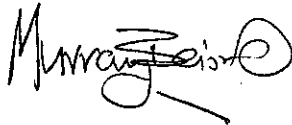




INTERNAL MEMO

DATE: 23/02/2015

FILE REF: ACNC2015/34

TO: Executive	
COPIES TO: Assistant Commissioners, ACNC Legal	
FROM: Marla Cowen	
DIRECTORATE: Legal	CONTACT PHONE: X70544
ISSUE DATE: 28 January 2014	RESPONSE DATE:
SUBJECT: Information Publication Scheme Annual Review	
CONSULTED WITH: All directorates	
ENDORSED BY: Murray Baird	
DATE ENDORSED: 23/02/2015	SIGNATURE: 

Purpose

The ACNC has now conducted its annual review of the agency's Information Publication Scheme (IPS) entry.

Following this review, this memo:

- provides the Commissioner and Assistant Commissioners with an update about the ACNC's compliance with certain obligations under the *Freedom of Information Act 1982* (Cth) (**FOI Act**), namely those in relation to the IPS
- makes recommendations to ensure that the ACNC's IPS is accurate, up-to-date and complete as required by the FOI Act
- seeks the endorsement by the Executive of a new Operational Procedure, and
- seeks the endorsement by the Executive of amendments to two existing Operational Procedures and the ACNC IPS Agency Plan.

Background

1. The FOI Act sets out 10 categories of documents which must be published on the IPS. Agencies are also encouraged to publish or make available any other information that would promote the objects of the FOI Act.
2. Briefly, the following information must be published on the IPS:
 - a) An **Agency Plan** which sets out how the ACNC will comply with the IPS requirements
 - b) Details about the **ACNC's structure**
 - c) Details about the **ACNC's functions**, including decisions making powers and other powers affecting the public
 - d) **Annual reports** prepared for Parliament
 - e) Details of **statutory appointments** (for example, details about the Commissioner's appointment)
 - f) Details of **consultation arrangements** for members of the public to comment on specific policy proposals¹
 - g) Certain documents that are **routinely provided through FOI requests**
 - h) Information that is **routinely provided to Parliament**
 - i) **Contact details of FOI officer**, and
 - j) The **operational information** of the ACNC. This is information held by the ACNC to assist the ACNC to exercise its functions or powers in making decisions or recommendations affecting members of the public. This includes rules, guidelines, practices and precedents relating to those decisions and recommendations.
3. The current Agency Plan requires an annual review to take place in order to ensure that the ACNC is meeting its obligations under the IPS.

¹ Note that this requirement is not currently relevant for the ACNC as it is not responsible for specific policy proposals.

4. The ACNC has published two procedures relevant to the IPS:
 - *Operational Procedure: Review of the Information Publication Scheme*, which sets out how the ACNC will conduct reviews of its IPS.
 - *Operational Procedure: Identifying documents for the Information Publication Scheme*, which explains how staff should identify documents that should be published under the IPS.

Annual Review

5. As part of the annual review, Legal has reviewed the IPS entry on the website, the ACNC Agency Plan and the guidance prepared by the Office of the Australian Information Commissioner (OAIC).
6. In order to obtain relevant feedback from other directorates, the 10 categories of information set out above were allocated to an appropriate directorate, with the last category, operational information, assigned to all directorates. In relation to the 9 categories allocated to specific directorates, directors were asked to consider whether their category was up-to-date, accurate and complete on the IPS (as required under the FOI Act).
7. In relation to the general category, all directors were asked to consider whether their directorate holds any information that falls within 'operational information'. The responses provided will facilitate the development of an IPS Register which will record all the operational information that the ACNC holds and will allocate a responsible directorate to that information.
8. Directors were also provided with the draft amended Agency Plan and asked to consider whether:
 - the ACNC is complying with the ACNC's Agency Plan by publishing the information that it has set out to publish, and
 - there are any other changes that should be made to the Agency Plan.

Outcome of Review

9. A review of the first 9 categories of information that the ACNC is required to publish has identified minor matters that have been remedied, meaning that overall, the ACNC's IPS entry is up-to-date, accurate and complete. These minor matters included a change to the 'functions' section of the website to include 'education of the public' and to clarify relevant legislative references, as well as fixing a link to the Annual Reports.
10. A review of the final category of information revealed that the ACNC does not currently have an adequate system for recording the 'operational information' it holds, nor a

procedure for considering and recording whether a particular document falls within this category.

