

Freedom of Information Act Model Publication Scheme 2009

Central Government Sector Monitoring Report

The Information Commissioner's Office (ICO) has introduced a new model publication scheme to be adopted by all public authorities from 1 January 2009.

In March 2009 the ICO published the [Monitoring Strategy](#) which establishes the processes and procedures the ICO will follow in monitoring the adoption and operation of the model publication scheme across the public sector.

This report sets out the results of the ICO's monitoring of the scheme in the central government sector which took place over a period of weeks from mid-April until mid-June 2009.

A total of 30 public authorities were monitored during the period including the principal Departments of State and also the Houses of Commons and Lords, the Northern Ireland Assembly and the National Assembly of Wales. (Appendix 1 contains the full list of all the public authorities monitored).

Executive Summary

1 The exercise has revealed that less than three quarters of the authorities we monitored in this sector have adopted the model publication scheme. It is of serious concern to the ICO that eight authorities are in breach of the Freedom of Information Act 2000.

2 The ICO would expect the central government sector (including Westminster and the two National Assemblies) to take the lead across the public sector in setting the standard in regard to compliance with the requirements of the FOIA. The apparent non-compliance is further disappointing given the sector's active engagement in the ICO workshops during the development of the model scheme and our wider communications with the sector prior to January 2009, most specifically the former Information Commissioner's letter to all Permanent Secretaries in June 2008.

3 The exercise has shown that there is some confusion regarding the construction and application of the Guide to Information. We will refine our advice on what is required in relation to the production and operation of the guide by authorities. We intend to require all public authorities to produce and make available electronically, where appropriate, a guide to information which lists the information to be made available, in what format it is made available and whether there is a charge for it.

4 The majority of authorities in the sector make all proactively released information available via their website. Where information is available on request, our experience is that it is provided promptly.

5 Thirteen authorities in the sector have published details of their charging arrangements for routinely available information on their websites, however not all have policies that conform to ICO guidance. The ICO will be following this issue up with all those authorities who have not made available details of their charging policy and also where policy does not meet our guidance.

6 The greatest area of non-compliance with the requirements of the model scheme across the central government sector, with a limited number of exceptions, is in relation to the proactive release of financial information.

7 The proactive release of information relating to contracts awarded and their value has generally been very poor. Only a very small number of authorities make information available on both. We will wish to pursue this issue with all those authorities who do not currently provide this information routinely with a view to agreeing a timetable for their doing so.

8 In this context we will also consider further whether it is appropriate as a minimum, and in order to comply with the requirement to make this type of information routinely available, to require all authorities in the sector to provide a link to the Official Journal of the European Union.

9 We are disappointed to note that very few monitored authorities make available any detailed information relating to senior staff allowances and expenses. The failure to provide this information proactively is particularly concerning given the timing of the introduction and monitoring of the publication scheme. This monitoring exercise coincides with the much publicised release of MPs expenses and the public's increased awareness of freedom of information. We will wish to raise this issue with all relevant authorities.

10 We were aware through our discussions during the development of the model scheme that a minority of public authorities already make the minutes of senior management and board meetings routinely available. Our findings across the central government sector are mixed. At the time of our monitoring only 3 of the authorities monitored in the sector make both the minutes and their associated agendas and papers routinely available. They are the Northern Ireland Assembly, National Assembly of Wales and the Department for International Development. We note with concern that a number of authorities make neither the minutes nor the relevant papers routinely available.

11 We included the proactive release of an authority's register of hospitality and gifts in the monitoring exercise as an indicator of their transparency and openness. Whilst we presume that organisations in the sector collate this information for their own purposes, our monitoring revealed a minority make this information proactively available.

12 Whilst we expect that most organisations within the sector will have a records management policy in place it is not possible to be certain of this from our monitoring results. Only a small number of authorities provide the information on their websites. The majority of these authorities have also made information available relating to their retention of documents schedule.

