

Council, 27 March 2014

FOI publication scheme: definition document for health regulators

Executive summary and recommendations

Introduction

1. The Information Commissioner's Office (ICO) is the regulator responsible for freedom of information and data protection in England, Wales and Northern Ireland. The Freedom of Information Act 2000 (FOIA) requires every public authority to have a publication scheme, approved by the ICO, and to publish information covered by the scheme.

The ICO currently updating all definition documents under the FOIA publication scheme, prior to a larger exercise in the next year when a full review will take place. The ICO's current aim is to refresh the definition documents; amendments include increasing transparency in relation to financial information and inserting the new provisions on datasets

The ICO have completed the exercise in relation to higher education institutions, central government departments, the police, the armed forces, the Houses of Parliament, local authorities, state-funded schools, colleges of further education and sixth form colleges and are now looking at other public authorities, including the health sector.

Publishing datasets for re-use

2. Section 102 of the Protection of Freedoms Act 2012 adds new provisions to FOIA regarding datasets. The dataset provisions are intended to ensure that public authorities make datasets available, either in response to a FOIA request or proactively under a publication scheme, in a way that allows them to be re-used. They create a duty to provide datasets in a re-usable form and under licensing conditions that permit re-use.

The amendments also require public authorities to publish any requested datasets as part of their publication scheme, if appropriate. Factors that can be taken into account when deciding whether it is not appropriate include whether the information is exempt and the cost and effort of publishing in a re-usable form.

These changes are in line with the increasing trend towards Open Data. The government's White Paper *Open Data: unleashing the potential* sets out government policy in this area. The aim is not only to promote greater transparency and accountability by releasing more data held by public authorities, but also to enable and encourage developers to reuse that data in

new products and applications. This in turn is expected to create business opportunities and drive economic growth.

Financial statements

3. The ICO is including a contract value threshold in all new definition documents. Whereas previously the HCPC was required to provide details of its contracts of a significant size to have gone through a formal tendering process, the new proposals would require the HCPC to publish details of contracts that exceed £10,000.

Higher Education has successfully agreed a higher contract value (£25k) as well as a higher salary threshold (£100k). Consensus amongst healthcare regulators at present is that the same limit, at least for expenditure, should be used for consistency

Some healthcare regulators are registered charities and as such are subject to the Charities Statement of Recommended Practice (SORP) which sets consistent standards of financial disclosure for all charities. These regulators may resist changes in the definition document which conflict with, or go beyond the Charities SORP. For example the Charities SORP requires disclosure of salaries over £60k in bands of 10k. The ICO proposal for bands of 5k goes beyond this requirement.

A brief review of other UK statutory regulators of health and care professionals policy on the publication of the remuneration of their senior employees reveals an inconsistent approach. Disclosure policy appears to be influenced by the size of the organisation in terms of annual income, total employee numbers, the nature of the organisations' registered charitable status and the relevant accounting requirements.

4. At its meeting of 4 July 2013 the Council agreed that in the April 2013 – March 2014 and all subsequent Annual Report and Accounts that the following employee remuneration information should be included:
 - The information currently published on the Chief Executive and Registrar's remuneration package will continue to be published using the existing format;
 - The taxable remuneration of all nine members of the HCPC's Executive Management Team (EMT) will be published, i.e. including the Chief Executive and his direct reports but excluding his Executive Assistant;
 - The information will be presented in a table of salaries of £60,000 and above displayed in increasing bands of £10,000. The table will be anonymised, in that the names and job titles of individual EMT members will not be disclosed;
 - The table will include data for the current year and the previous year for comparison purposes;

- A separate table of non-EMT HCPC employees will also be published using the same format as the table used for the EMT;

The Council's agreed way forward is in line with the reporting of health and care professionals regulators who fall under the Charities SORP. However the ICO is proposing that salaries be displayed in bands of 5k and that the posts should be clearly identified. This would mean that disclosures are not anonymous.

