivered, including the reasons for those proposals. This information will normally be made available when proposals are announced and before decisions are made;
- details about important decisions on health policies and decisions on changes to the delivery of services. This information, and the reasons for the decisions, will normally be made when the decisions are announced;
- information about the way in which health services are managed and provided and who is responsible;
- information about how the NHS communicates with the public, such as details of public meetings, consultation procedures, suggestion and complaints systems;
- information about how to contact Community Health Councils and the Health Service Commissioner (Ombudsman); and
- information about how people can have access to their own personal health records.

6 Response to Requests for Information

Requests for information, whether made in person or in writing, must be answered promptly. An acknowledgement must be sent within 4 working days and, where possible, the information should follow within 20 working days. NHS organisations are not required to make available:

- i. copies of the documents or records containing the information (although in some cases it may be simpler to do so if they contain nothing but the information requested);
- ii. information which the organisation does not possess (e.g. comparable data with other organisations); and
- iii. individual copies of documents or other forms of information which are already widely publicly available.

If the information is not to be provided under the terms of the Code, an explanation must be provided within 20 working days of receipt of the request. Each NHS organisation must publish the name of an individual who has responsibility for the operation of this code of practice. This should be a senior officer directly accountable to the Chief Executive of the organisation. Details of how to request information through this individual must also be publicised locally.

7 Charging for Information

NHS Trusts and Authorities may make a charge for providing information but are not required to do so. It is recommended that charging should be exceptional but that where charges are made the following ground rules should be observed:

- a. no charge for individuals enquiring about services or treatment available to them; press and other media; Community Health Councils; MPs; Local Authorities; Citizen's Advice Bureaux; and
- b. for requests from people not listed above, no charge for the first hour and a charge not exceeding £20 per hour for each hour thereafter.

8 Personal Health Records

The NHS must keep patients' personal details confidential but people normally have a right to see their own health records. Depending on who made the records, patients can obtain access through the relevant Trust, Health Authority, family doctor or dentist. Access must be given within the timetable in the Access to Health Records Act 1990 (or, for records held on computer, the Data Protection Act 1984). Under these Acts, patients may be charged for access to their records.

9 Information Which May be Withheld

NHS Trusts and Authorities must provide the information requested unless it falls within one of the following exempt categories:

- i. Personal information. People have a right of access to their own health records but not normally to information about other people.
- ii. Requests for information which are manifestly unreasonable, far too general, or would require unreasonable resources to answer.
- iii. Information about internal discussion and advice, where disclosure would harm frank internal debate, except where this disclosure would be outweighed by the public interest.
- iv. Management information, where disclosure would harm the proper and effective operation of the NHS organisation.
- v. Information about legal matters and proceedings, where disclosure would prejudice the administration of justice and the law.
- vi. Information which could prejudice negotiations or the effective conduct of personnel management or commercial or contractual activities. This does not cover information about internal NHS contracts.
- vii. Information given in confidence. The NHS has a common law duty to respect confidences except when it is clearly outweighed by the public interest.
- viii. Information which will soon be published or where disclosure would be premature in relation to a planned announcement or publication.
- ix. Information relating to incomplete analysis, research or statistics where disclosure could be misleading or prevent the holder from publishing it first.

10 Complaining About the Provision of Information

People may wish to complain about a decision to refuse to provide information, a delay in providing information or levels of charges. In the first instance, complaints should

be made within 3 months to the local individual responsible for the operation of the Code (see paragraph 6 above). If the complainant remains dissatisfied, a complaint should be made to the Chief Executive of the organisation, or the Chief Executive of the Family Health Services Authority in the case of family doctors, dentists, pharmacists and optometrists (opticians). Community Health Councils may be able to help people to pursue their complaint. NHS Trusts and Authorities must acknowledge complaints within 4 working days and reply within 20 working days.

The NHS Trust or Authority will provide people with information about how to take their complaint further to the Health Service Ombudsman if they remain dissatisfied.

11 Implementation of the Code of Practice

The NHS organisations described in paragraph 2 above must implement the code of practice from 1 June 1995. Detailed guidance notes, to help them respond to requests for information in accordance with the code, will be available by the implementation date.

Part 2: NHS Trusts

1 Introduction

This section describes the information which NHS Trusts must publish or make available. It also lists examples of information which it is recommended should be made available as a matter of good practice, either through publication or on request.

