

Scottish Freedom of Information Implementation Group
7 March 2007

Publication Scheme Approvals 2008+

1. Introduction

Section 23 of the Freedom of Information (Scotland) Act 2002 (FOISA) requires Scottish public authorities to adopt and maintain a publication scheme. The schemes must be approved by the Scottish Information Commissioner (the Commissioner).

This short paper sets out the Commissioner's current proposals for approval of publication schemes from 2008. These proposals will be incorporated into his operational plans.

2. Background

In 2003 Scottish Ministers provided the following timetable for publication scheme approval in preparation for FOISA coming into force in January 2005:

Part of Schedule 1 of the Act	Description	Deadline for submission	Schemes to be approved and into effect by
1	Ministers, The Parliament	28 February 2004	1 June 2004
2	Non ministerial office holders in the Scottish Administration (Scottish Executive and its agencies)	28 February 2004	1 June 2004
3	Local government	28 February 2004	1 June 2004
4	The NHS	31 May 2004	1 September 2004
5	Educational institutions (universities and colleges)	31 May 2004	1 September 2004
6	Police	28 February 2004	1 June 2004
7	Others (non departmental public bodies, crown appointees and regulators, etc)	31 August 2004	30 November 2004

Publicly owned companies as defined by section 6 of FOISA were required to produce and maintain a publication scheme according to the following timetable:

S6	Publicly owned company	31 August 2004	30 November 2004
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3. **Publication scheme approvals in 2004**

In 2003 the Commissioner issued “A Guide to Publication Schemes”. This document set out the legal requirements of public authorities and the approval process. It detailed guidance on the submission of schemes for approval.

Authorities were advised of two routes for publication schemes:

Bespoke schemes

An authority could develop a (bespoke) scheme unique to its own organisation. The Commissioner approved 144 bespoke publication schemes in 2004.

Model schemes

Authorities could develop model schemes. A model scheme, once approved, could be adopted by appropriate organisations e.g., the model scheme for Assessors has been adopted by all Scottish Assessors in preference to the development of bespoke schemes. 16 model schemes are currently in existence:

- Assessors
- Fire Boards
- Valuation Joint Boards
- Community Pharmacists
- General Dental Practitioners
- General Practitioners
- Health Boards and Special Health Boards
- Health Councils and Scottish Association of Health Councils
- Optometrists
- Scottish Further Education Institutions
- Scottish Higher Education Institutions
- Chief Constables of a Police Force in Scotland
- Justice of the Peace Advisory Committee
- Social Inclusion Partnerships
- Local Enterprise Companies (owned by Scottish Enterprise)
- Publicly owned companies (active and dormant)

In 2004, 419 public authorities applied to the Commissioner to adopt a model scheme. Individual health service providers were assumed to have adopted model schemes produced by their professional bodies.

4. **The Commissioner’s publication scheme strategy 2008+**

The Commissioner’s approval for all model and bespoke publication schemes for Scottish public authorities will expire in 2008. In developing his future strategy for the approval of schemes, he has been mindful of the following:

- The legal obligation imposed by FOISA upon public authorities to adopt and maintain a publication scheme which has the approval of the Commissioner
- There is no statutory provision for the length of the approval period
- The development of publication schemes from 2008 should build upon previous experience
- The approval of schemes is demanding on the Commissioner's staff resources.
- The need for up to date, clear guidance for public authorities about developing publication schemes which will assist them to meet the requirements of the legislation
- The development of model publication schemes proved a positive approach for the public authorities concerned and for the Commissioner. Model schemes offer a possible additional benefit in providing greater consistency of information provision for the public.

The strategy includes the following elements:

(i) Extend the approval process over 4 years

The Commissioner proposes to extend future approvals over a 4 year period. The following table sets out the **draft** timetable currently under consideration:

Part of Schedule 1 of the Act	Description	Schemes approved until	Approval period to be extended to	Deadline for submission	Schemes to be approved and into effect by
1	Ministers, The Parliament	1 Jun 2008	N/A	28 Feb 2008	1 Jun 2008
2	Non ministerial office holders in the Scottish Administration (Scottish Executive and its agencies)	1 Jun 2008	N/A	28 Feb 2008	1 Jun 2008
3	Local government	1 Jun 2008	1 Jun 2009	28 Feb 2009	1 Jun 2009
4	The NHS	1 Sep 2008	1 Jun 2010	28 Feb 2010	1 Jun 2010
5	Educational institutions (universities and colleges)	1 Sep 2008	1 Jun 2009	28 Feb 2009	1 Jun 2009
6	Police	1 Jun 2008	1 Jun 2009	28 Feb 2009	1 Jun 2009
7	Others (non departmental public bodies, crown appointees)	30 Nov 2008	1 Jun 2011	28 Feb 2011	1 Jun 2011

	and regulators, etc)				
S6	Publicly owned companies	30 Nov 2008	1 Jun 2011	28 Feb 2011	1 Jun 2011

This approach will create a rolling programme so that only a small number of schemes are approved in any one year, allowing the Commissioner to allocate staff resources to the development of guidance and provision of support to authorities. He will be writing to the authorities by July 2007 to advise them, where applicable, of the extension of his approval for existing schemes and the submission date for new schemes.

(ii) Streamline the approval process:

The revised publication scheme approval process will place more emphasis on self appraisal by public authorities of their publication schemes against specified approval criteria.

(iii) Improving the quality of the content of schemes

The Commissioner's staff will be available to provide support to sector representative groups at the appropriate times to meet the approval periods set out above. The aim is to build upon the good practice developed in 2004 and to increase the number of model publication schemes. Where models are not feasible, the Commissioner's staff may provide support to representative groups to promote consistency in approach across a sector.

(iv) Improving the quality and range of guidance

The Commissioner will:

- Develop a guide to publication schemes for public authorities and providing internal guidance and training to staff responsible for advice to authorities and approvals
- Provide additional information for the publication scheme section of his website, including more FAQs and templates and sector specific information where appropriate
- Maintain his enquiries service to individual organisations seeking advice about developing and submitting schemes
- Provide support to public sector representative organisations developing model publication schemes.

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