

Self-assessment Toolkit

Capture, Assess, Improve

Module 4: Publishing information Standards and Criteria



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Glossary and Abbreviations

| Term used | Explanation |
|---|--|
| The Commissioner | The Scottish Information Commissioner |
| EIRS | Environmental Information (Scotland) Regulations 2004 |
| FOI | FOISA and the EIRs |
| FOISA | The Freedom of Information (Scotland) Act 2002 |
| SIC | The Scottish Information Commissioner, staff of SIC (depends on context) |
| S23/R4 | Section 23 of FOISA / regulation 4 of the EIRs |
| Section 60 Code / S60 Code /the Code | Scottish Ministers' Code of Practice on the Discharge of Functions by Scottish Public Authorities under the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 |

Cross-referenced VC documents (for internal use)

| VC No | VC name |
|-------|--------------------------------|
| 76462 | TOOLKIT Guide: Getting started |

| VC No | VC name |
|--------------|---|
| 76466 | TOOLKIT Introduction to the FOI self-assessment toolkit |
| 76472 | TOOLKIT Guide: How to carry out an FOI self-assessment |
| 76482 | TOOLKIT TEMPLATE Summary of Findings |
| 76486 | TOOLKIT TEMPLATE Improvement Action Plan |
| 77246 | TOOLKIT Module 04: Assessment Questions and Evidence Grid DRAFT |

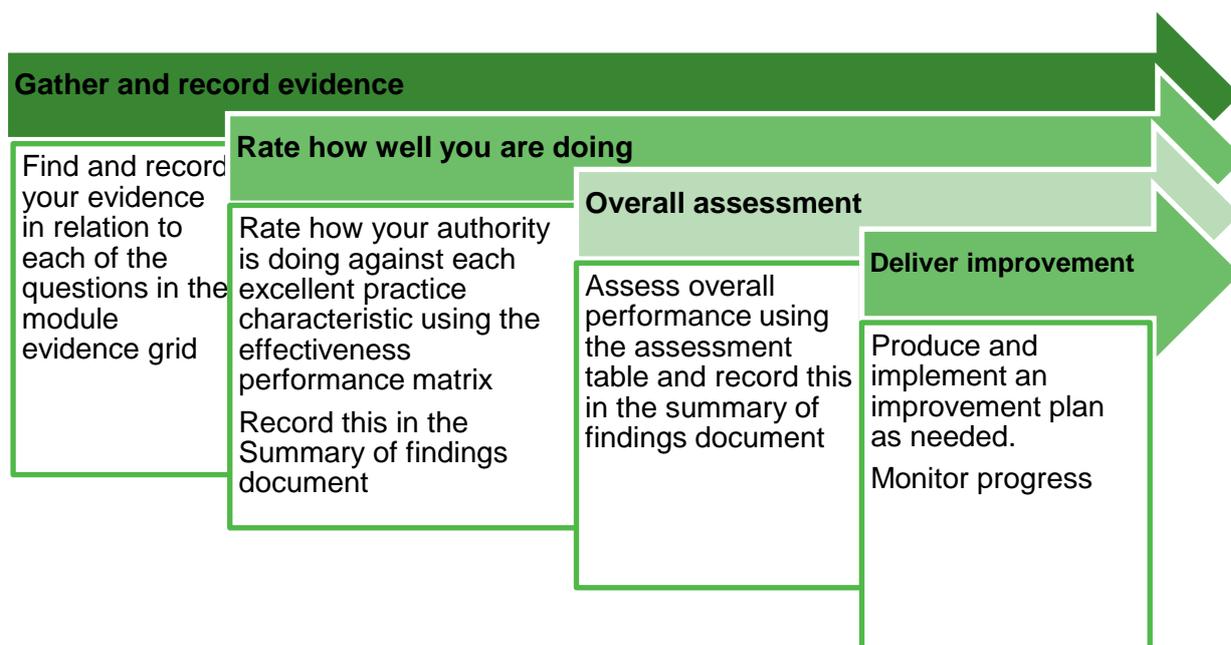
Introduction to module 4: Publishing information