2 Information Which Must be Published

The following are the documents which Trusts must publish by given dates:

- an annual report describing the Trust's performance over the previous financial year, and including details of board members' remuneration; the report should be written and presented in a way that can be readily understood by the general public;

- an annual summary of the Trust's business plan, describing the Trust's planned activity for the coming year;
- a summary strategic direction document (not published annually), setting out the Trust's longer term plans for the delivery of health care services over a five year period; and
- audited accounts published annually.

In addition to the documents described above, NHS Trusts must also make available, on request:

- the register of board members' private interests required under the Code of Accountability for NHS boards; and
- such information as is required by the Patient's Charter and NHS performance tables.

2.1 Public Meetings

NHS Trusts must hold at least one public meeting a year. An agenda, papers, the accounts and the annual report must be publicly available at least 7 days in advance of the meeting. Provision must be made for questions and comments to be put by the public. Public meetings must be held in readily accessible venues and at times when the public are able to attend. Providing the public with access to more frequent general meetings or to board meetings is good practice already followed by an increasing number of Trusts.

3 Good Practice in Providing Information

3.1 Examples of Additional Information Which May be Published

- quarterly board reports (financial, activity, quality and contract information);
- Patient's Charter
- local performance against national targets;
- local performance against local targets;
- information on service changes; and

- agenda and papers relating to other meetings held in public in addition to the Annual Public Meeting.

3.2 Examples of Information Which May be Available on Request

The following list is a guide to some of the information which is routinely held by most NHS Trusts. Much of the information will be detailed in the previous year's annual report. Where more up-to-date information is available, this may be given:

- patient information leaflets;
- description of facilities (numbers of beds, operating theatres etc);
- performance against Patient's Charter national and local standards and targets;
- waiting times by specialty;
- detailed information on activity;
- broad conclusions of clinical audit;
- number and percentage of operations cancelled, by specialty;
- price lists for extra-contractual referrals;
- information about clinicians (including qualifications, areas of special interest, waiting times for appointment);
- areas which have been market-tested, with details of decisions reached;
- tenders received by value, but not by name of tenderer;
- information on manpower and staffing levels and staff salaries by broad bandings;
- policies for Trust staff, e.g. equal opportunities, standards of conduct;
- environmental items, e.g. fuel usage;
- volume and categories of complaints and letters of appreciation (without identifying individuals), and performance in handling complaints;

- results of user surveys and action to be taken;
- standing orders and waivers of standing orders;
- standing financial instructions;
- external audit management letter, and Trust response, at the time when response is made;
- details of administrative costs;
- funds held on trust, such as bequests and donations;
- performance against quality standards in contracts;
- clinical performance, by specialty, e.g. proportion of surgery done on day surgery basis, by condition;
- performance against national and local targets for inpatient and day case waiting times;
- names and contact (office) numbers of board members and senior officers;
- basic salaries, i.e. excluding PRP and distinction awards, of staff, by bandings and in anonymised form;
- response times for ambulances; and
- information about the use of outside management consultants, including expenditure.

4 Procedures for Obtaining Information

Trusts must ensure that people know whom to ask for information. They must publish the name of the person responsible, along with full details of how to go about obtaining information and how to complain if the information is not provided. The person responsible should be a senior officer who is directly accountable to the Chief Executive of the Trust.

Part 3: Purchasers of Healthcare: District Health Authorities and Family Health Services Authority

1 Introduction

Purchasers have an essential role in the successful development of local services and achieving a strategic balance of care. The purchasers covered by this section are District Health Authorities, Family Health Services Authorities and District Health Authorities and Family Health Services Authorities acting jointly. (parts 4 and 5 give complementary advice for General Practitioner Fundholders).

This section describes the information which they must publish or make available. It also lists examples of information which it is recommended is made available as a matter of good practice, either through publication or on request.

2 Information Which Must be Published

2.1 District Health Authorities/Family Health Services Authorities

The following are the documents which Authorities must publish by given dates:

- an annual report, describing the performance over the previous financial year, and including details of board members' remuneration; the report should be in a form that can be readily understood by the general public;
- an annual report by the Director of Public Health;
- an annual report on performance against Patient's Charter rights and standards;
- a full list of General Medical Practitioners, General Dental Practitioners, pharmacists and optometrists in their locality;
- papers, agendas and minutes of board meetings held in public;
- audited accounts published annually; and

- a strategy document (not published annually) setting out the health authority's plans over a five year period. They must consult with the public before and after developing the strategy.