13 The ICO has particular concerns regarding the processes and procedures that public authorities have in place in order to review individual requests for information where the information has previously been refused. Only a small number of authorities in the sector make information on their internal review procedure available on their website. We will wish to discuss this issue with the majority of authorities in the sector.

14 The ICO expects all public authorities to make information about their request handling procedures routinely available to the general public. Our monitoring has shown however that not all authorities in the sector do so and where the information is available it does not always conform to ICO guidance. This is of concern to the ICO and an issue that we will follow up across the sector generally.

15 We were particularly disappointed to note that very few authorities in the sector routinely provide statistical information on request handling. As all departments of state (but not the Houses of Commons and Lords, Northern Ireland Assembly, National Assembly for Wales, Office of the Leader of the

House of Commons, Office of the Leader of the House of Lords and the Office of the Advocate General for Scotland) are required to provide statistics on foI requests received and their case handling to the Ministry of Justice on a quarterly basis we would have expected each department to have either included this information on their own site, or linked to the relevant page on the Ministry of Justice site where this information is available. We intend to take this issue up with the departments who do not, as a minimum, provide a link to the Ministry of Justice quarterly statistics.

16 We included disclosure logs in the monitoring exercise in order to assess the extent of their use by authorities in the sector. We also monitored whether the log seemed to be well constructed and comprehensive in content. We have been encouraged to note that most authorities in the sector have a disclosure log which is available on their website. Our monitoring has however revealed a wide range of construction and general application.

17 We noted that whilst a number of authorities in the sector link to both the ICO homepage and the model publication scheme pages, very few authorities in the sector also link to ICO guidance and other information.

18 During the course of the monitoring exercise we noted a number of specific issues relating to the provision of information by authorities on their websites. A major issue is the poor maintenance of some sites, for example out of date information, information not updated and broken links to information both on the authority's own site and also to other organisations' sites.

The Model Publication Scheme 2009

Section 19 of the Freedom of Information Act 2000 (FOIA) requires all public authorities to whom the Act applies to adopt and maintain a publication scheme.

The [Model Publication Scheme](#) came into effect on January 1 2009. All public authorities were required to adopt the new model from that date.

Definition Documents

The ICO has produced detailed guidance referred to as [Definition Documents](#) for each of the key sectors in the public sector which identify the types of information that we expect authorities to make routinely available.

We have clarified that public authorities should make available all the information listed in the definition document unless:

- they do not hold the information;
- the information is exempt under one of the FOI exemptions or EIR exceptions or its release is prohibited by another statute;
- the information is archived, out of date or otherwise inaccessible, or
- it would be impractical or resource-intensive to prepare the material for routine release.

The definition documents for the authorities monitored during this exercise are:

- Government departments
- House of Commons
- House of Lords
- The Northern Ireland Assembly
- The National Assembly for Wales

The Monitoring Exercise

Methodology

The monitoring exercise was carried out by members of the FOI Good Practice and Enforcement Team over a number of weeks between mid April and June 2009.

The exercise was conducted solely by reference to the public authority's website. We monitored in the way that a member of the general public would

search for information rather than as the regulator of the FOIA. Monitoring of an individual authority was undertaken on a single day and all websites were visited only once during the exercise. Our findings therefore represent a snapshot of the sector's compliance, by individual authority, with the requirements of the legislation.

Monitoring was twofold in that we monitored each authority's adoption of and compliance with the Model Publication Scheme 2009 and also reviewed their conformity to the relevant Codes of Practice under the Freedom of Information Act (2000) (FOIA).

Our findings set out in this report relate to those authorities who have adopted the model scheme. Where we could not easily find evidence that the authority had adopted the model we did not proceed further with the monitoring exercise.

Compliance with the Model Publication Scheme 2009

In monitoring compliance with the model publication scheme we searched each authority's website to:

- Confirm adoption of the model scheme.
- Assess that the authority had conformed with the obligations of the scheme, for example whether the authority had a 'guide to information'.
- Assess the ease with which information could be accessed.
- Monitor evidence of charging regimes and policies.