11. We also identified that the former procedure relating to regular reviews of the IPS was out of date. In particular, this procedure, as well as the Agency Plan discussed the quarterly meeting of the Communications Management Committee, to consider IPS matters. This committee no longer meets.
12. As a result of the above, the following has occurred:
 - Responsibility for categories of information has been allocated to relevant directors. This will ensure that directorates that are familiar with particular categories of information have the responsibility of ensuring that that information is kept up-to-date on the IPS Register. For example, Business Services has responsibility to ensure that the ACNC's published organisational chart is kept up-to-date.
 - An internal IPS Register has been created which will allow the ACNC to collate the information that it holds that is considered 'operational information'. This will in turn assist in the review process, since relevant directors can simply refer to the list when asked to confirm that the operational information held in their directorate is up-to-date.
 - A quarterly item has been added to the agenda of the Management meeting to ensure that there is a regular process through which directors can consider whether the IPS is accurate, up-to-date and complete, and to allow a regular forum for discussion of any IPS issues. This has replaced the initial arrangement, whereby the Communications Management Committee (which no longer meets) would consider these issues
13. Updates have been made to two Operational Procedures as well as the Agency Plan, and a new Operational Procedure has been created to take account of these matters.
14. In addition, following the review, there are three further matters relating to the OAIC Guidelines for the Executive to consider. These are discussed below.
15. By way of background, the OAIC issues Guidelines under section 93A of the FOI Act. While the Guidelines are not binding upon an agency, it is a requirement to have regard to the Guidelines.
16. Since agencies are legally required to have regard to the Guidelines, where an agency decides to not follow the recommendations provided in the Guidelines, a clear reason should be recorded. As such, if the Executive decides not to approve the recommendations below, please provide a reason to be recorded with the IPS review documents.

Icons

17. In its Guidelines on the IPS, the OAIC states that '[a]gencies should consider using the IPS icon published by the Information Commissioner to link to their IPS entry... The Commissioner's intention in publishing the icon is to aid the discoverability of agency IPS entries by encouraging a consistent approach across government'².
18. Currently, the Agency Plan states that the ACNC will use OAIC icons in relation to the FOI Disclosure Log and the IPS. However, this has not yet been done.
19. Many agencies currently use these logos. For example, the ATO, the ACCC, the Australian Crime Commission, the Australian Commission for Law Enforcement Integrity and the Australian Transport Safety Bureau. However, there are also a number of agencies that have not yet adopted this approach.
20. Given that the ACNC has a particular focus on transparency, and given that the OAIC is charged with administering a scheme to promote transparency across government, it would be desirable for the ACNC to adopt the 'best practice' as set out in the Guidelines, and to facilitate a whole of government approach.
21. The Director of Communications has confirmed that the use of icons will not be difficult or time consuming to implement.

Recommendation: Approve the use of OAIC icons

Director Information

22. One of the categories of information required to be published under the IPS is 'details of the structure of the agency's organisation (for example, in the form of an organisational chart)'.
 23. Expanding upon this, the OAIC Guidelines state that for smaller agencies, the following information may be appropriate:
 - business units
 - managers of business units (Directors)
 - lines of accountability from the manager of the business unit to the agency's chief executive officer
 24. All of the above information is currently provided on the website, however, information about the current directors is out of date. While there should be no difficulty updating the information for current directors, a question has arisen as to whether it is appropriate or desirable to provide the name and information about acting directors.
 25. It would appear that where a director has been in an acting role for some time, and there is no clear end date for that role, it would be appropriate to include details of that

² Office of the Australian Information Commissioner, *Guidelines issued by the Australian Information Commissioner under s 93A of the Freedom of Information Act 1982*, Chapter 13 at [13.116].

director on the website. This is because, in that circumstance, there is no difference between the role undertaken by a director or an acting director. If information about a long-serving acting director was not included, it would be based on a mere technicality, and as such, would not promote principles of transparency.

26. On the other hand, where a director is acting for a short period, and it is reasonable to expect that the period will not be extended, it would not appear necessary to publish this information.

Recommendation: Approve the inclusion of information about acting directors where that director is likely to be acting for an extended period

Contact details of directors

27. The Guidelines also state that although it is not required, it is good practice to provide the name and contact details for each manager of a business unit. Although director names are currently provided, there are no contact details provided.
28. Directors have been consulted and generally have no concerns with an email address being provided. One concern has been raised in the case of a director who is often contacted through the Advice line by suppliers. It is therefore recommended that email addresses be provided on the website for directors where those directors agree to that arrangement (in other words, where they do not consider that there is a particular concern with doing so).
29. Understandably, there might be some concern that this could open directors to large volumes of unsolicited mail. However, this concern is not based on any evidence, and should such a situation occur, the emails could always be removed. At that point, the ACNC could clearly articulate that it had attempted to comply with the OAIC's 'best practice' principals, but had a clear reason not to.

Recommendation: Approve the inclusion of the work email address of directors for directors who agree and do not raise any concerns

Suggested Amendments to Agency Plan and current Operational Procedures

Agency Plan

30. The main changes to the Agency Plan are:
- The use of less definitive and more aspirational language in relation to meeting the WCAG 2.0 requirements given the system limitations
 - Amendments to reflect that the ACNC has been in existence for more than 2 years

- Clearer articulation about the responsibility of the FOI contact officer in leading the ACNC's work in relation to the IPS, including references to relevant Operational Procedures
- Clearer articulation of the way in which the IPS will be maintained, including allocating responsibility to directorates, establishing an IPS Information Register and creating a quarterly agenda item for management meetings (to replace the role of the CMC)
- More detailed information about review procedures
- Information about resource allocation, which is a matter that the OAIC Guidelines recommend is included in the Agency Plan
- Including more information about what organisational information is provided on our website
- Including a time frame for documents to be published in the disclosure log
- Clarification that the ACNC is not responsible for specific policy proposals.

