

Centre for Civil Society

**CCS Suggestions
on Proactive Disclosure
for Drafting of Rules under the
Right to Information Act 2005**

*Genuine Empowerment=
Duty to Publish + Duty to Furnish*



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Proactive Disclosure: Strategies for Success

Suggestions on Proactive Disclosure

"It shall be the endeavour of every public authority...to provide as much information *suo moto* to the public at regular intervals through various means of communication...so that the public have minimum resort to the use of this Act to obtain information" (RTI Act 2005). This Section 4 is the most critical and forward-looking clause of the Act. We strongly believe that the objectives of the Right to Information Act would be achieved in the truest sense when the rest of the Act would become redundant. Our suggestions here focus on how to strengthen the proactive disclosure part of the Act.

What should the government disclose proactively?

The provisions for proactive disclosure in the Act are sound: they cover several categories of information and commit public authorities to not just publish information, but also make it accessible. The writing of the rules provides us an opportunity to build on these provisions. We propose the commitment be made concrete by means of the creation and adoption of formal directives in the form of each department/ministry maintaining a publication list, a publication scheme and an Information Assets Register.

The experience of the Information Commissioner's Office, UK provides an important learning experience for India. An examination of how things have unfolded in the United Kingdom yields the guidelines discussed below.

Broadly, we make 6 suggestions for your consideration:

1. **Design a Publication Scheme**
2. **Information Assets Register**
3. **Availability of Publications for Inspection**
4. **Widely Requested Information becomes *suo moto***
5. **Logo for RTI**

6. RTI link on each department website

1. Design a Publication Scheme

To secure a progressive proactive disclosure regime, the government needs to lay down guidelines for the same. This can be effectively accomplished through a combination of a Publication Scheme and an Information Assets Register.

Section 4(1) (b) (vi)¹ makes an allusion to a publication scheme, the commitment needs to be made more specific in the rules.

A. *Publication Scheme:* a document that lays down the categories of information that a public authority is to disclose proactively. Ideally, it will include a short description of each category (for easier identification of location of documents), the format(s) in which the information is available, how much it will cost to access it and reproduce it *and* how often the information is to be updated.

Publication List: quite simply, a list of documents/ publication available from a public authority. Both publication scheme and publication lists have their own significance, and should under no circumstances be considered mutually exclusive.

Why Publication Schemes?

A Publication Scheme demonstrates an *ongoing* commitment to proactive disclosure. It provides a template around which a disclosure regime can function. The nature of publication schemes is such that they place a large amount of information in the public sphere and are flexible enough to stretch and cover new information. The information regime remains up-to-date with less official intervention required. A publication scheme can keep a disclosure regime on track without confining it.

¹ Obligates public authorities to publish a “statement of the categories of documents that are held by it or under its control.”

A publication scheme can create the *possibility of access* to more new information. If a department does not collect information of a certain kind, a publication scheme can provide an opportunity for someone to ask for that information and therefore obligate the public authority to *create* that information. ²

A publication scheme assists in understanding a department and its resources and therefore can form an important internal resource. It can also form a tool of guidance and allow department officials to deal with requests better.

In expediting the process of information disclosure, it reduces the number of request received and decreases administrative burden.

Nature, Form and Content of Publication Scheme:

Categories of information: are classifications of information, the contents of which have "at least one or more common characteristic." A publication Scheme constituted of categories (as against a public list) shall ideally not remain static; classes represent an ever-growing pool of information.

Classes of Information: a sub-classification of categories; similar in nature but narrower in scope and more specific.

1. Publication Schemes must be subject to periodic revision and scrutiny. This may involve adding categories and/or classes of information.
2. Classes must be innovative; departments must steer clear of defining classes so as to part with little more than routine information.
3. A class must not restrict itself to 'published' documents of a certain kind. Proactive disclosure must aim to bring new information into the public domain, that a document has not been published before is no reason to exempt it from disclosure.

² For example, the Municipal Corporation of Delhi does not calculate drop out rates for primary schools. This information is *crucial* to research on the quality of education. The model publication scheme attached to this document, in effect would allow a person to ask for that information under the class '*assessing the department*' of the category '*statistics*' and the information would have to be calculated.

4. Information not held by or not directly the responsibility of the department³ in question should be included in a section for 'cross-links' (in case of electronic and web based resources) or 'cross-references' (in case of print documents, must be available at the office of the public authority.)
5. All new publications, apart from (by default) being covered under classes of the publication scheme, must be listed; with the list being published and constantly updated.
6. The intervals at which information is to be updated must be specified separately in view of the nature of information and how often it is likely to change.
7. The charges for accessing a document must be clearly specified. As also the format it is available in.

