



Proactive Publication Releases: Code of Practice for Public Sector Authorities in the Isle of Man

ISLE OF MAN GOVERNMENT

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Executive Summary

In efforts to raise transparency and openness across the public sector, an opportunity has arisen to proactively release information and data which public sector bodies produce.

This Code of Practice has been created to guide Government Departments, Boards and Offices, and Local Authorities (Public Authorities) as to what information they may wish to consider routinely releasing, which information should be redacted, and how and where they should publish them to ensure the public are aware of and engage with the data to support transparency and, to an extent, to manage expectations of government services.

This Code of Practice should be considered alongside Section 10 of the Freedom of Information Act Code of Practice, which provides further guidance on the proactive release of information by Public Authorities.¹

Whilst implementation of this Code of Practice is not compulsory, public authorities should consider the benefits this practice can provide to the general public. This is dependent upon the type and frequency at which information is released, but can include:

- Reducing the reliance on Freedom of Information (FOI) requests as a source of information, and the associated time taken to process FOIs;
- Improving the transparency and accountability of government processes;
- Highlighting the rationale and reasoning for some policy decisions;
- Encouraging greater meaningful participation with stakeholders by showing current issues and options considered to address them;

During stakeholder engagement, it became clear that a Code of Practice should be prescriptive as to which information should be included. This could, for instance, include:

- Organogram (organisational structure chart);
- Accounts and/or financial information;
- Board meeting minutes (or equivalent);
- Expenses for Ministerial trips.

It is important to note, however, that public authorities are under no obligation to produce this information, and if one public authority chooses to release a certain document, or certain types of document, this does not compel others to follow.

There are a number of considerations which must be reflected upon which can influence the types, frequency, and detail of information released. This includes:

- Personal or identifiable information of employees;
- Politically or economically sensitive information;
- Personal views of Ministers or Political Members;

For full guidance on redaction of public documents, please view the Code of Practice on Access to Government Information²

¹ <https://www.gov.im/media/1358113/foia-code-of-practice.pdf>

² <https://www.inforights.im/media/1154/2016-guidance-notes-on-code-of-practice-on-access-to-government-information.pdf>

Overview

Introduction to the Document

Following the passing of the [Freedom of Information Act 2015](#), citizens of the Isle of Man can submit requests for information to all government departments, bodies, boards and publically-owned companies, as well as all Local Authorities (provided that information is not exempt). This highlights the wide variety of information which could be released into the public domain, and consideration should be given as to whether proactive release of this information would be in the public interest.

This Code of Practice should be used to guide Public Bodies when deciding if, and how, to proactively release information which may be in the public interest.³ At present, the information released across the public sector varies greatly. Whilst some Public Bodies have a statutory obligation to produce annual reports and greater transparency for government departments is achieved through annual Department Plans, this is not consistent amongst all Public Authorities, and can always be built upon to further enhance openness of the public sector, and its processes.

This Code of Practice will outline the benefits of proactive publication to both the general public and Public Authorities, as well as highlighting information which would be suitable for release and information which should not be released. It shall also cover the accessibility of information, ensuring that information which is published is user-friendly and can be found easily.

Benefits of Proactive Publication

When considering whether to adopt a release schedule, the benefits that it may bring should be weighed against the potential issues which could arise from proactive release. The below SWOT analysis is not intended to be exhaustive, and it is recognised that different bodies will place varied importance on each factor. It does, however, provide some initial examples of the impacts of proactive release of documents by Public Bodies.

Strengths <ul style="list-style-type: none">• Improves transparency of public sector processes• Reduces the reliance on Freedom of Information requests as a source of information• Provides clearer reasoning as to why and how some policy decisions were agreed• Encourages cooperative engagement with the public sector• Encourages decision makers to act in the public interest at all times	Weaknesses <ul style="list-style-type: none">• Increased workload for those processing the information for release• Increased cost and public sector employees to manage and provide information to comply with release schedules• Higher risk of GDPR breaches with more information being released
Opportunities <ul style="list-style-type: none">• Potential to improve public confidence through enhanced transparency• More collaborative policymaking processes arising from increased public engagement	Threats <ul style="list-style-type: none">• Potential for sensitive information to be released inadvertently• Greater scrutiny could limit risk appetite amongst decision makers, hampering growth• Losing first mover advantage to rival jurisdictions, or facilitating fast followers

³ Public Authorities may include government departments, statutory boards or bodies, publically-owned companies, or local authorities

Preparing for Release

When preparing for a proactive release of information, it should be considered which information may be suitable for publication. The following section is intended to guide and inform those considering proactive release of information, covering the types of information which may be suitable for release as well as constraints on what can and cannot be released that should be considered when preparing for a proactive release.