Operational Procedure: Identifying documents for the Information Publication Scheme

31. The main changes to this procedure are:

- The removal of the requirement that directors consider whether information on the IPS is up-to-date as part of their monthly reporting obligations. Instead, directors will consider this on a quarterly basis, with a quarterly item added to the management meeting agenda.
- Allocating responsibility of details about ACNC's structure to Communications (in addition to Business Services)
- Adding a sentence to clarify that the appointments of advisory board members is also a required category of information.

Operational Procedure: Review of the Information Publication Scheme

32. The main changes to this procedure are:

- Explanation provided about the designation of responsibility of various categories of information on the IPS to individual directorates.
- Removal of reference to Communications Management Committee and updated information provided about the procedure for reviewing the IPS.

New Operational Procedure - Operational Procedure: Publishing information on the IPS (new)

33. This procedure sets out the role of the FOI contact officer in leading the agency's work on IPS compliance and describes relevant processes in relation to:
- considering whether a document should be published
 - ongoing obligations, and
 - arranging an annual review.
34. In relation to the first matter, a procedure is set out where the FOI contact officer receives a notification that a document may be required to be published under the IPS in accordance with *Operational Procedure: Identifying documents for the Information Publication Scheme*.
35. The Procedure ensures that subsequent FOI contact officers will have a clear understanding of their role in relation to IPS compliance and encourage a consistent approach.

Resource implications

36. NA

IT implications

37. NA

Risk or risk management

OAIC Guidelines – Director details and OAIC icons

38. As a regulator that has a particular aim regarding the promotion of transparency and accountability, it is important that the ACNC be seen to live up to those principles in the conduct of its own affairs. Indeed, the ACNC's current Agency Plan states:
- We are committed to building a pro-disclosure culture in keeping with the objects of the FOI Act, in which we manage government-held information as a national resource increase public participation in government processes. In doing so, we demonstrate the transparency and accountability that we expect from the charities and not-for-profits we work with.
39. There is a risk that if the ACNC does not act in accordance with the recommendations of the Australian Information Commissioner, it could be criticised for failing to meet a 'best practice' standard of transparency and accountability.
40. This risk could be mitigated if the ACNC genuinely considers the OAIC recommendations and, if it determines not to act in accordance with those recommendations, records clear and defensible reasons for not doing so. This will also

be important if the ACNC is required to undertake a 5 yearly review of its IPS with the Information Commissioner (assuming that the current legislation remains the same).

Procedures

41. The amendments to the current procedures and the new procedure seek to ensure that the ACNC has workable procedures for ensuring that the IPS remains accurate, up-to-date and complete as required by the FOI Act. The mechanisms through which the ACNC will do this have been prepared in consultation with each of the directorates.
42. Without clear, up-to-date and workable procedures which set out mechanisms for regular consideration of the IPS, there is a risk that the IPS will fail to comply with the FOI Act. This is a particular reputational risk for an agency like the ACNC, which may open itself up to criticism that it is not adhering to the very principles of transparency and accountability that it requires the charitable sector to adhere to.

Action

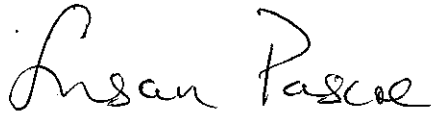
I recommend that you:

- 1) Approve the update to the ACNC's IPS Agency Plan
- 2) Approve the update to the ACNC's *Operational Procedure: Review of the Information Publication Scheme*
- 3) Approve the update to the ACNC's *Operational Procedure: Identifying documents for the Information Publication Scheme*
- 4) Approve the new *Operational Procedure: Publishing information on the IPS*
- 5) Approve the use the OAIC icons on the ACNC website
- 6) Approve the inclusion of information about acting directors where that director is likely to be acting for an extended period
- 7) Approve the inclusion of the work email address of directors for directors who agree and do not raise any concerns

Commissioner Approval

- | |
|----------------------------|
| 1. APPROVED / NOT APPROVED |
| 2. APPROVED / NOT APPROVED |
| 3. APPROVED / NOT APPROVED |
| 4. APPROVED / NOT APPROVED |
| 5. APPROVED / NOT APPROVED |
| 6. APPROVED / NOT APPROVED |
| 7. APPROVED / NOT APPROVED |

with biannual reviews



Susan Pascoe AM
Commissioner

Date: 3/3/15



Operational Procedure: Identifying documents for the Information Publication Scheme

This Operational Procedure is issued under the authority of the Assistant Commissioner (General Counsel) and should be read together with the ACNC Policy Framework, which sets out the scope, context and definitions common to our policies.