5. An additional proposed requirement is for the HCPC to publish its Council members and Directors expenses on our website. Once the definition documents and templates have been finalised, they will be published on the ICO website and will come into effect six months from the date of publication.
6. The current definition document for the HCPC is attached to this paper as appendix 1. The recently revised definition document for universities and higher education institutions is attached as appendix 2 to illustrate the probable wording of the new requirements.

Decision

The Council is asked to discuss the proposed changes to the Definition document for health regulators. No decision is required, but any feedback will be incorporated into the HCPC's response to the consultation.

Resource implications

The resource implications of the changes are not expected to be significant.

Financial implications

If the requirements around reusability are not flexible, there will be a cost implication to update our Crystal Reports system. This is not expected to be large.

Appendices

Appendix 1 - Definition document for health regulators

Appendix 2 - Definition document for universities and other higher education institutions.

Date of paper

15 March 2014



Freedom of Information Act

Definition document for health regulators

This guidance gives examples of the kinds of information that we would expect health regulators to provide in order to meet their commitments under the model publication scheme.

We would expect health regulators to make the information in this definition document available unless:

- they do not hold the information;
- the information is exempt under one of the FOI exemptions or Environmental Information Regulations (EIRs) exceptions, or its release is prohibited under 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 guidance is not meant to give a definitive list. The legal commitment is to the model publication scheme, and authorities should look to provide as much information as possible on a routine basis.

Who we are and what we do

Organisational information, structures, locations and contacts.

- The locations and contact details for the authority and where possible, named contacts.
- Organisational charts, roles and responsibilities, job specifications and responsibilities.
- Information relating to the legislation relevant to the authorities functions.
- Lists of and information relating to organisations which the authority has responsibility for and those it works in partnership with.
- Recruitment information, criteria, process, vacancies.
- Identification of, responsibilities of and biographical details of senior staff and council / board members. This should identify staff making strategic and operational decisions about the provision of the health regulator's services. Any biographical details that are not work related should be published only with consent.

<p>What we spend and how we spend it Financial information relating to projected and actual income and expenditure, procurement, contracts and financial audit.</p>
<ul style="list-style-type: none"> • Financial statements. Annual and where practicable shorter timescales should be used ie half yearly or quarterly. • Staff allowances and expenses (claimed or incurred) produced in line with the authority's policies. • Workforce pay and grading details salaries should be shown by band • Financial statements for projects and events. • List of contracts awarded and their value (contracts that are of a significant size to have gone through a formal tendering process).
<p>What are our priorities and how are we doing Strategies and plans, performance indicators, and reviews.</p>
<ul style="list-style-type: none"> • Corporate plans. • Business plan. • Organisational and departmental performance reviews. • Service standards. • Progress reports and statistics on an annual basis but where practicable on a shorter timescales ie quarterly.
<p>How we make decisions Decision making processes and records of decisions.</p>
<ul style="list-style-type: none"> • Major policy proposals and decisions. • Public consultations. • Minutes of meetings, including senior level meetings. • Reports and papers provided for consideration at meetings.
<p>Our policies and procedures Current written protocols, policies and procedures for delivering our services and responsibilities.</p>
<ul style="list-style-type: none"> • Human resource policies including equality and diversity, recruitment etc. • Procurement and tendering procedures. • Internal guidelines, instructions and manuals. • Customer service. • Charging regimes these policies should include charges made for information routinely published and clearly state what costs are to be recovered and why. • Records management and personal data policies.

Lists and registers

Any information we are currently legally required to hold in publicly available registers.

- Register of Practitioners.
- List of Approved Courses.
- Register of gifts and hospitality provided to Board members and senior personnel.
- Any register of interests.
- Disclosure logs (these are recommended as good practice).

The Services We Offer

Information about the services we offer, leaflets and guidance produced for the public and businesses. Details of the services for which we are entitled to recover a fee together with those fees.

- Advice and guidance.
- Media releases.
- Leaflets and booklets.
- Standards.
- Reports and research.
- Professional codes/ standards of conduct.
- CPD guidance.

Freedom of Information Act 2000

Definition document for universities and other higher education institutions.