1. This document sets out the standards and criteria against which you will assess your authority's FOI performance against its duties to publish and disseminate information proactively under section 23 of FOISA and regulation 4 of the EIRs.
2. Publishing information is not just a statutory duty. It brings significant benefits for both the public and the publishing authority, including:
 - (i) The public can see what types of information are available and access the information they want to see quickly. They don't have to make FOI requests and they don't have to wait for responses.
 - (ii) Publication reduces an authority's workload for responding to information requests. Some requests may be avoided altogether. Other requests are more narrowly focused on unpublished information.
 - (iii) Better access to information supports better and more meaningful stakeholder relationships.
 - (iv) Proactive publication demonstrates openness and transparency through actions as well as intent.
3. We recommend you read our guidance on **Getting Started** and **How to Carry Out an FOI Self-assessment**, available on our [Self-assessment toolkit web page](#) for advice about how to carry out your assessment and apply the standards.
4. The purpose of self-assessment is to:
 - enable an authority to **capture** the organisation's strengths and good practice in the application of FOI law and codes of practice, then
 - **assess** the effectiveness of that practice, to then
 - identify where and how practice can **improve**.
5. Self-assessment focuses on the key questions:
 - (i) **What** are we doing?
 - (ii) **How** well we are doing it?
 - (iii) **What** are we going to do now?
6. The standards around which this module is written are based on achieving an "excellent" rating. But don't feel this is what you have to aim for right away. Improvement is a journey and you may want to take it in stages. The minimum requirement to meet statutory duties is "adequate". Also bear in mind this module relates to just one area of FOI practice, it may well be that your overall improvement plan is to achieve different rating for different areas of practice, depending on your organisation's wider strategic and business aims, or to bring all areas up to the minimum adequate standard.

7. This document is in sections:
- (i) **Overview of process:** how to carry out an assessment.
 - (ii) **Outcomes and legal context:** what you could achieve through this self-assessment, and your authority's duties under FOI. To comply with FOI legislation, you must achieve at least an **adequate** rating overall.
 - (iii) **Characteristics of good practice:** these give you an overview of what excellent practice in giving advice and assistance looks like.
 - (iv) **What next:** improvement planning.
 - (v) **Assessment ratings and criteria:** the standards against which you rate your authority's performance as **Excellent, Good, Adequate** or **Unsatisfactory**. (NB, this section is A3 to make it easier to read but should print out as A4 if sent to an A4 printer)

Overview of Process

8. Our guidance **How to carry out a self-assessment** and later sections of this document set out how to approach an assessment, but in summary:



Module 4 outcomes and legal context

Outcomes

9. Good FOI practice in publishing information contributes to:
- (i) increased public trust in a Scottish public authority that demonstrates a culture of openness and transparency
 - (ii) better external relationships because engagement with stakeholders is more effective when they are well-informed

- (iii) compliance with FOI law and the Section 60 Code of Practice
- (iv) significant internal efficiencies from systematic approaches to publication
- (v) significant reduction in the number and scope of individual information requests.

Legal context

FOISA

10. Section 23 of FOISA places a duty on Scottish public authorities to adopt and maintain a publication scheme that approved by the Scottish Information Commissioner. Publication schemes describe the information that the authority makes available to the public without them having to make a request for it.
11. Publication schemes must:
 - (i) contain the classes (or types) of information that the authority publishes or will publish
 - (ii) explain the manner in which the information is published or will be published
 - (iii) state whether there is a charge for the information.
12. When formulating a scheme, an authority must consider the public interest in the information it holds, particularly in allowing public access to:
 - (i) information about services, the cost of services and the standards attained
 - (ii) facts or analysis which informed decisions of importance to the public
 - (iii) the reasons for decisions taken.
13. Authorities must publish their publication schemes and review them from time to time.

EIRs

14. Regulation 4 of the EIRs requires authorities to take reasonable steps to organise and keep up to date environmental information, relevant to their functions, with a view to “active and systematic dissemination” of this information to the public. As a *minimum*, authorities must publish the types of environmental information listed in regulation 4(2) and the information should be available in electronic format.
15. FOI law also incentivises authorities to publish information proactively:
 - (i) Section 25 of FOISA provides an exemption for information that is otherwise obtainable.
 - (ii) Regulation 6(1)(b) of the EIRs provides an exception for information that is already publicly available and easily accessible to the requester in another form or format.
16. Section 3 of the Scottish Ministers’ Section 60 Code gives guidance to authorities on good practice in proactive publication.
17. While compliance with the Section 60 Code is not statutory, failure to comply with the Code is treated by the Commissioner as a failure to meet FOI duties.

Re-use regulations

18. Most, though not all, authorities subject to the FOI publication duties are also subject to the Re-Use of Public Sector Information Regulations 2015 (RPSI). RPSI requires specified authorities, in most circumstances, to allow anyone to re-use information that is accessible to them.
19. While the focus of this self-assessment module is to help authorities to meet their publication obligations under FOI law, re-use is relevant. This is because in order for it to be re-usable, information must first be accessible. If your authority is subject to the RPSI, you may want to check as you work through this module that its publication practices also comply with the RPSI, particularly the duties (where applicable) to:
 - (i) make information available under an open licence
 - (ii) make information available in a re-usable way (e.g. machine-readable formats)
 - (iii) set any charges for re-use at marginal cost
 - (iv) publish specific information, such as your authority's Statement of Public Task and schedule of charges for re-use.