Procedure

1. This Operational Procedure sets out how staff should identify documents that may be required to be published under the ACNC's Information Publication Scheme (IPS).
2. Part II of the Freedom of Information Act 1982 (Cth) (FOI Act) requires agencies to establish an IPS. Full details of the documents required to be published as part of the IPS are set out in the ACNC's IPS Agency Plan and IPS Review Procedure (OP 2013/02).
3. Staff preparing documents should be aware that certain classes of information are required to be published as part of the IPS. Staff should refer to the list at paragraph 9 below when preparing documents to determine whether they fall within any of those classes of information.
4. If staff members believe that their document falls within one of those classes, they should seek confirmation from their director. The staff member should then contact the Freedom of Information (FOI) contact officer to confirm that publication is required using the template at Attachment 1.
5. If the staff member or director thinks that a document falls within one of the classes of documents that are required to be published under the IPS, but believes that there are good reasons that the document should not be published, they must still provide the document to the FOI contact officer. When providing the document, any concerns about publishing the document should be clearly explained.
6. The FOI contact officer will then consider whether the document falls within a class of documents that are required to be published and whether any exemptions apply that would allow the ACNC to decide not to publish the document.
7. Once the FOI contact officer has confirmed that the document should be published and the IPS category under which it should be published, staff should supply a hard copy of the document as well as an electronic copy, both with the coversheet, to the Head of Digital Communications.

Documents that are required to be published

8. All staff should consider whether a document that they hold falls within any of the relevant classes. The list below indicates the directorates most likely to be responsible for each class of information.

9. The following information must be published under the IPS:
- **Agency Plan** – this sets out what information the ACNC will publish, how and to whom it will publish information and how the ACNC otherwise proposes to comply with Part 2 of the FOI Act (legal).
 - Details about the **ACNC's structure** (for example, its **organisational chart**) (business services and communications).
 - Details about the **ACNC's functions and powers** – this would include functions that are established by legislation, a decision of government or an executive action (legal).
 - **An annual report, or information contained in an annual report** – prepared by the ACNC to be laid before the parliament (communications).
 - Details about the **Commissioner's appointment and the appointments of advisory board members** (legal).
 - Details of **consultation arrangements** for members of the public to comment on specific policy proposals (policy and education).
 - A document that is **routinely provided through FOI requests** (under Part III of the FOI Act) (legal).
 - Information that is **routinely provided to Parliament** (communications).
 - **Contact details of the FOI officer** (legal).
 - **Operational Information** (which is discussed in more detail below from paragraph 11) (all directorates).
10. Staff should familiarise themselves with the definition of 'operational information', as this is the class of documents that is most likely to be required to be published and updated on a regular basis.

Operational information

11. Operational information is defined in section 8A(1) of the FOI Act as 'information held by the agency to assist the agency to perform or exercise the agency's functions or powers in making decisions or recommendations affecting members of the public (or any particular person or entity, or class of persons or entities)'.
12. Operational information should be published so that members of the public can be adequately informed about the framework of rules, policies, principles and procedures that agencies apply in making decisions or recommendations that affect them. Publication helps to ensure that no-one is disadvantaged by not understanding how the ACNC operates.
13. Examples of operational information that should be published include the Commissioner's policy statements, which explain how the ACNC interprets, approaches and administers the ACNC Act. Another example is a checklist or set of guidelines used by Registrations staff in assessing an application for registration by a charity. Access to this checklist will assist applicants to understand the registration process and to prepare their application.
14. Section 10 of the FOI Act says that, if an agency does not publish operational information, a person should not be disadvantaged because they do something which they may not have if they had had access to that information.

Documents that are exempt from publication

- 15. Some classes of information are exempt from publication as part of the IPS. In some cases, the document may be only partially exempt, which means that it can be published after the exempt information has been removed.
- 16. The FOI contact officer will consult with staff members and directors when considering whether an exemption applies to a particular document.

References

Freedom of Information Act 1982 (Cth)

Privacy Act 1988 (Cth)

ACNC Information Handling Policy

ACNC Freedom of Information Policy

ACNC IPS agency plan

Operational Procedure: Review of the Information Publication Scheme

Operational Procedure: Publishing Information under the Information Publication Scheme

Attachment: Information Publication Scheme publication coversheet

To: FOI contact officer; Head of digital communications

From:

Date:

Subject: IPS document

The attached document may be required to be published under the IPS.

Category of document: [agency plan/ ACNC's structure/ functions and powers/ annual report/ Commissioner's appointment/ consultation arrangements/ information released through FOI/ information routinely provided to Parliament/ contact details of FOI officer/ operational information]

Location on website: [url]

[Insert any concerns or risks associated with publishing the document]

Confirmation from the FOI officer that document should be published:

Yes Category _____

No Reason _____

Version	Date of effect	Brief summary of change
Version 1 - Initial policy	28/03/2013	Initial OP endorsed by Assistant Commissioner (General Counsel) on 28/03/2013
Version 2 – Amended policy	24/10/2013	Changes added to ensure that: <ul style="list-style-type: none">• directors are consulted before documents are provided to the FOI contact officer• Staff do not consider exemptions when deciding whether to provide documents to the FOI contact officer, however, any concerns with publication must be raised with the FOI contact officer.• All categories of IPS documents are included in this document (since staff may not consult the other procedures), and nominal responsibility for classes are given to relevant directorates.
Version 3 – Amended policy	14/01/2014	Minor changes made to better explain the categories of information required to be published under the IPS. Removal of director consideration during monthly reporting obligations. Adding responsibility for 'details about the ACNC's structure' to Communications as well as Business Services.