In addition to the documents described above, authorities must also make available, on request:

- annual purchasing plans;
- contracts with providers, both NHS and non-NHS;
- the register of board members' private interests required under the Code of Accountability for NHS boards; and
- such information as is required by the Patient's Charter.

2.2 Public Meetings

District Health Authorities and Family Health Services Authorities must hold all their board meetings in public, though there is provision for certain issues (e.g. personnel and commercial matters) to be taken in a private part of the meeting. The agenda for these meetings must always be provided to the press and on request to members of the public. Public meetings must be held in easily accessible venues, and at times when the public are able to attend.

2.3 Consultation

District Health Authorities must consult with the Community Health Council and other interested parties on any plans to change the service which they purchase or plan for their residents.

They must publish well in advance a timetable to enable the public to know when and how they can influence the commissioning process.

3 Good Practice in Providing Information

3.1 Examples of Additional Information Which May be Published

- information on services purchased by the Authority;
- information about consultation exercises undertaken and outcomes;

- full reports of any user or attitude surveys and action to be taken;

- total available financial resources;

- District Health Authority allocation;

- Family Health Services Authority allocation;

- proposed and actual expenditure on services, analysed by:
 - providers;
 - contracts (including by specialty, if available);
 - treatments purchased separately from contracts (extra contractual referrals);

- changes in providers and contracts from previous years;

- performance against quality standards in contracts;

- clinical performance, by specialty, of providers contracted with, e.g. proportion of surgery done on day surgery basis, by condition;

- performance against national and local targets for in-patient and day case waiting times;

- numbers of complaints dealt with and response times;

- names and contact (office) numbers of Authority board members and senior officers;

- basic salaries i.e. excluding PRP and distinction awards, of staff, by bandings and in anonymised form; and

- information about the use of outside management consultants, including expenditure.

3.2 Examples of Information Which May be Available on Request

- future year resource plans;

- information about expenditure on different types of healthcare, such as primary, secondary or community care;

- price comparisons of all providers used by the purchaser;

- total expenditure per head of population;

- costs of authority administration;
- standing orders and waivers of standing orders;
- standing financial instructions; and
- external audit management letter, and response, at the time when the response is made.

4 Procedures for Obtaining Information

Authorities must ensure that people know whom to ask for information. They must publish the name of the person responsible, along with full details of how to go about obtaining information and how to complain if the information is not provided. The person responsible should be a senior officer who is directly accountable to the Chief Executive of the Authority.

Part 4: General Medical Practitioners; General Dental Practitioners, Community Pharmacists and Optometrists

1 Introduction

This section describes the information which General Medical Practitioners, General Dental Practitioners, Community Pharmacists and Optometrists must publish or make available. It also describes the information about these services which Family Health Services Authorities must provide. In addition, the section lists examples of information which it is recommended Family Health Services Authorities should publish or make available on request as a matter of good practice.

General Medical Practitioners, General Dental Practitioners, Community Pharmacists and Optometrists provide services to the public which are paid for by the NHS. The public should therefore have access to information about services they provide. Although they are self-employed independent contractors, and cannot therefore be required to publish sensitive information about their businesses, their contracts for services specify information that is important to patients and which must be made available.

2 Information Which Must be Published

The following are the statutorily required documents which must be published.

2.1 General Medical Practitioners

Practice Leaflets – Essential information for patients about individual doctor's practices is published in practice leaflets which can be obtained from the practice or the Family Health Services Authority. These must contain the following information:

- name, sex, medical qualifications and date and first place of registration of the General Practitioner;
- details of availability (including arrangements for cover when the General Practitioner is not available), appointments system and how to obtain an urgent appointment or home visit;
- arrangements for obtaining repeat prescriptions and dispensing arrangements;
- frequency, duration and purpose of clinics;
- numbers and roles of other staff employed by the practice, and information about whether the General Practitioner works alone, part-time or in partnership;
- details of services available – for example, child health surveillance, contraception, maternity, medical, minor surgery, counselling and physiotherapy;
- details of arrangements for receiving and responding to patient's comments and complaints;
- geographical boundary of the practice area; and
- details of access for the disabled.