Please find attached:

- **A general template for a publication scheme (Annexe I)**
- **A model publication scheme for the Delhi State Department of Education. (Annexe II)**

2. Information Assets Register

Information Assets Register: document providing details of departments' **unpublished** records, what categories of information a department generally handles in addition to a statement of published documents. This will also specify whether the unpublished information is available *suo moto*, at what charge and in what form

Why Information Assets Register?

An Information Assets Register is particularly important because people cannot ask for information if they do not *know what to ask for* and *what they can expect to find*.

The Rules should mandate the compilation, management, publication and updating of a formal document for every department laying down the information assets of the public authority in question.

³ This may refer to legislation, white papers, and debates in parliament etc, which are not generated by a department but maybe crucial to understanding it.

A combination of a formal publication scheme by each department along with an Information Assets Register will allow citizens better understanding and access to information.

3. Availability of Publications for Inspection

A hard copy of *all* publications should be made available in the office of the public authority for *free* inspection.

4. Widely Requested Information becomes *suo moto*

The Rules should require the Information Commissioner and/or Public Information Officer to proactively disclose information that is widely requested. One way to decide is to consider the top three to five requests in each category and then make that information available *suo moto* from that point onwards.

5. Logo for RTI

Design a graphic logo that represents the spirit of RTI. Each department website will have that logo and under it all the information related to the RTI Act. The logo can be stamped on all documents given under RTI. It should be popularised so that illiterate people can easily recognise the RTI office, document, website link.

6. RTI link on each department website

Each government ministry/department/agency should have on its website a Right to Information link with the RTI logo. For detailed recommendations on the Right to Information link, see Annexe III.

Annexe I
Publication Scheme Template

Categories of Information

1. Understanding the Department
2. Functions and Relations Outside the Department
3. Policies and Policy Development
4. Budget and Finances
5. Statistics

Understanding the Department

Class: Department mechanism to implement the Right to Information

Internal Guidance to officials on how to go about disclosing information under the Right to Information Act 2005

Class: Contacting the Department

Guidance on how and whom to contact the department for RTI purposes and other wise as well.

Class: Complaints procedure

Detailed guidance on how to register complaints with the department regarding areas under its jurisdiction

Class: Data Protection

Directives issued to employees on how to deal with information in RTI requests that maybe classified as personal information

Class: Exemptions

Directive issued to employees of the department on how to deal with exempt information when disclosing information proactively and on request.

Class: *Organisation and Duties*

Detailed guidance on the structure of the department, including chains of responsibility and accountability so that the process of decision-making becomes clear.

Cross-links: all the legislation the department and its units/institutions/schemes are responsible for implementing, established under (in case of statutory bodies)

Class: *Personnel*

Detailed Guidance on Human Resource issues in the department

- Who's who
- Recruitment: details about manner, quality and quantity of recruitment.
- Powers, duties, remuneration of *all* categories of employees

Class: *Communication Within the Department*

All internal guidance in the form of circulars, manuals, guidelines, briefings and all communication with employees regarding the strategy and other matters of the department.

Class: *Minutes of Meetings*

Minutes of meetings within the department, to be made available within six weeks from the meeting or sooner.

Class: *Frequently Asked Questions*

Answers to frequent queries received by the department regarding/under the RTI 2005 and otherwise.

Functions and Relations Outside the Department

Class: *The Directorate's external liaisons*

Details of the functions and powers delegated to private bodies for executing functions of the department. This class shall also include guidance and links to accessing information held by local bodies regarding their roles, working, strategy and performance.

- Detailed guidance on the division on power and responsibilities
- The flow of funds
- Channels of official communication etc.
- Details on how to contact these bodies
- Details on what kinds of information they might be expected to hold

Class: *Liaisons with Private Bodies*

- This class covers detailed information of the terms and manner of the government interaction with private bodies
- Details of Services contracted out: contracts advertised, contracts awarded
- Details of Procurements and/or outsourcing
- Licenses to Private institutions: parameters to be fulfilled, actual licences awarded, what those licences entail and on what grounds they can be revoked. In case of actual revocations, details regarding the decision must be given.
- Regulatory functions of the Department
- *This class shall afford citizens access to all information held by private bodies that the department lawfully has access to, including accounts, administrative and management details*
- Guidance on the procedure that private bodies must follow to enter the sector under a departments jurisdiction

Class: *Private Consultation*

Details of all consultants hired or commissioned by the department, along with research, reports and findings generated by them.

Class: *Grants available to individuals and private bodies*

Policies and Policy Development

This broad class covers information regarding the policies of the directorate, the things being done to implement policies, targets set and progress against those targets.