Operational Procedure: Review of the Information Publication Scheme

This Operational Procedure is issued under the authority of the Assistant Commissioner (General Counsel) and should be read together with the ACNC Policy Framework, which sets out the scope, context and definitions common to our policies.

Procedure

1. This Operational Procedure sets out how the ACNC will conduct reviews of its Information Publication Scheme (IPS).
2. Part II of the *Freedom of Information Act 1982* (Cth) (FOI Act) requires that agencies publish certain information as part of their IPS. The FOI Act further requires that agencies ensure that information published in the IPS is accurate, up-to-date and complete (section 8B).

Ongoing Obligations

3. The IPS should be updated on an ongoing basis, since new information is produced and existing information changes. Staff should refer to Operational Procedure 2013/01 "Identifying documents for the Information Publication Scheme" (OP 2013/01) for information on how to identify an IPS document and request its publication. This review process is intended to reinforce the ongoing maintenance of the IPS.
4. There are 10 categories of information that must be published on the IPS (set out below). Each category of information has been designated to a particular director, who is responsible for ensuring that that information is published on the IPS and is accurate, up-to-date and complete. The table in Attachment 1 sets out these categories and lists the responsible director.
5. In relation to the last category (operational information), each director is responsible for ensuring that any operational information that has been created, or is otherwise held in that directorate, is accurate, up-to-date and complete.
6. Any information (including operational information) that is required to be published in the IPS should be listed on the IPS Information Register. Operational information that is recorded in the IPS Information Register will include the director that retains responsibility for ensuring the document remains accurate, up-to-date and complete.

Reviews of the IPS

7. There will be a limited review of the IPS every quarter and a full review every 12 months. The FOI contact officer will be responsible for leading these reviews.
8. At each review, directors will be required to review the documents held by their directorate with regard to the categories of information required to be published as part of the IPS. They should ensure:

- the current version of required documents that their directorate owns is published on the IPS
 - new documents generated since the last review that are required to be published have been forwarded for publication (in accordance with the procedure set out in OP 2013/01).
9. Directors should also consider whether their directorate holds any other documents that could be published to further the objects of the FOI Act or the ACNC Act.

References

Australian Charities and Not-for-profits Commission Act 2012 (Cth)

Freedom of Information Act 1982 (Cth)

ACNC Information Handling Policy

ACNC Freedom of Information Policy

ACNC's IPS Agency Plan

Operational Procedure: Identifying documents for the Information Publication Scheme

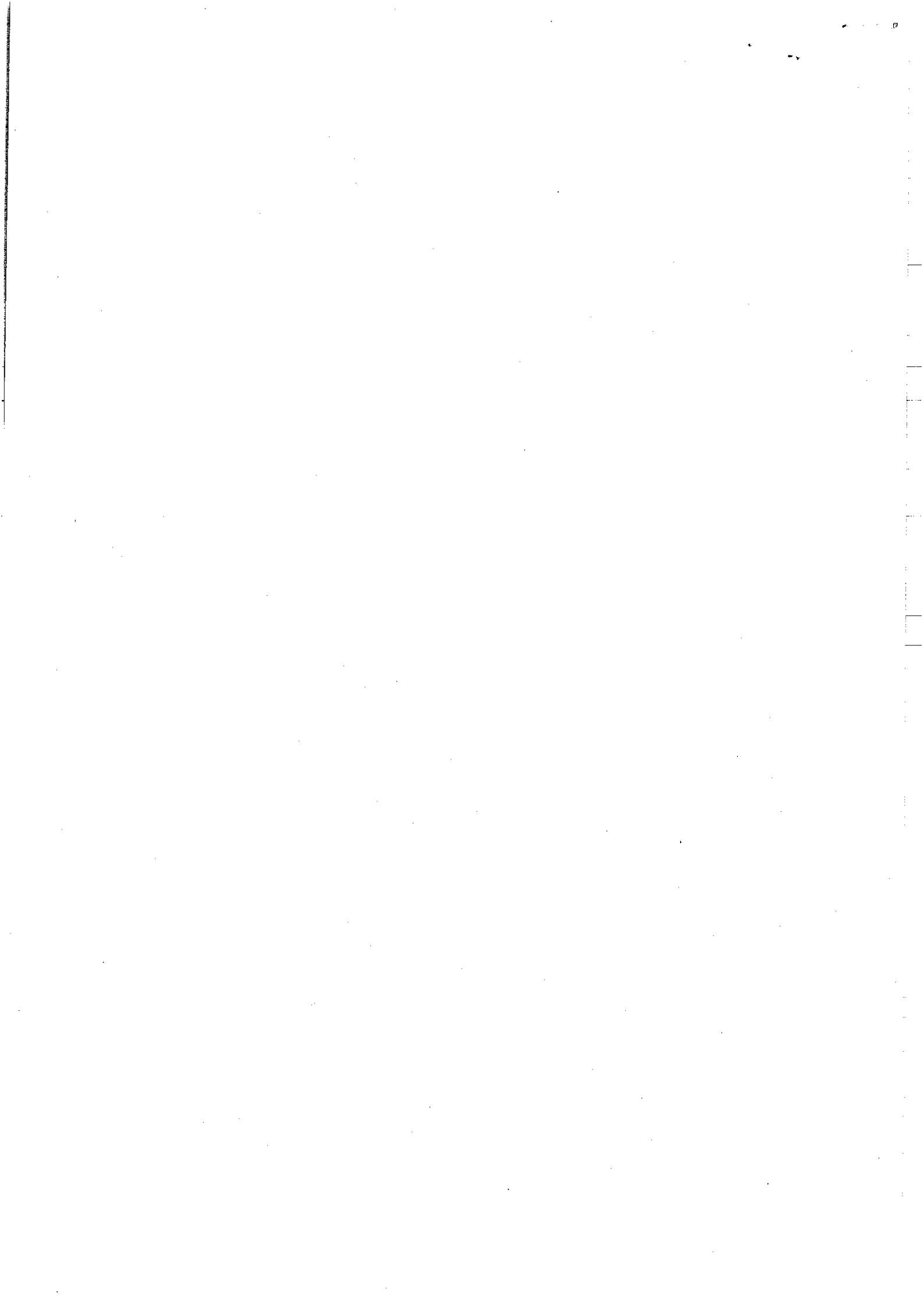
Operational Procedure: Publishing Information under the Information Publication Scheme

