

What should be published? Minutes and agendas

Freedom of Information Act Environmental Information Regulations

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Introduction

The Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) give rights of public access to information held by public authorities.

An overview of the main provisions of FOIA can be found in [The Guide to Freedom of Information](#) and an overview of the main provisions of the EIR can be found in [The Guide to the Environmental Information Regulations](#).

This is part of a series of guidance, which goes into more detail than the Guides, to help public authorities to fully understand their obligations and promote good practice.

This guidance is to help public authorities decide when they should publish the minutes and agendas of meetings and in what cases they can be edited.

Overview

- Public authorities must comply with the Information Commissioner's model publication scheme by publishing certain information. Definition documents specific to each sector provide guidance on the kinds of information the Commissioner would expect to see. As part of their publication scheme compliance, authorities should publish certain types of minutes and agendas.
- Minutes and agendas may still be the subject of information requests; the public authority must consider the request as normal under FOIA or the EIR, based on the circumstances at the time of the request.

Publishing minutes and agendas under the model publication scheme

What minutes and agendas should be published under the publication scheme?

Every public authority subject to FOIA is required to publish certain information, in keeping with the Information Commissioner's [Model](#)

[Publication Scheme](#). The [sector definition documents](#) on our website explain the kind of minutes which we expect a public authority to make available, as well as providing guidance on the types of information we would not expect it to routinely make available.

The EIR do not require public authorities to maintain a publication scheme, but we recommend they do so in order to help them to comply with the EIR requirement to publish environmental information proactively.

As a general rule, a public authority should publish the following on a routine basis:

- minutes and agendas of public meetings;
- documents it is required to make public by other legislation, such as the Local Government Act 1972;
- minutes of senior-level policy and strategy meetings, eg board meetings; and
- any background documents which are referred to in the agenda or minutes, or were circulated in preparation for the meeting. These are considered part of the agenda.

A public authority would not be expected to include:

- any information which would be exempt under the Freedom of Information Act (FOIA) or the Environmental Information Regulations (EIR);
- any personal information which it would be unfair to disclose or would otherwise breach the Data Protection Act 1998 (DPA);
- minutes of meetings that fall outside the timeframe indicated in the sector definition documents (the usual requirement is to make available minutes for the current and previous three years);
- information that it would be impractical or resource-intensive to publish; or
- lower-level internal meetings which may be of less general interest to the public.

Please refer to the relevant definition document for details specific to the public authority.

It is good practice for public authorities to have a process that ensures minutes related to regular meetings are published reasonably soon after the meeting has been held.

How to publish minutes and agendas in accordance with the publication scheme

When public authorities produce a guide to the documents they publish, we recommend that they should do the following:

- be specific about the types of meeting for which minutes and agendas will routinely be made available. This would include any meetings which are open to the public; and
- omit categories of meeting which would not be suitable for routine disclosure, such as discussions of individual social services cases.

For certain types of meeting, authorities may wish to routinely produce public minutes or summaries of the minutes suitable for publication. These would generally contain enough information to be useful to the public without disclosing anything which should not be made public. However, they may not always contain everything which would be released in response to a freedom of information request.

Alternatively, an authority could consider each set of minutes on a case-by-case basis and delete only those sections which are exempt from disclosure. In either case, the authority should make it clear that these are not the full and unedited minutes.

Authorities should:

- publish the unedited agenda and minutes where possible;
- publish as much as they can, even if it is not possible to publish the unedited documents; and
- make it clear that certain documents are edited versions.

When a meeting or part of a meeting is dealing with sensitive or potentially confidential issues, it is good practice to state this at the meeting. This will ensure that all attendees have the same understanding about whether the meeting or certain parts of it are private. Note-takers should mark the sections which are confidential so that these can be removed from any published minutes. **Please note:** this does not guarantee confidentiality in all circumstances - authorities should make it clear that information may be requested under FOIA or the EIR, even if it is not included in the publication scheme.

Requests for minutes and agendas that are not included in the authority's publication scheme

A public authority may receive a request for minutes or agendas which are not included in its guide to routinely published information, or for the full versions of documents which are usually published in an edited or summarised form. It is obliged to consider these requests in the normal way. It is important for an authority to remember that, even if it has already considered the information and has decided that it cannot be released, on receiving a request it should consider the matter again. In many cases, information which would have been exempt at the time it was created will become less sensitive over time. New circumstances might also have arisen which affect the public interest in disclosure.

Example:

In relation to DfES meetings about school funding, the Information Tribunal said that policy makers "are entitled to time and space ... to hammer out policy" and that this was a "highly relevant factor" in favour of keeping the minutes private at the time. However, it had "little if any weight" eighteen months later, once the policies being discussed had been implemented. (Tribunal decision in [DfES v IC and Evening Standard \(EA/2006/0006, 19 February 2007\)](#)).

Which exemptions or exceptions might apply?

Because meetings may be on a range of matters, almost any exemption could be relevant to some minutes or agendas. The FOIA exemptions which are most likely to be relevant are section 36 (conduct of public affairs) section 40 (personal information), section 41 (information obtained in confidence), and section 43 (commercial interests). For central government, Northern Ireland departments and the Welsh Assembly, section 35 (formulation of government policy) may also be relevant.

The EIR contain an exception for internal communications, regulation 12(4)(e). For the purposes of the EIR, the term "internal communications" includes:

- minutes and agendas of internal meetings;
- notes of meetings with external bodies, if the notes are only circulated internally, and
- documents which are internal to government, such as communications between government departments or between an executive agency and its controlling department.

This exception is subject to a public interest test. Please refer to the ICO's guidance: [Regulation 12\(4\)\(e\): internal communications](#).

Even if large parts of a document are exempt or excepted from disclosure, this does not mean the whole document should automatically be withheld. An authority should release any information which does not fall within an exempt/excepted category, or which does not meet any relevant public interest test.

- In nearly all cases, it will be possible to give the dates and times of meetings and the names of the organisations represented.
- In most cases, it will be possible to give broad headings of what was discussed.
- In many cases, it will be fair to give the names of individuals who attended the meeting in a professional capacity. It may not always be fair to attribute specific comments or opinions to named individuals.

Example:

The Commissioner found that sections 35 and 36 did not allow the Cabinet Office to withhold the names of those who met with the Prime Minister or the dates of the meetings. The information did not reveal the topics of discussion or the views of those present, so would not prejudice the conduct of public affairs (ICO decision notice [FS50121390](#)).

Other considerations

Additional guidance is available on [our guidance pages](#) if you need further information on the public interest test, FOIA exemptions, or EIR exceptions.

More information

This guidance has been developed drawing on ICO experience. Because of this, it may provide more detail on issues that are often referred to the Information Commissioner than on those we rarely see. The guidance will be reviewed and considered from time to time in line with new decisions of the Information Commissioner, Tribunals and courts.

It is a guide to our general recommended approach, although individual cases will always be decided on the basis of their particular circumstances.

If you need any more information about this or any other aspect of freedom of information, please [contact us](#): see our website www.ico.org.uk.