Class: *Strategy Documents*

Documents that lay down the strategy of the department

Cross links/references: to documents/information that allow the strategy and targets to be placed in a larger context such as relevant parts of five-year plans etc.

Class: *Documents/Information about progress*

Annual reports, progress reports, assessments etc.

Class: *Department Publications*

Class: *Department website*

Class: *Keynote Speeches*

Important speeches given by employees of the department

Class: *Press notes and Communication with members of the media*

Class: *Research*

Research conducted, commissioned by the department on policy trends and the like

Cross link/reference: research independent of the department but relevant to it

Class: Details of Schemes

Class: Committees

Details of all committees set up by the department or appointed to examine matters relating to the directorate, including minutes of meetings, agendas, interim and final reports and findings.

Class: Consultation

Information regarding opportunities open to the public to participate in processes in the department; consultation with Civil Society

- All submissions made to the department by civil society organisations
- All suggestion/recommendations made by NGO and voluntary organisations

Class: Assessments

All inspection reports and any documents/information that may provide an assessment of the department's progress.

Budget and Finances

Class: All documents detailing the government's budget

- Detailed Demand for Grants, PTA
- All correspondence within and between departments regarding allocation and use of funds
- Grants in aid
- Details of budget related meetings

Class: Expenditure

Detailed statements of all expenses incurred by the department

Class: *subsidies*

Details of all subsidies granted: amount, nature and beneficiary.

Statistics

Class: *Knowing the department*

Statistic about the department

Class: *Basic Statistics*

Counting various subjects: number of schools, students, teachers, other employees, posts and material details

Class: *Assessing the department*

Statistics that present a qualitative picture

Class: *Statistics related to schemes*

Class: *Statistics regarding Private bodies affiliated with the department*

Annexe II
Publication Scheme for the Department of Education, Delhi State
Government

Categories of Information

6. Understanding the Department
7. Functions and Relations Outside the Department
8. Policies and Policy Development
9. Budget and Finances
10. Statistics

Understanding the Department

Class: Department mechanism to implement the Right to Information

Internal Guidance to officials on how to go about disclosing information under the Right to Information Act 2005

Class: Contacting the Department

Guidance on how and whom to contact the department for RTI purposes and other wise as well.

Class: Complaints procedure

Detailed guidance on how to register complaints with the department regarding areas under its jurisdiction

Class: Data Protection

Directives issued to employees on how to deal with information in RTI requests that maybe classified as personal information

Class: Exemptions

Directive issued to employees of the department on how to deal with exempt information when disclosing information proactively and on request.

Class: Organisation and Duties

Detailed guidance on the structure of the department, including chains of responsibility and accountability so that the process of decision-making becomes clear.

Class: Personnel

Detailed Guidance on Human Resource issues in the department

- Who's who
- Recruitment: details about manner, quality and quantity of recruitment.
- Powers, duties, remuneration of *all* categories of employees

Class: Communication Within the Department

All internal guidance in the form of circulars, manuals, guidelines, briefings and all communication with employees regarding the strategy and other matters of the department.

Class: Minutes of Meetings

Minutes of meetings within the department, to be made available within six weeks from the meeting or sooner.

Class: Frequently Asked Questions

Answers to frequent queries received by the department regarding/under the RTI 2005 and otherwise.

Functions and Relations Outside the Department

Class: *The Directorate's Liaison with Local Bodies*

Details of the functions and powers delegated to local bodies: MCD, NDMC, DCB. This class shall also include guidance and links to accessing information held by local bodies regarding their roles, working, strategy and performance.

- Detailed guidance on the division on power and responsibilities, the flow of funds, channels of official communication etc.
- Details on how to contact the local bodies
- Details on what kinds of information these bodies might be expected to hold

Class: *Liaisons with Private Bodies*

This class covers detailed information of the terms and manner of the government interaction with private bodies

- Details of Services contracted out: contracts advertised, contracts awarded
- Details of Procurements and/or outsourcing
- Licenses to Private institutions: parameters to be fulfilled, actual licences awarded, what those licences entail and on what grounds they can be revoked. In case of actual revocations, details regarding the decision must be given.
- Regulatory functions of the Department with respect to private schools, aided and unaided.
- *This class shall afford citizens access to all information held by private bodies that the department lawfully has access to, including accounts, administrative and management details*
- This class shall include information regarding/held by private aided schools as well as private un-aided schools
- Guidance on the procedure that private bodies must follow to enter the education sector.

Class: *Private Consultation*

Details of all consultants hired or commissioned by the department, along with research, reports and findings generated by them.