Attachment 1: IPS information

Information required under section 8(2) of the FOI Act	Director
The IPS agency plan prepared under s 8(1) of the FOI Act	Legal
Details of the structure of the agency's organisation (for example, in the form of an organisation chart).	Business Services and Communications
As far as practicable, details of the functions of the agency, including its decision-making powers and other powers affecting members of the public (or any particular person or entity, or class of persons or entities).	Legal
Details of the appointments of officers of the agency that are made under Acts (other than APS employees within the meaning of the Public Service Act 1999).	Legal
The information in annual reports prepared by the agency that are laid before the Parliament.	Communications
Details of arrangements for members of the public to comment on specific policy proposals for which the agency is responsible, including how (and to whom) those comments may be made.	Policy
Information in documents to which the agency routinely gives access in response to requests under Part III (access to	Legal

documents), except information of the following kinds: (i) personal information about any individual, if it would be unreasonable to publish the information; (ii) information about the business, commercial, financial or professional affairs of any person, if it would be unreasonable to publish the information; (iii) other information of a kind determined by the Information Commissioner under subsection (3), if it would be unreasonable to publish the information.	
Information held by the agency that is routinely provided to the Parliament in response to requests and orders from the Parliament.	Communications
Contact details for an officer (or officers) who can be contacted about access to the agency's information or documents under the FOI Act.	Legal
The agency's operational information. Operational information is defined as 'information held by the agency to assist the agency to perform or exercise the agency's functions or powers in making decisions or recommendations affecting members of the public (or any particular person or entity, or class of persons or entities)' (s 8A(1)).	All

Version	Date of effect	Brief summary of change
Version 1 - Initial policy	28/03/2013	Initial OP endorsed by Assistant Commissioner (General Counsel) on 28/03/2013
Version 2 – amended policy		Provides more detail on: <ul style="list-style-type: none"> • Allocation of responsibility to directors for maintaining parts of the IPS • Removal of reference to CMC and updated information provided about the procedure for reviewing the IPS • Removing information about the role of the FOI contact officer after receiving operational information as this is dealt with in Operational Procedure: Publishing information on the IPS



ACNC's Information Publication Scheme agency plan

Agency plan, February 2015

Introduction

The Australian Charities and Not-for-profits Commission (ACNC) is established by the *Australian Charities and Not-for-profits Commission Act 2012* (Cth).

We are subject to the *Freedom of Information Act 1982* (Cth) (FOI Act) and must comply with the requirements of the Information Publication Scheme (IPS). This Agency Plan has been prepared in accordance with subsection 8(1) of the FOI Act and describes how the ACNC intends to comply with the IPS.

We are committed to building a pro-disclosure culture in keeping with the objects of the FOI Act, in which we manage government-held information as a national resource and seek to increase public participation in government processes. In doing so, we demonstrate the transparency and accountability that we expect from the charities we work with.

Purpose

The purpose of this Agency Plan is to:

- comply with section 8(1) of the FOI Act
- assist the ACNC in planning and developing appropriate procedures to comply with the IPS
- show the public what information the ACNC proposes to publish, how and to whom the information will be published, and how the ACNC will otherwise comply with the requirements of the IPS, and
- facilitate consultation with stakeholders about the ACNC's compliance with the IPS and disclosure of information generally.

Objectives

The objective of this Agency Plan is to outline the mechanisms and procedures that the ACNC will put in place to:

- manage its IPS entry

- identify and publish the information required to be published
- actively identify other information that can be published
- regularly review information published under the IPS to ensure it is accurate, up-to-date and complete
- ensure that information published under the IPS is easily discoverable, understandable, accessible and reusable
- aim to meet the Web Content Accessibility Guidelines (Version 2) (WCAG 2.0)
- measure the success of the ACNC's IPS entry by reference to community feedback and annual review processes
- promote greater understanding of the objects of the FOI Act across the ACNC and encourage a pro-disclosure culture in accordance with government policy.