This guidance gives examples of the kinds of information that we would expect universities and other higher education institutions (collectively all known for the purpose of this document as HEIs) to provide in order to meet their commitments under the model publication scheme. We would expect HEIs to make the information in this definition document available unless:

- they do not hold the information;
- the information is exempt under one of the FOIA exemptions or Environmental Information Regulations (EIR) exceptions, or its release is prohibited under another statute;
- the information is readily and publicly available from an external website to which the HEI has already provided it - the HEI must provide a direct link to that information;
- 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 guidance is not meant to give an exhaustive list of everything that should be covered by a publication scheme. The legal commitment is to the model publication scheme, and HEIs should look to provide as much information as possible on a routine basis.

Publishing datasets for re-use

Public authorities must publish under their publication scheme any dataset they hold that has been requested, together with any updated versions, unless they are satisfied that it is not appropriate to do so. So far as reasonably practicable, they must publish it in an electronic form that is capable of re-use.

If the dataset or any part of it is a relevant copyright work and the public authority is the only owner, the public authority must make it available for re-use under the terms of a specified licence. Datasets in

which the Crown owns the copyright or the database rights are not relevant copyright works.

The Datasets Code of Practice recommends that public authorities make datasets available for re-use under the [Open Government Licence](#).

The term 'dataset' is defined in section 11(5) of FOIA. The terms 'relevant copyright work' and 'specified licence' are defined in section 19(8) of FOIA. The ICO has published [guidance on the dataset provisions in FOIA](#). This explains what is meant by "not appropriate" and "capable of re-use".

Who we are and what we do

Organisational information, structures, locations and contacts.

We would expect information in this class to be current information only.

- **Legal framework**

Information relating to the legal and corporate status of the institution.

- **How the institution is organised**

Information about the management structure of the institution, including a description of the Statutory Bodies and the organisational structure together with a description of the work of each unit and the names and responsibilities of key personnel. The information should include faculty and department structures and identify senior personnel. Institutions should also provide terms of reference, membership and description of all boards and committees.

- **Location and contact details**

If possible, named contacts should be given in addition to contact phone numbers and email addresses.

- **Lists of and information relating to organisations which the HEI has responsibility for, those it works in partnership with, those it sponsors and companies wholly or partially owned by it.**

On the basis that most of these bodies will be responsible for their

own affairs, this information only needs to be sufficient to identify the relationship between these bodies (such as business, the professions and the community) and the HEI.

- **Student activities**

Information relating to the operation and activities of the Student Union and other clubs, associations and non-academic activities that are organised for or by the students can also be included where this information is held by the HEI.

What we spend and how we spend it

Financial information relating to projected and actual income and expenditure, procurement, contracts and financial audit.

We would expect as a minimum that financial information for the current and previous two financial years should be available.

- **Funding / income**

Information on the sources of funding and income, such as Funding Council grants, tuition fees, endowment, rents and investment income (including investment strategy).

- **Financial statements, budgets and variance reports**

Details of expenditure over £25,000, including costs, supplier and transaction information. This should be published at least annually and, where practical, we would also expect it to be published on a half yearly or quarterly basis.

Financial information in enough detail to allow the public to see where money is being spent, where an HEI is or has been planning to spend it, and the difference between the two. Financial information should be published at least annually and, where practical, we would also expect half yearly or quarterly financial reports to be provided. Revenue budgets and budgets for capital expenditure should be included.

- **Financial audit reports**

- **Capital programme**

Information on major plans for capital expenditure including any private finance initiative and public private partnership contracts.

- **Financial regulations and procedures**

- **Staff allowances and expenses**

Details of the allowances and expenses that can be claimed or incurred. It should include the total of the allowances and expenses paid to individual senior staff members by reference to categories. The definition of "senior staff" is given below. These categories should be produced in line with the HEI's policies, practices and procedures and must at least include travel, subsistence and entertainment.

- **Staff pay and grading structures**

This may be provided as part of the organisational structure and should include, as a minimum, the salaries for senior staff, which, for the purpose of this document, means staff earning over £100,000 per annum and on the Senior Management Team or equivalent level. The salaries should be stated in bands of £10,000. For more junior posts, levels of pay should be identified by salary range.