The characteristics of excellent practice in publishing information

20. Excellent FOI practice in publishing information has five characteristics:

1. A demonstrable corporate commitment to publishing information in the public interest.
2. Joined up, consistent and systematic practices in publishing information.
3. Staff are provided with the guidance and training they need.
4. The authority is responsive to changing public interest.
5. The authority helps and supports the public to access its published information.

ONE: Leadership

A demonstrable corporate commitment to publishing information in the public interest

This looks like:

- ✓ Leaders and managers recognise and actively promote the benefits of public access to information. They set a clear expectation that most information will be published.
- ✓ Leaders and managers invest sufficient resources in publishing information.
- ✓ Most decisions about whether to publish information are taken at the point of commissioning or reviewing information, not after the information has been produced.
- ✓ Reasons for not publishing information are carefully considered and challenged where necessary.
- ✓ Leaders and managers are alert to changes in the public interest and respond proactively where there is a need to publish new types of information or present information in a new way.

TWO: Practice

Joined-up, consistent and systematic practices in publishing information

This looks like:

- ✓ Clear responsibilities are allocated to business areas to carry out routine publication tasks, including reviewing and checking published information.
- ✓ Business managers are accountable for ensuring routine information is produced to the authority's required standard and published on time.
- ✓ Publication is an essential element of forward planning processes across the authority: work and project plans routinely specify the information that will be published and when.
- ✓ Each business area plans the publication of information for its activities, routine and non-routine, including disseminating this to other parts of the authority.
- ✓ The authority's Guide to Information:
 - encompasses **all** information published by the authority, including e.g. open data initiatives, procurement activities and internal procedures.
 - is routinely reviewed to ensure it is complete, accurate and up-to-date. Performance is reported at senior level. Managers are accountable for actions to address deficiencies in their business areas.
- ✓ Arrangements for uploading information to the authority's website are efficient and allow speedy publication.

THREE: Guidance and training

Staff are provided with the guidance and training they need

This looks like:

- ✓ All staff know that in most cases new information will be published. They receive clear instructions about what can and cannot be published.
- ✓ Staff are trained to prepare documents with the expectation that they will be published.
- ✓ Staff have access to procedures detailing preparation of information for publication, including redacting and formats.
- ✓ Staff are aware of, and understand how published information and Re-use regulations link.

FOUR: Public interest

The authority is responsive to changing public interest

This looks like:

- ✓ There are established processes to monitor the public interest in the information the authority ought to publish, based on good quality information about demand e.g. through reviews of FOI requests, complaints and feedback.
- ✓ Relevant specialist areas e.g. communication and community engagement are actively involved in decisions about the information the authority should publish.
- ✓ The authority invites stakeholders to suggest new types of information for publication, or publication in a different way.
- ✓ Improvements to the authority's Guide to Information are driven by the public interest and lessons learned.

FIVE: Support for public access

The authority supports the public to access its published information

This looks like:

- ✓ There are established internal procedures to ensure the six MPS principles apply to all published information.
- ✓ Charging policies are easy to find and easy to understand. Charges do not exceed marginal costs (the cost of providing the information).
- ✓ The authority offers advice and assistance service to everyone looking for its published information.
- ✓ The public can easily find out what information the authority plans to publish and when it will be available.
- ✓ Publications are accessible to people with disabilities, people who do not speak English and people who cannot access online information.
- ✓ Published information is designed to meet the needs and interests of the communities the authority serves.

Ratings and evaluation criteria

Rating

21. Performance is rated as: **Excellent**, **Good**, **Adequate** or **Unsatisfactory**.
22. In order to comply with the legislation, you must achieve at least an **Adequate** overall rating.

Assessment table

| Overall rating | |
|-----------------------|---|
| Excellent | <ul style="list-style-type: none">• Excellent in at least 3 characteristics, 2 of which must be Leadership, Practice and Support for public access.• No more than 1 adequate rating and no unsatisfactory ratings. |
| Good | <ul style="list-style-type: none">• Good or excellent in at least 4 characteristics, 3 of which must be Leadership, Practice and Support for public access.• No unsatisfactory ratings. |
| Adequate | <ul style="list-style-type: none">• Adequate, good or excellent in at least 4 characteristics, 2 of which must be: Leadership, Practice or Support for public access. |
| Unsatisfactory | <ul style="list-style-type: none">• Unsatisfactory in Practice and Support for public access or• Unsatisfactory in any 4 characteristics. |

23. Remember, when you apply these standards, you should be proportionate in your approach. It is the adequacy of your FOI approach and arrangements, and the outcomes they deliver that are important. For example, where the criteria call for charging policies to be easy to find, if your authority has only one charging policy for all its published information, this will be sufficient.

What next?

Work plan

24. Reflect on your evaluation and develop an appropriate work plan using the **Improvement Action Plan**. This may be a plan to improve your rating or a maintenance plan to ensure you maintain current standards. **How to carry out a self-assessment** gives you more details about this.