Our monitoring also included an assessment of the speed of response to requests for information not available through the website.

Adoption of the 2009 Scheme

More than half the public authorities that we monitored in the central government sector have adopted the model publication scheme, although it appears that not all authorities had the scheme in place with effect from 1 January 2009. We are aware that a small number of authorities made the details of the model scheme available on their websites during the course of the monitoring period.

At the time the exercise was carried out eight of the authorities we monitored had not adopted the model scheme. As their previous publication scheme ceased to have legal effect on 31 December 2008 they are therefore in breach of section 19 of the FOIA.

Those authorities are:

- The Attorney General's Office
- Cabinet Office
- Department for Energy and Climate Change
- Foreign and Commonwealth Office

- Government Equalities Office
- Home Office
- Wales Office
- Office of the Leader of the House of Commons

The failure of these authorities to have adopted the model scheme is a breach of the FOIA and of serious concern to the ICO. A well – attended central government sector workshop met on a number of occasions during the course of the development of the model scheme, the ICO communicated frequently with the sector on the requirements of the scheme (including our participation at the Information Rights Practitioner’s Conference in May 2008 and a number of meetings with individual departments) and in June 2008 the former Information Commissioner, Richard Thomas, wrote personally to all Permanent Secretaries about the model scheme.

We are encouraged to note that where the scheme has been adopted, there are several good practice models within the sector. These will be discussed in greater detail later in this report.

Conformity with the obligations of the scheme

The Guide to Information

An essential feature of the model publication scheme is the Guide to Information. The ICO has advised that in order to show the specific information a public authority makes available, it must produce a guide to information which identifies the particular information it publishes, how it will be published and what charge if any is to be made. The guide to information should be a guide to what is available rather than a mechanism through which information must be accessed.

We have not however specified the format of the guide. We suggested that some authorities may find that all the information can be fitted into existing sections of their website. We recognised that in many cases, the website map will be the guide to information.

Our monitoring has indicated that authorities have interpreted our guidance in a number of ways; a number are using the website as the guide to information, others have drawn up a specific guide to information which is available on line. One authority in the sector has used the guide to information to make available information that is not already provided elsewhere on their site.

There seems to be some confusion however about whether authorities who use their website as their guide to information should also be required to produce a guide which lists all the information they intend to make available.

Our monitoring, and also feedback, has shown us that where authorities have produced a guide, either online or in hard copy format, as a record of all the information they make available routinely, this has proved to be the most effective means by which the authority can identify and maintain that

information. It is also a more straightforward route for the general public to access specific information.

We have therefore decided as a result of this monitoring exercise to refine our advice on what is required in relation to the production and operation of a guide to information. We intend to require all public authorities to produce and make available a guide to information which lists the information to be made accessible, the format in which it is made available and whether there is a charge for it.

Ease of access

In monitoring the adoption and implementation of the scheme by individual public authorities in the sector, we took account of the ease of access to the information. We approached this in the manner that a member of the public would obtain the information taking account of how easy it was to find and whether the relevant information had been provided.

Monitoring revealed that authorities have adopted a variety of means of setting out and grouping the information they make proactively available. In some cases information is easily identifiable via the 7 classes of the publication scheme and set out on the left hand side of the home page. We found in others that information is easily available through a search facility.

Information available by contacting the public authority

We monitored the extent to which authorities have indicated that specific pieces of information are available only 'on request' to the authority and that the procedures for obtaining the information are clear and understandable.

It is worth mention that a significant proportion of authorities in the sector have made all proactively released information available via their websites; however a small number of authorities indicate that specific information is available only 'on request'.

In these cases, in order to 'test' the process, we requested the information from the authority, identifying that we were doing so as part of the ICO's monitoring exercise. In the majority of cases the information was received promptly – generally within 5 working days or less. In one case however we received an acknowledgement indicating that the authority had treated our request under Part 1 of the FOIA. This appeared to indicate that individual employees within the foi team were unaware of what information the authority had stated would be routinely available. This was later corrected by the authority who subsequently dealt with the request in the correct manner.