In addition, some leaflets also:

- contain information about Patient's Charter standards;
- contain information detailing any other professional staff employed by the practice, including their registration status; and

- are available in languages other than English which are commonly used locally.

2.2 General Dental Practitioners

Practice Leaflets – Essential information for patients about individual dental practices is published in practice leaflets which can be obtained from the practice or the Family Health Services Authority. These contain:

- name, sex and date of registration as a dental practitioner;
- address, opening hours and details of partners/associates;
- whether a dental hygienist is employed;
- details of access to the premises;
- whether only orthodontic treatment is available;
- with consent, whether the dentist speaks any languages in addition to English; and
- General Dental Practitioners are required to inform patients of any emergency arrangements in place.

CHARGES

- General Dental Practitioners must provide patients with individual costed treatment plans. They must display a notice of the scale of NHS charges and information about entitlement to exemption from or remission of charges. It is good practice to provide information about their cross-infection control procedures, giving examples as appropriate.

2.3 Community Pharmacists

Practice Leaflets – Pharmacists are not obliged to produce practice leaflets but those dispensing more than 1500 prescriptions a month normally do so. These leaflets detail the range of services available to the public and, if produced, must contain the following information:

- a list of services provided by the pharmacist;
- name, address and telephone number of the pharmacy;

- normal opening hours and arrangements for out of hours services and emergencies; and
- procedures for receiving comments on services provided.

AS GOOD PRACTICE:

- an increasing number of Community Pharmacists make health promotion leaflets available to the public.

2.4 Optometrists

Optometrists are not currently required to produce practice leaflets, but many do so as a matter of good practice.

Results of Eye-Tests

Optometrists must provide patients with a copy of the results of their eye-tests (i.e. their prescription) or a statement that no prescription is required.

2.5 Family Health Services Authorities

Directory of Local Services – A list of all General Medical Practitioners, General Dental Practitioners, Community Pharmacists and Optometrists must be published by Family Health Services Authorities. This contains details of all Practitioners in the area and includes information about out of hours services by pharmacists. Local General Practitioner Practice Charters are also available from Family Health Services Authorities.

CHANGING FAMILY DOCTORS

Information must be provided to help people wishing to change their family doctor. It is good practice to publish this information in a leaflet.

2.6 Personal Records

All Family Health Services Authority contractors must allow a patient access to their own health records under the Data Protection Act 1984 and the Access to Health Records Act 1990.

3 Information from Family Health Services Authorities

A Family Health Services Authority is well placed to take an overview of primary care services in its area and the following indicates additional information which may be provided.

3.1 Information about General Medical Practitioners

Within the restriction outlined in paragraph 1.2 about confidential contractual information, Family Health Services Authorities (or Health Commissions) may make available aggregate information about General Medical Practitioners in respect of:

SPEND:

- expenditure on General Medical Services; and
- prescribing.

NUMBERS:

- average list size of General Medical Practitioners;
- primary health care teams;
- aggregated numbers of district nurses, health visitors and midwives attached to practices; and
- aggregated number of practice nurses.

SERVICE INFORMATION:

- aggregated numbers of fundholding practices;
- aggregated levels of immunisation;
- aggregated levels of screening for cervical cytology;
- percentage of practices achieving top targets for smears and vaccinations;
- achievement of health promotion targets (percentage achieving band 3);
- information about type of premises (e.g. main surgeries, branch surgeries); and
- percentage of practices with General Practitioner Practice Charters in place.

INITIATIVES:

- initiatives to promote the work of primary care teams; and
- involvement of General Practitioners in purchasing.

COMPLAINTS:

- numbers;
- response times;
- people's rights as patients; and
- how people can make complaints.

3.2 Information about Dentists

- Numbers and location of NHS dentists, including details of late opening and specialist services offered.

3.3 Information about Community Pharmacists

Numbers and location of pharmacists, and those offering:

- late opening;
- oxygen supplies;
- supplies to residential homes;
- health promotion information;
- out of hours services for urgent prescriptions; and
- needle exchange facilities.

3.4 Information about Optometrists

Numbers and location of optometrists, and those offering:

- late opening; and
- domiciliary visits to carry out sight tests.

4 Information Which Must Not be Disclosed Without the Agreement of Individual Family Health Service Contractors

- Commercially sensitive data relating to the operation of a practice as a business, e.g. salaries, buildings; and
- information on specific practices, where the disclosure has not been agreed with the practices concerned.