The 'pay multiple' – the ratio between the highest paid salary and the median average salary of the whole of the HEI's workforce.

- **Register of suppliers**

- **Procurement and tender procedures and reports**

Details of procedures used for the acquisition of goods and services. Contracts available for public tender and reports of successful tenders.

- **Contracts**

We would normally only expect HEIs to publish details of contracts that exceed £25,000.

- **Research funding**

High level information about research funding from public sector sources and research funding from commercial sources where appropriate.

What our priorities are and how we are doing

Strategies and plans, performance indicators, audits, inspections and reviews.

We would expect information in this class to be available at least for the current and previous three years.

Below is a list of the type of information that we would expect HEIs to have readily available for publication. Any other reports or recorded information demonstrating the HEI's planned or actual performance should normally be included.

- **Annual report**
- **Corporate and business plans**
- **Teaching and learning strategy**
- **Academic quality and standards**
- **Privacy impact assessments (in full or summary format)**

Information, or a direct link to publicly available information, on the HEI's current internal procedures for assuring academic quality and standards and recent qualitative data on the quality and standards of learning and teaching.

- **External and internal audit; review information**

This will include information such as the annual monitoring and review process together with a statement of roles, responsibilities and authority of different bodies within the institution involved in programme approval and review.

- **Corporate relations**

Information relating to the HEI's links with employers and sponsors, in both the public and private sectors, and the development of learning programmes.

- **Government and regulatory reports**

For example, accreditation and monitoring reports by professional, statutory or regulatory bodies and information that an institution is legally obliged to make available to its funding and/or monitoring bodies. Where information provided to regulatory bodies is publicly available via those bodies, the HEI may instead provide a direct link to that information.

- **The HEI's compliance with its duties under the Equality Act 2010**

This includes any information produced as part of these duties.

How we make decisions

Decision making processes and records of decisions.

Minutes of formal meetings where key decisions are made about the operation of the HEI should be available. HEIs may decide not to publish particular minutes on a case by case basis. Information in this class should be available at least for the current and previous three years.

Information published will depend on the governance structure of HEIs, which can vary. Examples of this class of information include:

- **Agendas, officers' reports, background papers and minutes from governing body, Council / Senate, academic boards, steering groups and committees**
- **Teaching and learning committee minutes**
- **Minutes of staff / student consultation meetings**
- **Appointment committees and procedures**

Our policies and procedures

Current written protocols, policies and procedures for delivering our services and responsibilities.

We would expect information in this class to be current information only.

- **Policies and procedures for conducting HEI business**

Codes of practice, memoranda of understanding, procedural rules, standing orders and similar information should be included. Procedures for handling requests for information should be included. In Wales it will include the Welsh Language Scheme in accordance with the Welsh Language Act 1993, and in Northern Ireland the equality scheme/statement produced in accordance with section 75 of the Northern Ireland Act 1998.

- **Procedures and policies relating to academic services**

Some of these policies may already be covered in class 3 'What our priorities are and how we are doing' in the context of external review and academic quality and standards. Additional policies under this

heading may include such matters as policies and procedures relating to honorary degrees, procedures for changing course, regulations and policy on student assessment, appeal procedures and policy on breach of assessment regulations.

- **Procedures and policies relating to student services**

This will include relevant policies and procedures as they apply, for example, to student admission and registration, accommodation, management of the student records system, the assessment of external qualifications, internal student complaints and appeals, student support services and code of student discipline.

- **Procedures and policies relating to human resources**

This will include the full range of human resources policies and procedures such as generic terms and conditions of employment, collective bargaining and consultation with trade unions, grievance, disciplinary, harassment and bullying, public interest disclosure and staff development (such as induction, probation, appraisal, promotions).

A number of policies, such as equality duties and health and safety will cover both the provision of services and the employment of staff. Some of these policies may already be covered in class 3 'What our priorities are and how we are doing'.

- **Pay policy statement**

- **Procedures and policies relating to recruitment**

If vacancies are advertised as part of recruitment policies, details of current vacancies will be readily available.