Evidence of charging regimes and policies

The FOIA requires public authorities to make it clear whether a charge is made for material which they routinely make available.

During the development of the model scheme we had identified charging regimes and policies for routinely available information as a significant issue.

The ICO was keen to establish consistency of approach across the wider public sector.

For this reason we included in the model scheme a commitment to produce a schedule of any fees charged for access to information which is made proactively available. We have also produced guidance for practitioners 'Charging for information in a publication scheme' which sets out in some detail the circumstances in which the ICO considers that charging a fee for the provision of routinely accessible information is permissible.

We have indicated that where possible, information should be made available online and free of charge. Any legitimate charges should be stated "up-front", and should be the same for all requesters. Additionally, it is good practice to explain how a charge is arrived at, for example, the amount charged per page for photocopying.

Our monitoring revealed that 13 authorities have published details of their charging arrangements for routinely available information on their websites, however only five have policies that conform to ICO guidance. They are:

- Department for Innovation, Universities and Skills
- Department for International Development
- Advocate General's Office
- Scotland Office
- Department for Transport

This is therefore an issue we will wish to take up with those authorities who have either not made this information available or where it does not meet ICO recommended practice.

The Seven Classes of Information

Information available within each class

Within each of the seven classes and with reference to the relevant sector definition documents we identified two pieces of information to be monitored. In selecting this specific information we had in mind both the nature of the information i.e. a combination of that we expect all public authorities to make routinely available (for example organisational details, their recruitment policy and press releases) and also information perhaps not previously made proactively available. The provision by all public authorities of information not previously routinely available is key to the 2009 model scheme. The ICO requires all public authorities to make routinely available, and on an on-going basis, the widest range of information possible that is of interest and value to the general public.

In general, most authorities in the sector have made good progress in making a considerable amount of information proactively available via their website.

It is worth noting however that only a very small number of authorities have made proactively available most or all of the information which formed the basis of the ICO's monitoring exercise. We are disappointed that monitoring revealed in the majority of authorities whilst some key pieces of information are available others are not. A very small number of authorities in the sector have made routinely available all the information that was the basis of the monitoring exercise.

Each of the seven classes is set out below and identifies the two specific pieces of information to be monitored.

Who we are and what we do

- Details of the organisation structure
- Contact details – ideally with job titles

Generally all monitored authorities provide some information regarding their organisational structure although the amount and detail of the information varies. Where applicable, all government departments provide details of their executive agencies, some also identify the non departmental public bodies.

We also chose to monitor contact details as this is information of use to the general public and should be routinely available. We found that whilst authorities have provided generic contact details few give job titles of the relevant contact.

What we spend and how we spend it

- List of contracts awarded and their value
- Senior staff / board members allowances and expenses

The monitoring exercise revealed that the greatest area of non – compliance with the requirements of the model scheme across the sector, with a limited number of exceptions, is in relation to the proactive release of financial information.

We were aware that the proactive release of financial and procurement information was likely to present challenges for many authorities across the wider public sector, however it is this type of information that goes to the core of transparency and openness within a public authority and demonstrates their commitment to freedom of information principles. There is undoubtedly a public interest in knowing how public funds are spent – the cost of buying services, workforce costs and the details of the expenses and allowances given to the authority's senior staff.

Contracts

A number of authorities do not provide any information on either contracts awarded by them or their value. They are:

- Department for Communities and Local Government
- Department for Culture, Media and Sport
- Department for Innovation, Universities and Skills

- The Treasury

Other authorities impose restrictions on the availability of the information; and one authority appears to have a 5 year gap where no contracts have been awarded.

We particularly noted with concern that very few authorities in the sector provide up to date information on both contracts awarded and their value.