Establishing and administering the ACNC's IPS entry

The FOI contact officer (under the supervision of the Director of Legal) is responsible for leading the agency's work in relation to the IPS requirements. The role of the FOI contact officer in relation to the IPS is set out in more detail in OP 2015/05 Operational Procedure: Publishing Information under the Information Publication Scheme. This Procedure, together with OP 2013/01 Operational Procedure Identifying documents for the IPS, explains the process for publishing information on the IPS.

On an ongoing basis, each directorate will have designated responsibilities for ensuring that the IPS is accurate, up-to-date and complete. OP 2013/01 specifies which directorate has been allocated responsibility for particular categories of required information.

In addition, the ACNC will develop an internal IPS Information Register which will identify documents for publication on the IPS and allocate responsibility for ensuring that the document contains information which is accurate, up-to-date and complete. The IPS Information Register will also record decisions made in relation to publication of documents as set out in OP 2015/05. Further, a quarterly standing agenda item will be added to the monthly management meeting which is attended by each director and the Executive. This will ensure that there is a designated time for management to discuss any matters relating to the IPS.

Prior to the relevant management meeting, the FOI contact officer will send an email to each director to request consideration of whether the IPS should be updated, with particular reference to each director's area of allocated responsibility, and any relevant documents on the IPS Information Register which are 'owned' by or allocated to that director.

Each year, the ACNC will conduct a full review of the IPS entry (including the Agency Plan) and consult with stakeholders at this time to ensure that the IPS entry is user-friendly and contains the information that stakeholders require. This review will be conducted in accordance with OP 2013/02 Operational Procedure: Review of the Information Publication Scheme.

As the ACNC is a small agency, there are no specific resources allocated to maintaining the IPS. However, as outlined above, responsibility for maintaining the IPS has been allocated to various staff at the ACNC as part of their general duties.

Charges

As the purpose of the IPS is to make the maximum amount of information readily available at minimum inconvenience and cost to the public, the ACNC will endeavour to make information available online free of charge. The ACNC may charge a person for accessing any IPS document that is impracticable to publish online at the lowest reasonable cost. Details of charges will be made available on our IPS page.

IPS information architecture

The ACNC plans to take the following steps to ensure that its information is easily discoverable and useable:

- publish its IPS entry to the general community on its website in accordance with the timeline outlined below
- investigate opportunities to publish datasets to data.gov.au as they become available
- use the Office of the Australian Information Commissioner (OAIC) IPS and Disclosure Log icons on its homepage to direct users to those resources
- aim to publish all online information with regard to WCAG 2.0 requirements
- to the extent practicable, publish information in html with other formats (including printed documents) available on request
- to the extent practicable, publish under an open licence (usually CC-BY, the licence from the Creative Commons suite with the fewest restrictions, to encourage reuse of the ACNC's information)
- apply AGLS Metadata (AS 5044-2010, the standard mandated for use on Australian Government websites) to online content

- provide a sitemap to help individuals locate information on the ACNC website
- investigate ways to allow individuals to receive notifications of updates, including through the use of social media and an email subscription list
- encourage public comment on any aspect of the IPS site or the information published on it by providing contact details.

Information required to be published under the IPS (s 8(2))

The ACNC will publish the information required by part 2 of the FOI Act under the following headings. In some cases, the entries will consist of links to this information elsewhere on the ACNC website.

Agency plan

- IPS Agency Plan

Timeframe: at commencement of the ACNC

Organisational information

- an organisation chart setting out the structure of the organisation and the lines of accountability. Information about the functions of each part of the organisation will also be provided
- information about our leaders
- details of appointments made under our Act – such as the appointment of our Commissioner and membership of our Advisory Board

Timeframe: at commencement of the ACNC

ACNC's role

- details of our functions, including decision-making powers and other powers affecting members of the public
- our annual reports
- our operational information insofar as it extends to our exercising functions and powers in making decisions or recommendations which affect members of the public – for example, any rules, guidelines, practices or precedents relating to those decisions or recommendations

Timeframe:

- details of functions and powers to be available at commencement
- reports to be available from first annual report
- operational information to be published from commencement with quarterly and annual reviews to ensure that required information is available

Routinely requested information and disclosure log

- information which the ACNC routinely or regularly releases in response to FOI requests
- information which the ACNC routinely provides to the parliament in response to requests and orders
- disclosure log of documents released in response to FOI requests

Timeframe:

- documents routinely released in response to FOI requests to be published as patterns of FOI requests emerge
- documents routinely supplied to parliament to be published as they are identified during quarterly or annual reviews
- where a document is required to be published on the disclosure log, within 10 working days after the document has been released in response to an FOI request

Contact us

- although the ACNC is not responsible for specific policy proposals, we will provide details of arrangements for members of the public to comment generally or in relation to specific matters (for example, to provide comments on proposed Commissioner's Interpretation Statements)
- details of officers who can be contacted about access to information or documents under the FOI Act

Timeframe: contact details to be available at commencement. Details of specific consultations to be made available as they arise.