- **Code of Conduct for members of governing bodies**

- **Equality and Diversity policies; Equality Scheme**

This will also include policies, statements, procedures and guidelines relating to equal opportunities.

- **Health and Safety**

- **Estate management**

This will include disposals policy, estates strategy and plan, facilities management policies, grounds and building maintenance.

- **Complaints policy**

Complaints procedures will include those covering requests for information and operating the publication scheme.

- **Records management and personal data policies**

This will include information security policies, records retention, destruction and archive policies, and data protection (including data sharing) policies.

- **Fileplans**

- **Research policy and strategy**

This will include quality assurance procedures, policy and procedures relating to intellectual property, ethics committee terms of reference, applications and their approval, and any other relevant codes of practice. It will also include policy, strategy and procedures relating to knowledge transfer and enterprise.

- **Publicly funded research outputs and data**

In line with the overall direction of travel towards greater transparency, we expect HEIs to progressively publish information on publicly funded research, or to provide a direct link to it. Where appropriate we recommend HEIs ask researchers to follow the Research Councils UK's Policy and Guidance on Access to Research Outputs. In future the "Gateway to Research", under development by Research Councils UK, will open up access to Research Council funded research information and related data outputs. It is hoped that this will be available by 2014. The ICO will keep the position under review.

- **Charging regimes and policies**

Details of any statutory charging regimes should be provided. Charging policies should include charges made for information routinely published and clearly state what costs are to be recovered together with the basis on which they are made and how they are calculated.

If the HEI charges a fee for licensing the re-use of datasets, it should state in its guide to information how this is calculated and whether the charge is made under the Re-use Fees Regulations or under other legislation. It cannot charge a re-use fee if it makes the

datasets available for re-use under the Open Government Licence.

Lists and registers

We expect this to be information contained only in currently maintained lists and registers.

- **Any information we are currently legally required to hold in publicly available registers**
- **Asset registers**
- **Information asset register**

We would not expect HEIs to publish all details from all asset registers. We would, however, expect the location of public land and building assets and key attribute information that is normally recorded on an asset register to be available, along with some other information from capital asset registers.

- **CCTV**

Details of the locations of any overt CCTV surveillance cameras operated by or on behalf of the HEI. The HEI should decide on the level of detail which is appropriate. This could be by building, campus area or more general geographic locations e.g. postcodes or partial postcodes, depending on the security issues raised.

- **Disclosure logs**

Where an HEI produces a disclosure log indicating the information that has been provided in response to requests, it should be readily available. Disclosure logs are themselves recommended as good practice.

- **Any register of interests kept in the HEI.**
- **Register of gifts and hospitality provided to senior staff**

This should include details of gifts given or received; details of any hospitality afforded and by which organisation. The definition of "senior staff" is as stated above.

- **Senior staff's declaration of interests**

This should include the names, faculties, departments and job titles of all senior staff who have made entries. Any information recorded in the 'professional' element of the register should also be disclosed subject to the redaction of, for example, home address, or any third

party personal data or sensitive personal data.

The services we offer

Information about the services we offer, including leaflets, guidance and newsletters.

Generally this is an extension of part of the first class of information. While the first class provides information on the roles and responsibilities of the HEI, this class includes details of the services which are provided by the HEI, internationally, nationally and locally as a result of them. It will also relate to information covered in other classes. Examples of other services that could be included are:

- **Prospectus**
- **Services for outside bodies**
- **Course content**
- **Course fees**
- **Funding, such as grants and bursaries, available to students from the HEI**
- **Services for which the HEI is entitled to recover a fee together with those fees**
- **Welfare and counselling services**
- **Health including medical services**
- **Careers**
- **Chaplaincy services**
- **Sports and recreational facilities**
- **Facilities relating to music, art and other cultural activities**
- **Museums, libraries, special collections and archives**

It is expected that this will include guides to collections and scope and availability of catalogues. (Further guidance is available in that provided for bodies responsible for managing museums, collections and archives.)

- **Conference facilities**
- **Advice and guidance**
- **Media releases**