Those authorities that do so are:

- Department for International Development
- Ministry of Justice
- Northern Ireland Office
- Department for Transport
- Department of Health
- Northern Ireland Assembly

Only one authority (Department for Environment, Food and Rural Affairs) links to the Official Journal of the European Union which lists public sector contracts and tenders from 25 countries. All public authorities are required to post details of contracts over £97,000 (central government) and £144,000 (local government). We recall that during the development stage of the model scheme there was general agreement that public authorities (across all sectors) would be able to provide links to this information that they are required to make available under European legislation. We will wish to pick this issue up again and include in our discussion with authorities in the sector.

Expenses and allowances

We were disappointed to note that very few monitored authorities provide any detailed information relating to senior staff allowances and expenses.

Generally where information is provided it is restricted in the following ways:

- Referenced by a single disclosure in the disclosure log
- Ministerial expenses only via link to the Cabinet Office website
- Information relating to the policy rather than the actual amounts incurred by the authority's senior staff

The failure to provide this information proactively is particularly concerning given the timing of the introduction of the model publication scheme and this monitoring exercise. The first half of 2009 saw the much publicised release of MPs expenses and the increased awareness of freedom of information, openness and transparency within the public sector and the considerable public interest in these matters.

Significantly both the Northern Ireland Assembly and the National Assembly of Wales, who have made this information routinely available for some time, provide the most detailed information in this class.

What are our priorities and how are we doing

- Current business plan
- Most recent performance review

We are pleased to record that the majority of authorities in the sector make both their business plan and most recent performance review available via their website.

How we make decisions

- Minutes of management board / senior management meetings
- Reports or papers for the meetings

In our discussions with authorities during the development of the new model scheme there was considerable discussion relating to the identification of the 'appropriate' senior meetings within an authority and also the extent to which information was or would be likely to be made available.

Whilst many authorities across the wider public sector already make some of this information available, the ICO had previous concerns regarding the extent to which authorities also make available the agendas and papers associated with those meetings.

In identifying this information to be included in the monitoring exercise we wished to test the extent to which the important decisions made by the authority are communicated to the general public.

Our findings across the central government sector were mixed, some authorities routinely post minutes of meetings on their website; however we were disappointed to note that a number of authorities make neither the minutes nor the relevant papers routinely available.

At the time of this report only 3 monitored authorities in the sector make both the minutes and their associated agendas and papers routinely available.

They are:

- National Assembly of Wales
- Department for International Development
- Northern Ireland Assembly

We intend to raise this issue with the relevant authorities in the sector with a view to ensuring that minutes of meetings and relevant papers and agendas are available across the sector within a specified period.

Our policies and procedures

- Recruitment policy
- Information about any Memorandum of Understanding (MOU)

Recruitment Policy

We included the organisation's recruitment policy in the monitoring exercise as this is one of an authority's core policies and should therefore be available to the general public. The majority of authorities provide full details of their

policy, including in some instances details of secondments etc. A small number however provide only very limited information which would generally not be sufficient to constitute the authority's policy. In two instances we were unable to locate any recruitment information.

Memorandum of Understanding

MOUs are a feature of government used to define a relationship between departments, agencies or other organisations.

Whilst we expect that the majority of authorities in the sector have memorandum of understanding in place with other public authorities both within and outside the sector, and other organisations, very few have made this information routinely available.

We recognise that in some cases details of specific memorandum of understanding may not be disclosed.

Lists and Registers

- Register of gifts / hospitality
- List of public registers

Register of Gifts and Hospitality

We included the proactive release of an authority's register of hospitality and gifts in the monitoring exercise as an indicator of their transparency and openness. Parliament, The Treasury and The National Audit Office place requirements on civil servants in relation to hospitality and gifts. In addition, the Civil Service Code sets out restrictions and obligations on the conduct of civil servants in this area.

Whilst we presume that organisations in the sector collate this information for their own purposes, our monitoring revealed a minority make this information proactively available. One authority provided the information in response to an information request which cannot be accessed on line, nor following that request has the Department concerned chosen to make this information routinely available.

