

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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Suggestions on Proactive Disclosure

“It shall be the endeavour of every public authority...to provide as much information *suo motu* 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 5 suggestions for your consideration:

1. **Design a Publication Scheme**
2. **Availability of Publications for Inspection**
3. **Widely Requested Information becomes *suo moto***
4. **Logo for RTI**
5. **RTI link on each department website**

1. **Design a Publication Scheme**

- A. *Publication Scheme*: a document that lays down the ‘classes’ of information that a public authority is to disclose proactively. Ideally, it will include a short description of each class (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. Best practice is to subject publication schemes to constant scrutiny and revision. A publication scheme represents an *ongoing* publication commitment. The information commissioner would review and evaluate the publication schemes submitted and if necessary ask for changes in them.

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

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

Nature, Form and Content of Publication Scheme:

Classes of information: are categories of information, the contents of which have “at least one or more common characteristic.” A publication Scheme constituted of classes (as against a public list) shall ideally not remain static; documents newly published or generated may well fall under one or more of the classes specified. Classes represent an ever-growing pool of information available.

1. Classes must be innovative; departments must steer clear of defining classes so as to part with little more than routine information.
2. 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.
3. Information not held by or not directly the responsibility of the department² in question should be included in a section for ‘cross-links’ (in case of electronic

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

² This may refer to legislation, white papers, debates in parliament etc which are not generated by a department but maybe crucial to understanding it.

- and web based resources) or 'cross-references' (in case of print documents, must be available at the office of the public authority.)
4. 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.
 5. 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.
 6. The charges for accessing a document must be clearly specified. As also the format it is available in.

B. 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 motu*, at what charge and in what form

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

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. **The Governance Centre team at CCS is in the process of developing a model Information Assets Register for the Department of Education of the Delhi State Government.**

2. 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.

3. 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.

4. 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.

5. 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. The RTI link which 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 schemes, 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:

- *Charges/fees for publication scheme items*- this link must specify categories of priced information be they printouts, archived copies of documents no longer available on the web etc. This link must list out and provide access to fully- searchable publications that the public authority places in the public domain.
- *What's new*- publications issued from across the Department which have been published within the last seven days.
- *Library of publications*- this must act as an online searchable library of all documents in the public domain.
- *Annual reports*- the annual reports published by the officials of the public authority. It must consist of current reports and archives of previous ones.
- *Inspection Reports*- this must contain reports of inspections that were carried out in the concerned public authority. This must include current reports and archives of previous ones.
- *Legislation*- this must contain publications on and about Government legislation; White and Green papers, Acts of Parliament, Bills and other statutory notices.

- *Policies and schemes*- this must contain publications on the public authority's policies and schemes that have recently been introduced by the public authority. This should include details of subsidies as provided for in the Act.
- *Procurement publications*- this must contain the 25 most recent publications relating to the public authority's procurement and purchase of goods and services.
- *Contracts/Tenders*- must contain details of *all* contracts entered into by the government and all tenders issued.
- *Statistics publications*- this must contain recently issued statistical publications and information on how to obtain them.

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. *Categories of Information link*- The UK model provides a good method of publishing different 'classes' of information to the public through publication schemes. Public authorities in India can adapt this model to publish as much information as possible on subjects in which there is known to be public interest. It must mention in what form the information is made available and whether it is available free of charge or upon payment:

- *Cross-links* – to white papers, legislation and other information not generated/held by the department but relevant to its functioning.

- *Budgets* – detailed statements of grants, loans, expenses; including the departments Demand for grants.
- *Public/private consultations*- details of any consultants that the government hires, payments, reports, findings,
- *Advice to the public*- any information that users might need to access information proactively *and* on request. This should contain details of Public Information Officers, waiting periods, third party information, appeals mechanisms, entitlements to assistance, penalties etc. Significantly, information about opportunities for public consultations where civil society can contribute to policy making should be made available.
- *Internal Guidance*- all documents used by employees of a public authority to conduct its working, includes guidelines, manuals, circulars; essentially, all documents that employees have access to must be made available to the public.
- *Committees*- details of committees of more than two members constituted by the public authority including names, designations of members, findings, reports, interim communications etc.
- *Key ministerial speeches*

XII. *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.

We hope that the above submission will be useful in writing rules that strengthen India's commitment to establishing a regime of openness and transparency.