5 Procedures for Obtaining Information

Information about individual General Medical Practitioners, General Dental Practitioners, Pharmacists and Optometrists and their practice leaflets must be available from the practice. Family Health Services Authorities must ensure that people know whom to ask for additional information. The Authority should publish the name of the person responsible. This should be a senior officer who is directly accountable to the Chief Executive of the Authority.

Complaints about failure to obtain information should be dealt with as far as possible by the practice. If the complainant remains dissatisfied he/she should be directed to the Family Health Services Authority. The assistance of the Community Health Council may also be sought.

Part 5: General Practitioner Fundholders

1 Introduction

This section extends Part 4 and describes the additional information which General Practitioner Fundholders, as purchasers of services, must publish or make available. The requirements of Part 4 relating to General Medical Practitioners also apply to General Practitioner Fundholders, in their role as providers of General Medical Services (GMS).

2 Information Which Should be Published

The following are the documents which General Practitioner Fundholders should publish or make available by given dates:

- plans for major shifts in purchasing;
- annual practice plan describing how the practice intends to use its fund and management allowances over the coming year and demonstrating the practice's contribution to national targets and priorities as well as any locally-agreed objectives. The plan should include an outline longer term view and may optionally include the practice's primary health care team charter (Practice Charter) and plans for the practice's general medical services (GMS) activity;

- Practice Charter (if available and not included above);
- annual performance report; and
- audited annual accounts.

Consultation

General Practitioner Fundholders must ensure that a copy (or a summary) of their major shifts in purchasing intentions, annual plans, Practice Charter (if separate) and performance reports is available at their practice for consultation by patients. A copy of the above documents should be sent to the Family Health Services Authority and a copy (or a summary) to the local Community Health Council.

In addition, General Practitioner Fundholders are required to produce annual accounts for audit. Once audited, these are public documents and are available for inspection at the Family Health Services Authority. General Practitioner Fundholders are developing a range of models for involving patients in service planning. General Practitioner Fundholders should ensure that they have effective complaints procedures in place.

3 Procedures for Obtaining Information

Information about individual practices should be requested direct from the practice. Complaints about failure to provide information should be dealt with as far as possible by the practice.

If the complainant remains dissatisfied he/she should be directed to the Family Health Services Authority. The assistance of the Community Health Council may also be sought.

Requests for information which is not about an individual practice should be directed to the Family Health Services Authority. They must ensure that they publicise the name of the officer within the Family Health Services Authority who is responsible for providing this information and for the operation of the code of practice. This should be a senior officer who is directly accountable to the Chief Executive of the Authority.

Section 3

Individuals' Right of Access to their Personal Data under the Data Protection Act 1998

The Data Protection Act 1998, which covers both the public and the private sector throughout the United Kingdom, sets the rules with which organisations holding information about living individuals on computer or in structured manual records must comply. This information is called 'personal data' and the organisations are known as 'data controllers'. At the core of the rules are the Act's data protection principles (a form of statutory code of good data handling practice). The principles require personal data to be:

- processed fairly and lawfully;
- processed only for limited purposes;
- adequate, relevant and not excessive;
- accurate;
- not kept longer than necessary;
- processed in accordance with individuals' rights;
- kept secure; and
- not transferred to non-EEA countries without adequate protection.

Central among the rights which the Act provides is that for individuals to find out what information is held about them and to obtain a copy of that information. This is known as the right of subject access. There is also a right to have inaccurate data corrected, blocked, erased or destroyed, and to seek compensation through the courts for damage and associated distress caused by such inaccuracy, or by any other contravention of the Act. There are a number of exemptions to the right of subject access.

Subject to some exemptions, data controllers are required to notify the Information Commissioner of the processing of personal data that they do. The Information Commissioner is the independent data protection supervisory authority who has responsibility for administering and enforcing the Act; provides advice and publishes guidance about the Act, deals with complaints about possible breaches of the Act and manages the notification scheme.