Lists of Public Registers

The provision of this information on websites varies between authorities; a number state that they do not hold such information; in others it was not possible to determine whether the authority has this information but does not make it routinely available. The following authorities include details of lists and registers on their website:

- Department for Business, Enterprise and Regulatory Reform
- Ministry of Defence
- Department for Environment, Food and Rural Affairs
- Department of Health
- Department for Work and Pensions

The Services we offer

- Media / press releases
- Details of the services for which the authority is entitled to recover a fee

Media and Press Releases

All authorities in the sector, not surprisingly, routinely publish media and press releases on their sites.

Services for which the authority is entitled to recover a fee

Some public authorities are entitled to charge a fee for services they provide. The ICO advises that where this is the case, authorities should make this information clearly and readily available to the general public via their website. Monitoring has shown that the majority of authorities in the sector do not include any information on this issue on their sites. It is not clear however whether this is because they do not offer such services, or more likely perhaps that they do not make this information routinely available. A small number of authorities do however provide information on their website. They are:

- Ministry of Defence
- Department for Environment, Food and Rural Affairs
- Department of Health

Conformity with the FOIA Codes of Practice

The Information Commissioner has a duty under section 47 of the FOIA to promote observance of the provisions of both the s45 Code of Practice on the Discharge of Public Authorities' Functions under Part 1 of the FOIA 2000 and also the s46 Code of Practice on the Management of Records. .

The monitoring exercise provided an opportunity for the first time to observe and record the extent, within the scope of the monitoring exercise, to which public authorities in the sector conform to both Codes.

The ICO Publication Scheme Monitoring Strategy indicates that we would monitor:

- that internal review procedures and timeframes conform with our guidance and the codes of practice
- general request handling procedures in use at the authority, including those for transfer of requests
- the authority's statistics in relation to request and complaint handling
- the authority's disclosure log (where one exists)

Our findings

Records Management and Retention Schedules

The Section 46 Code of Practice on the Management of Records provides a framework for authorities to manage their records. It sets out recommended good practice for the organisational arrangements, decisions and processes required for effective records and information management. Retention

schedules are a key feature of records management. The Code indicates that authorities should define how long they need to keep particular records, should dispose of them when they are no longer needed and should be able to explain why records are no longer held.

We monitored whether the authority has a published records management policy and also a retention and disposal schedule, and if so when these documents had been published.

Whilst we expect that most organisations within the sector will have a records management policy in place it is not possible to be certain of this from our monitoring. Only a small number of authorities provide the information on their websites. They include;

- Department for Business, Enterprise and Regulatory Reform
- Ministry of Defence
- Department for Environment, Food and Rural Affairs (hard copy format)
- Department of Health
- Advocate General's Office
- The Treasury

The majority of authorities who publish their records management policy also make information available relating to their retention schedule.

Internal Reviews

The ICO has particular concerns regarding the processes and procedures that public authorities have in place in order to review individual requests for information where the information has previously been refused. We have produced detailed guidance for authorities on how to conduct an internal review and the benefits of having a procedure in place.

Our monitoring considered whether the authority publishes its internal review procedures and timescales and if so whether they conform to the s45 Code of Practice and ICO guidance.

We are disappointed to note that only a small number of authorities provide information on their website of their internal review procedure. As we consider the internal review process to be very relevant to both potential requesters for information and the general public we will wish to follow up this issue with the majority of authorities in the sector.

Request Handling

The Section 45 Code of Practice states that public authorities should publish their procedures for dealing with requests for information. In particular, consideration should be given to including details of both the authority's usual procedure where it does not hold the information requested and also where it may need to consult with third parties in order to determine whether the information can be released.

The ICO expects that information relating to how all public authorities deal with requests for information under the FOIA will be available on their

websites. We would also expect that those procedures conform to both the requirements of the Code of Practice and also ICO advice.

We monitored a range of issues in relation to the routine release of information relating to an authority's request handling procedures:

- Does the authority publish its request handling procedures
- Do the procedures conform to the s45 Code of Practice
- Do they conform to ICO guidance
- Does the authority publish its procedure for transferring requests
- Do they conform to the s45 Code of Practice
- Are the statistics for request handling published
- When were the statistics last updated

Monitoring has revealed however that not all authorities make this information available to the public and where it is available it does not always conform to the requirements outlined above. This is of concern to the ICO and an issue that we will follow up across the sector generally.