Class: *Grants available to individuals and private bodies*

Details of grants, scholarships, stipends, loans and so on available to individuals and private bodies.

Policies and Policy Development

This broad class covers information regarding the policies of the directorate, the things being done to implement policies, targets set and progress against those targets.

Class: *Strategy Documents*

Documents that lay down the strategy of the department

Cross links/references: to documents/information that allow the strategy and targets to be placed in a larger context such as relevant parts of five-year plans etc.

Class: *Documents/Information about progress*

Annual reports, progress reports, assessments etc.

Class: *Department Publications*

Class: *Department website*

Class: *Keynote Speeches*

Important speeches given by employees of the department

Class: *Press notes and Communication with members of the media*

Class: Research

Research conducted, commissioned by the department on policy trends and the like

Cross link/reference: research independent of the department but relevant to it

Class: Details of Schemes

- Grants by the UGC and other such bodies
- Schemes that the Department is directly responsible for
- Schemes that are delegated to local bodies and information on how to access that information
- Schemes for primary, secondary, technical and adult and education (and other specialised sectors)

Class: Committees

Details of all committees set up by the department or appointed to examine matters relating to the directorate, including minutes of meetings, agendas, interim and final reports and findings.

Class: Consultation

Information regarding opportunities open to the public to participate in processes in the department; consultation with Civil Society

- All submissions made to the department by civil society organisations

Class: Assessments

All inspection reports and any documents/information that may provide an assessment of the department's progress.

Budget and Finances

Class: All documents detailing the government's budget

- Detailed Demand for Grants, PTA
- All correspondence within and between departments regarding allocation and use of funds
- Grants in aid
- Details of budget related meetings

Class: Expenditure

- On the directorate
- On government schools
- On private aided schools
- By private un-aided schools (to the extent that the Department has access

Class: subsidies

- To government schools
- Private aided schools
- Private un-aided schools

Statistics

Class: Knowing the department

Statistic about the directorate: employees for example

Class: Basic Statistics

Counting various things: number of schools, students, teachers, other employees, posts and material details

Class: Assessing the department

Statistics that present a qualitative picture

- Trends and trend analysis

→ Efficiency (e.g. cost per child)

Class: *Statistics related to schemes*

Class: *Statistics regarding private aided schools*

Class: *Statistics regarding Private Un-aided schools*

This class will contain data that the Department has access to from private unaided schools

Annexe III

Categories of Information to be made available on the website

The RTI link should consist of the following sub-links:

- I. *The Right to Information Act 2005*- which, in simple terms, explains the scope of the Act, its implementation, fees, right to appeal, *suo moto* provisions, publication scheme, information commissioner etc.
- II. *Right to Information requests*- this sub-link should contain contact details of the Public Information Officer to whom the information request should be sent. This should specify the e-mail id, telephone number and postal address. The application fee for postal queries should also be specified.
- III. *Right to Information complaint process*- this sub-link must contain information regarding what the applicant can do if s/he is unhappy with the way a request has been handled, complete with an external link to the appropriate information commissioner's website.
- IV. *Right to Information appeals process*- this sub-link must provide information regarding the process of appealing against decisions; who the first and subsequent appellate authorities are, what the procedures are and so on.
- V. *Right to Information releases*- this sub-link must provide access to recent releases of information arising from RTI requests.
- VI. *List of all new publications* released by the department
- VII. *Publication scheme*- this sub-link should provide what information the public authority makes available to the public and wherever possible provide an easy method of accessing this information, and specify whether the information is available free of

charge or upon payment. The aim of the publication scheme should be to go beyond the mere furnishing of information to the voluntary provision of information to the citizens without them having to constantly request for the same.

Publications scheme page should have the following sub-links:

- o *The contents of the Publication scheme*- this link must specify categories of information available under the publication scheme:
 - Understanding the Department
 - Function and Relations Outside the Department
 - Policies and Policy Development
 - Budget and Finances
 - Statistics

- o *What's new*- publications issued from across the Department, which have been published within the last seven days.

- IX. *Charging for publication scheme items for those without Internet access*- this link must specify categories of priced information and details of postal charges. It must also specify the name and contact details of the Public Information Officer/Assistant Public Information Officer.

- X. *Competent Authority*- the link must specify the name and contact details of the information official responsible for the publication scheme, and day-to-day maintenance of the scheme. If you believe that we are not complying with our obligations set out in the publication scheme, complaints should be directed to the above-mentioned information official.

- XI. *Right to Information feedback link*- this link may be used to allow information seekers'/applicants' feedback or comments on the publication scheme of the concerned public authority.