Other information to be published (s 8(4))

The ACNC will seek to identify and publish other information that may assist our stakeholders to understand our work and engage with us. This may include:

- statistics relating to our work and our workforce
- information about our internal governance structures and our compliance with other Acts
- information about our compliance with website accessibility guidelines
- our corporate and strategic plans
- internal policies
- public submissions that we make and receive (unless authors request confidentiality)
- reports and research on the sector
- financial information relating to pay and grading structures, procurement processes and contracts
- memoranda of understanding.

This information will be published, where appropriate, as it becomes available. The quarterly reviews will monitor the progress of publication in this category.

IPS compliance review (s 8F)

The ACNC will conduct a limited review of the IPS each quarter for at least the first 12 months after commencement. It will then conduct a more comprehensive review each year after commencement to ensure that all appropriate information is included and that the processes for ensuring that information is complete, accurate and up-to-date are effective. At this time, the ACNC will seek feedback from stakeholders on the usability of the information architecture and whether the site provides the information that they need.

In addition, the ACNC will conduct a review in conjunction with the Information Commissioner within the five year review period.

The success of the IPS will also be gauged by public feedback and the volume of FOI requests for general information received.



Operational Procedure: Publishing Information under the Information Publication Scheme

This Operational Procedure is issued under the authority of the Assistant Commissioner (General Counsel) and should be read together with the ACNC Policy Framework, which sets out the scope, context and definitions common to our policies.

Procedure

1. This Operational Procedure sets out how the ACNC will maintain an accurate, up-to-date and complete Information Publication Scheme (IPS).
2. Part II of the *Freedom of Information Act 1982* (Cth) (FOI Act) requires that agencies publish certain information as part of their IPS. The FOI Act further requires that agencies ensure that information published in the IPS is accurate, up-to-date and complete (section 8B).
3. The Freedom of Information (FOI) contact officer (under the supervision of the Director of Legal) has primary responsibility for leading the agency's work on Information Publication Scheme (IPS) compliance.
4. This Operational Procedure details the responsibilities of the FOI contact officer in relation to the management of the ACNC's IPS entry and sets out relevant processes in relation to:
 - a) considering whether a document should be published
 - b) ongoing obligations
 - c) arranging an annual review.
5. This Operational Procedure should be read together with Operational Procedure: Identifying documents for the Information Publication Scheme (OP 2013/01) and Operational Procedure: Review of the Information Publication Scheme (OP 2013/2).

Considering whether a document should be published

6. Where staff members identify documents that might need to be published under the IPS, they are required to notify the FOI contact officer in accordance with Operational Procedure: Identifying documents for the Information Publication Scheme (OP 2013/01). The FOI contact officer may also identify documents that might need to be published through conducting reviews of the IPS entry.
7. A staff member who provides the document to the FOI contact officer should raise any concerns about the publication when the document is provided in accordance with OP 2013/01.

8. The FOI contact officer must then identify whether the document falls within a class of documents that are required to be published, whether any relevant exemptions exist and whether, if the document is not required to be published, the document should be published, in accordance with the aims of the FOI Act and the pro-disclosure culture of the ACNC.
9. If the FOI contact officer considers that there is a risk to the ACNC, the government or any government body, or a third party if the information is published, and it is unclear whether an exemption applies, the matter must be discussed with the Director of Legal.
10. When a decision is made in relation to the document (whether to publish or not), the FOI contact officer must complete the IPS Information Register.
11. Where a decision is made to publish a document, the FOI contact officer will advise the director who is responsible for that particular document. That director must then arrange for that document to be published within a reasonable time.

Ongoing Obligations

12. The FOI contact officer should ensure that the ACNC complies with its obligations under the FOI Act in relation to the IPS.
13. The FOI contact officer should:
 - a) provide information and assistance to staff about the IPS requirements
 - b) ensure that systems are in place to encourage directors to regularly consider whether the IPS entry is up-to-date, accurate and complete. For this purpose, the FOI contact officer should send out quarterly email reminders, which ask the directors to consider whether:
 - i) the current version of documents required to be published on the IPS has been published
 - ii) any new documents that are required to be published have been forwarded for publication
 - c) stay informed about any updates to the law or guidance provided by the Office of the Australian Information Commissioner or other relevant government agency
 - d) conduct limited quarterly reviews of the IPS entry (this could coincide with the reporting obligations to the Office of the Australian Information Commissioner).

Annual Review

14. The FOI contact officer will conduct a yearly review of the IPS and Agency Plan in consultation with the ACNC Directors and in accordance with OP 2013/02 Operational Procedure: Review of the Information Publication Scheme. At that time, the relevant IPS procedures should also be reviewed.
15. An agency self-assessment checklist (published by the Office of the Australian Information Commissioner) should be completed during the annual review.

References

Freedom of Information Act 1982 (Cth)

Operational Procedure: Publishing Information under the Information Publication Scheme
OP 2015/05

Privacy Act 1988 (Cth)

ACNC Information Handling Policy

ACNC Freedom of Information Policy

ACNC IPS agency plan

Operational Procedure: Identifying documents for the Information Publication Scheme

Operational Procedure: Review of the Information Publication Scheme

Version	Date of effect	Brief summary of change
Version 1 - Initial policy	***	Initial OP endorsed by ** on **