To apply for a copy of the information held about you, write to the 'data protection officer' of the organisation you are interested in. Although there is no statutory requirement for you to do so, it would be helpful to say that you are applying under section 7 of the Data Protection Act 1998 for access to any personal data about yourself. If the organisation has different offices or branches and you're not sure which to write to, telephone first and ask. Alternatively, contact the Information Commissioner's office or look at the organisation's entry on the register of data controllers held by the Information Commissioner. This can be found on the Internet. Except for certain medical, education and credit reference records, data controllers may charge a maximum fee of £10 for providing subject access.

Further information and guidance about the Data Protection Act can be obtained from either the DCA website or from the Office of the Information Commissioner at the address below:

The Office of the Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF
Tel: 01625-545745

Section 4

Access to Information under the Environmental Information Regulations

There has been a legal right of access to environmental information since the current Environmental Information Regulations (EIRs) were issued in 1992 in accordance with the EC Directive on Public Access to Environmental Information (90/313/EEC). For the purposes of the regulations environmental information is defined as information relating to:

- 'the state of any water or air, the state of any flora or fauna, the state of any soil, or the state of any natural site or other land' ;
- 'any activities or measures (including activities giving rise to noise or any other nuisance) which adversely affect anything mentioned in sub-paragraph (a) above or are likely adversely to affect anything so mentioned; and
- 'any activities or administrative or other measures (including any environmental management programmes) which are designed to protect anything so mentioned'.

The scope of the EIRs is wide and applies to all government ministers, government departments, local authorities, and any person or organisation carrying out functions of public administration with responsibilities in relation to the environment. It also includes any body with public responsibilities for the environment which is under the control of a such a person or organisation.

The regulations apply to information held in written, visual, aural or data base form. It includes information contained in documents, pictures, maps and records where records are taken to include registers, reports, returns, computer records (e.g. data bases) and other non-documentary records. To make an application, write to the authority concerned, citing the Regulations. Authorities have up to two months to respond to your request.

The Regulations state that any body which holds any information to which the Regulations apply shall make that information available to every person who requests it. A body may refuse to supply information in certain instances, e.g. if it does not consider that the information requested is 'environmental' as defined by the Regulations, or because they believe it is exempt from disclosure in accordance with Regulations. The body must however give reasons for refusal to the applicant in writing.

Any applicant dissatisfied with a refusal by a body to make information available, or who considers that a request for information has been inadequately answered or delayed may seek a remedy in a number of ways. Where the request for information is made of local government, the applicant may already apply to the local government ombudsman on grounds of maladministration giving rise to injustice. If all else fails, an action to enforce the duty provided for in Regulation 3(6) may be taken in the Courts.

Further information on the Environmental Information Regulations, including guidance notes which reflect policy on how the Regulations should be interpreted can be found on-line.

Section 5

Access to Local Government Information

Under existing rules the public already have access to the minutes and reports from council meetings and the reasons why councils have made decisions.

The Local Government Act 1972 applies to all principle councils (i.e. district, borough, and county councils). It provide the public and press with access to meetings and connected papers of the full council and its committees and sub-committees, five clear days before the meeting takes place unless 'confidential' or 'exempt' information, as defined in the Act, is likely to be disclosed. It also gives a right to see the background papers relied upon by the officer drawing up the report for the meeting.

Parish and town councils are covered by the Public Bodies (Admission to Meetings) Act 1960 and Part 2, section 228 of the Local Government Act 1972 relating to the inspection of documents. The 1960 Act provides the public with a right to be admitted to meetings unless confidential business is being discussed. The 1972 Act provides that the minutes of a meeting be open to inspection to the public.

Supplementary regulations were issued under Part II of the Local Government Act 2000 in the light of new executive decision making structures created under this Act. The *Local Authorities (Executive Arrangements) (Access to Information) (England)* Regulations apply the regime created by Part VA of the 1972 Act (described above) to the executive decision making process and give the public a right of access to meetings, documents and reasons for decisions should have access to meetings documents and decisions where the decision to be taken is a 'key decision'.

Key decisions are defined as executive decisions which are likely to have significant financial implications with regard to the local authority's budget for the services or function to which the decision relates, or a decision which is significant in its effect on communities 'within two or more wards in the area of the local authority or electoral divisions in Counties.'

The consultation paper *Access to Information in Local Government* issued by the Office of the Deputy Prime Minister on 2 September 2002 sets out in more detail both the current and future framework governing access to information in Local Authorities. It can be found on-line.

Local Authorities will also be aware of the Good Practice Note on Access to Information produced by the local authority associations in June 1995.

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