Statistics on request handling

We are particularly disappointed to note that very few authorities in the sector routinely provide statistical information on request handling. They are:

- Department for Transport
- Department for International Development
- Northern Ireland Assembly
- Ministry of Justice

As all departments of state (excluding the Houses of Commons and Lords, Northern Ireland Assembly, National Assembly for Wales, Office of the Leader of the House of Commons, Office of the Leader of the House of Lords and the Office of the Advocate General for Scotland) are required to provide statistics on foI requests received and their case handling to the Ministry of Justice on a quarterly basis we would have expected each department to have either included this information on their own site, or linked to the relevant page on the Ministry of Justice site where this information is available.

We intend to take this issue up with departments in the sector who do not as a minimum provide a link to the Ministry of Justice quarterly statistics for each department.

The use of Disclosure Logs across the sector

The ICO advises that a disclosure log can be a useful tool in indicating and enhancing a public authority's commitment to openness and transparency.

We included this in our monitoring in order to assess the extent of their use by authorities in the sector. We also monitored whether the log is well constructed and comprehensive in content.

We were encouraged to note that most authorities in the sector have a disclosure log which is available on their website. Our monitoring however

revealed a wide range of construction and general application. The most comprehensive and effective logs are regularly updated detailing information received in relation to specific requests for information. A small number are worth individual mention:

- Department for International Development whose disclosure log is arranged in 'themes' which contain the most common and interesting enquiries
- Department for Transport operate a well organised disclosure log which is fully retrospective with links to requests, responses and supporting documents.

Where disclosure logs are less comprehensive and effective we noted the following:

- Some disclosure logs contain very little information.
- One disclosure log appears to be used infrequently by the authority as no information has been added between April 2007 and July 2009.
- A disclosure log that does not link to the information released in response to a request.
- A disclosure log used as evidence that specific information has been made proactively available; however it is not possible to access the information. One department indicated that 3 key pieces of information that the ICO requires to be proactively released are available through the disclosure log but it was not possible to access them. Additionally there is no evidence that the information has been made proactively available following the single disclosure registered in the log.

Reference to ICO guidance and information.

We concluded the monitoring exercise by noting the extent to which public authorities in the sector link to ICO guidance or reference material.

We noted that whilst a number link to both the ICO homepage and also the model publication scheme pages, very few authorities in the sector also link to specific ICO guidance –

- Ministry of Defence links also to the ICO Responsible Requests Charter and ICO publications
- Department for International Development links to ICO guidance on the appeals procedure
- Department for Transport links to ICO exemptions guidance.

In conclusion, in monitoring conformity with the Codes of Practice, we found that the majority of authorities do not provide evidence on their websites that they take account of the provisions of both Codes in their application of the FOIA. The majority of authorities in the sector do not make routinely available details relating to either request handling policies and procedures (S45 Code) or records management practices (s46 Code of Practice) on their websites.

We will wish to follow this up with authorities in order to determine whether they have these policies and practices in place within their organisations but fail to make the details routinely available. Where authorities do not have the required policies we will expect them to introduce them within a specified period.

General Observations

In conducting this monitoring exercise we identified a number of common issues that impacted on the ability of individual authorities in the sector to make routinely available the range of information detailed in both the sector definition document and required by the exercise itself.

Website maintenance and links to information.

An authority's website is the primary means of making information proactively available to the general public. It is therefore vital that a website is maintained and updated on a regular basis to ensure that the information it contains is current and available. A public authority needs to have procedures in place to achieve this.

During the course of the monitoring exercise we noted a number of specific issues relating to the availability of information on websites:

- Information had not been updated; for example a small number of authorities indicated that information would 'be available shortly'.
- Broken links within the authority's own site; for example one authority had broken links to 5 pieces of information.
- Broken links to other websites.
- Information that could not be found.