Help and advice

25. Contact our Policy and Information Team for further advice and guidance on using the Self-assessment toolkit on 01334 464610 or via enquiries@itspublicknowledge.info.

Effectiveness performance matrix

Please note for printing, this page is A3 size but should print as A4 if sent to an A4 printer

| | Excellent | Good | Adequate | Unsatisfactory |
|----------------------------------|--|---|---|---|
| Leadership | <ul style="list-style-type: none"> Public corporate commitment to publishing information, supported by strong evidence of leadership. Significant strategic decisions have been taken to resource publication work. Decision-making routinely favours publication. Continual scrutiny and challenge at senior level of reasons for not publishing information. | <ul style="list-style-type: none"> Public corporate commitment to publishing information, supported by some evidence of leadership. Additional resources have been identified for publication work in some priority areas. Decision-making often favours publication, but not always. Managers and leaders often challenge reasons not to publish information. | <ul style="list-style-type: none"> Internal corporate commitment to publishing information. Business areas absorb additional costs for publication. Decision-making sometimes favours publication. Managers and leaders sometimes challenge reasons not to publish information. | <ul style="list-style-type: none"> No corporate commitment to publishing information. Publication is seriously constrained by lack of resources. No evidence that senior staff are concerned about promoting publication. No senior oversight of decisions not to publish information. |
| Practice | <ul style="list-style-type: none"> Guide to Information content significantly exceeds the minimum requirements of the MPS. Processes ensure routine updating of the Guide to Information by all business areas. Publishing information is an integral part of all forward planning processes. Guide to Information reviewed at least quarterly; findings reported to senior managers. | <ul style="list-style-type: none"> Guide to Information content exceeds the minimum requirements of the MPS. Processes ensure routine updating of the Guide to Information by all business areas. Publishing information is an integral part of some forward planning processes. Guide to Information reviewed at least six monthly; findings reported to senior managers. | <ul style="list-style-type: none"> Guide to Information content meets the minimum requirements of the MPS. Processes to ensure routine updating of the Guide to Information by most business areas. Guide to information reviewed at least annually; findings reported at senior level. | <ul style="list-style-type: none"> Guide to Information content does not meet the minimum requirements of the MPS. Few or no business processes to ensure routine updating of Guide to Information. Any review of the Guide to Information is on an ad hoc basis. |
| Guidance and training | <ul style="list-style-type: none"> All staff are appropriately trained. All staff have access to guidance. Regular updates and refresher training. | <ul style="list-style-type: none"> Majority of staff appropriately trained. Some staff have access to guidance, updates and refresher training. Updates to all staff are provided only as required. | <ul style="list-style-type: none"> Only FOI staff appropriately trained. Limited training available for other staff. Access to some guidance. Infrequent or ad hoc updates and refresher training. | <ul style="list-style-type: none"> Little or no training provided. Limited or no guidance available. Little or no refresher training. Updates rarely or never issued. |
| Public interest | <ul style="list-style-type: none"> Regular, established processes to monitor public interest in authority information. Regular stakeholder consultation to identify information needs and wants. New information routinely added to Guide to Information in response to public interest. | <ul style="list-style-type: none"> Infrequent, but established processes to monitor public interest in authority information. Infrequent stakeholder consultation to identify information needs and wants. New information often added to Guide to Information in response to public interest. | <ul style="list-style-type: none"> Limited processes to monitor public interest in authority information. Limited stakeholder consultation to identify information needs and wants. New information rarely added to Guide to Information in response to public interest. | <ul style="list-style-type: none"> No processes to monitor public interest in authority information. No stakeholder consultation to identify information needs and wants. Little or no new information added to Guide to Information since authority adopted MPS. |
| Support for public access | <ul style="list-style-type: none"> All information in the Guide to Information meets the six MPS principles. Charging policies are clear and easy to find. Advice and assistance to access information is readily available. People with special support needs can easily get information in the formats they need. Published information is always focused on the needs of the recipients. The authority publishes a publication plan. | <ul style="list-style-type: none"> All information in the Guide to Information meets the six MPS principles. Charging policies are clear and easy to find. Advice and assistance to access information is readily available. People with special support needs can easily get information in the formats they need. Published information is generally focused on the needs of the recipients. | <ul style="list-style-type: none"> All information in the Guide to Information meets the six MPS principles. Charging policies are clear and easy to find. Advice and assistance to access information is usually available. People with special support needs can generally get information in the formats they need. There is occasional thought to the needs of the recipients. | <ul style="list-style-type: none"> Information in the Guide to Information does not always meet the six MPS principles. Charging policies are not clear or easy to find. Advice and assistance to access information is rarely available. People with special support needs struggle to get information in the formats they need. There's no consideration of the needs of the recipients for published information. |

Document control sheet

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