Information to be released

The information to be released is not expected to be consistent across all Public Bodies. In some cases, information will already be available elsewhere, whereas in others this information will not be produced in a format which would be suitable for public exposure. Nevertheless the below list aims to broadly set out the type and examples of information which may be suitable for release.

1. Authority Description

This is intended to provide the general public with a greater knowledge of a Public Body's internal structure, aims, and duties. Information to be released can include:

- Organogram;
- Legal framework for the Public Body, such as constitution, articles of association etc;
- Functions and services, and the statutory basis for them;
- Governance structure and policies;
- Mission Statement, Corporate Plans, Policies, and Strategies;
- Contact details for complaints, reporting of concerns, or requesting information.

2. The Decision-Making Process

This is intended to provide greater context around policy decisions, as well as highlighting issues which are currently being considered. Examples of this can include:

- Decision-making structure, including the structure of associated boards etc;
- Meeting documents, including agendas, minutes, and reports which have been considered;
- Public consultations and engagement strategies;
- Any externally-commissioned reports, once they have been considered appropriately
- Continual monitoring of policy decisions, including progress against KPIs etc.

3. Financial Accountability

Financial accountability is often the primary tool used to determine good governance and responsible spending. Whilst the vast majority of public bodies must present their annual accounts to Tynwald this information is often difficult to access for those who are not aware of the statutory responsibilities of Public Bodies. Therefore, consideration should be given to the release of financial information by the Public Body themselves such as:

- Audited accounts
- Budget allocation across the organisation

- Travel expenses
- Funding awards made, and what is available
- Capital funding plans

Principles of Information Release

When deciding what data may be suitable for release, it is important to consider the principles of information release. For instance, it should be considered whether:

- The release of data would be in the public interest;
- Disclosure would harm the economic, commercial, external, or security interests of the body or the Island;
- Disclosure, or the threat of disclosure, may jeopardise the candour of debate on policy decisions or relate to ongoing policy decisions;
- Any information may prejudice legal proceedings, relates to ongoing legal proceedings, or is subject to legal professional privilege;
- Disclosure of information could endanger life or safety of a person, or disrupt public order;
- Disclosure of information could increase the likelihood of damage to the environment, protected species and/or their habitats;
- Such a release would be premature in the release of information for which an announcement was planned.

Additionally, all information released must be compliant with [data protection legislation](#) to ensure no personal or identifiable information would be contained in the releases. This includes but is not limited to:

- Any personal information, including a person's name, age, address, contact details, ethnicity, marital status, family members etc;
- A person's opinions and/or beliefs, including but not limited to political alignment, religion, and sexual orientation;
- Any personal identification numbers, including but not limited to medical and tax numbers and records;
- Any information with regards to a singular person's income, salary, or financial interests;
- A person's membership of any political group, trade union, or similar.

For full details and guidance for publishing information, please consult with your organisation's data protection officer (DPO), visit the [Office for the Information Commissioner](#), or email ask@inforights.im

Accessibility of information

Whilst, in some cases, information is already in the public domain, it is often not collated in a central place nor readily available to those who wish to access it. As a bare minimum, all public bodies should have a digital presence to provide ease of public access to documents and information and to simplify the publication process. Alongside this, opportunities for those who are not digitally literate should be made available, with physical copies readily accessible in locations convenient to the general public.

Publishing

When publishing information, it is important to consider and make clear on issues such as copyright or the use of an [Open Government License](#), any charging schedules, and the duration for which the information will be available.

An index of all information published which is relevant to the organisation that is clear and accessible can assist the public to quickly identify what they are looking for. Without a suitable index in place many of the benefits to proactive release, in particular reducing the reliance on Freedom of Information Requests, may not be realised.

An index can come in many forms, and can be used to link to information which is already available across a number of different sources from a single point, which can also contain information which the organisation themselves has chosen to publish. Essentially, the type of index is, to a certain extent, irrelevant, so long as users are able to find the information they require quickly and effectively.

Continual Monitoring

Continual monitoring of information which has already been published, as well as that which may become suitable for publishing in the future, is an inherent component of a proactive publication release. Some common good practice approaches taken by authorities to reviewing and maintaining their Guides include:

- Setting review dates as part of the approval process
- Maintaining a schedule of information due for publication
- Training staff to think about publication as they prepare information (“thinking FOI” as they write, marking information for redaction at publication)
- Making the decision to publish information a deliberate step when new information is approved
- Incorporating processes for checking and updating the Guide to Information as part of the procedures for updating and reviewing documents and records management procedures and systems.