Awareness of information proactively available

The ICO has advised that in order to meet an authority's commitment to the scheme, everyone in the organisation must understand the obligations of proactive dissemination, and their role in it.

We should like to use this report to remind authorities of this – during the monitoring exercise it was clear that some employees were unaware of the information an authority had indicated is routinely available as a request for information was treated as an information request under Part 1 of the FOIA.

Lack of continuity of personnel

We are aware that number of the individual departmental representatives who attended the ICO sector workshops have moved on or changed roles and so were not involved in the implementation of the model scheme in their authority.

In our guidance we comment on the importance of key individuals within the authority to drive the implementation and operation of the model scheme. The ICO considers that the departmental representatives are central to this work. On the basis of our findings in this monitoring exercise, it appears that in

some departments the absence of this individual has had a detrimental effect on their adoption and compliance with the requirements of the model publication scheme.

Conclusion

The central government sector is the first to be monitored by the ICO following the introduction of the model publication scheme on January 1 2009.

We have therefore used this monitoring exercise as a pilot before commencing monitoring in any other sector. We wished to review the procedure we adopted and the range of our findings.

We had expected the central government sector to be at the forefront in terms of compliance with the model scheme and the routine provision of information identified in the sector definition document. During the development of the model scheme during 2007-8 the sector had contributed positively and we received constructive feedback during the consultation process.

Whilst however, there are a number of examples of good practice within the central government sector relating to the adoption of and compliance with the 2009 model publication scheme, only two individual departments warrant particular mention – they are the Department for International Development and the Department for Transport.

Our overall findings of compliance with the scheme by the sector is very piecemeal as the majority of authorities make routinely available some, but not all, of the information identified in the relevant definition document.

Finally, it is of considerable concern that a significant proportion of authorities in the sector appear not to have adopted the model publication scheme and are therefore in breach of the requirements of the legislation.

Update: November 2009

This report describes the details and results of our monitoring exercise which was carried out between April and June this year.

At that time 8 of the public authorities that we monitored in the central government sector appeared not to have adopted the ICO Model Publication Scheme that came into effect on 1 January 2009.

We have recently been in contact with each authority to discuss our findings with them and to determine what action they may have taken in order to ensure that they comply with the requirements of the legislation.

We are pleased to note that authorities have made considerable progress. We can report that the following departments have now adopted the model scheme and have produced a guide to information setting out the details of the information they make routinely available:

- The Attorney General's Office
- Cabinet Office
- Office of the Leader of the House of Commons
- Wales Office

The remaining monitored authorities are currently developing their approach to proactive release in order to comply with the Model Publication Scheme and the requirements of the legislation. Those departments are:

- Department for Energy and Climate Change
- Foreign and Commonwealth Office
- Government Equalities Office
- Home Office

We will wish to follow up each authority's progress early in 2010 to ensure their compliance with Section 19 of the Freedom of Information Act.

Appendix 1

Central Government Sector

The following public authorities were monitored:

Attorney General's Office
Department for Business, Enterprise and Regulatory Reform (DBERR)
Cabinet Office
Department for Children, Schools and Families (DCSF)
Department of Communities and Local Government (DCLG)
Department for Culture, Media and Sport (DCMS)
Ministry of Defence (MoD)
Department of Energy and Climate Change
Department for Environment, Food and Rural Affairs (DEFRA)
Foreign and Commonwealth Office (FCO)
Government Equalities Office
Department of Health (DoH)
Home Office
Department for Innovation, Universities and Skills (DIUS)
Department for International Development (DfID)
Ministry of Justice (MoJ)
Northern Ireland Office (NIO)
Office of the Advocate General for Scotland
Office of the Leader of the House of Commons
Office of the Leader of the House of Lords
Prime Minister's Office
Scotland Office
Department for Transport
HM Treasury
Wales Office
Department for Work and Pensions (DWP)
House of Commons
House of Lords
Northern Ireland Assembly
National Assembly for Wales

