

Summary: Intervention & Options

Department /Agency:

Ministry of Justice

Title:

Impact Assessment of extending the coverage of Freedom of Information Act 2000

Stage: consultation

Version: 1.00

Date: June 2009

Related Publications: Freedom of Information Act 2000: Designation of additional public authorities
<http://www.justice.gov.uk/consultations/cp2707.htm>

Available to view or download at:

<http://www.justice.gov.uk/consultations/cp2707.htm>

Contact for enquiries: Stuart Watts

Telephone: 020 3334 3911

What is the problem under consideration? Why is government intervention necessary? The Freedom of Information Act (FOIA) gives any person the legal right to ask a public authority covered by the Act for recorded information that they hold. However, the coverage of FOIA is limited to persons that meet the criteria set out under section 4 and section 6, which means the public access to official information is also limited. The FOIA contains a provision (section 5) for the Secretary of State to bring within the scope of FOIA persons that appear to him to be performing a public function, either as one of its own functions or on behalf of a public authority. The Government has announced its intention to broaden the application of FOIA to improve transparency and accountability of additional bodies. In order for the Government to meet this commitment, it is necessary for it to consult on and the make a section 5 order.

What are the policy objectives and the intended effects?

It is important that the FOIA continues to be effective legislation that meets the public's demands for openness and transparency. Extending the coverage of the FOIA will give the public greater access to official information about services that affect them. It will also lead to greater scrutiny over the delivery of public services and hold organisations to account for the decisions they make.

What policy options have been considered? Please justify any preferred option.

Base Case: To take no action

Option 1: Encourage bodies not covered by the legislation to be more open by voluntarily adopting the standards of the Information Commissioner's model publication scheme.

Option 2: Make a section 5 order on UCAS, the ACPO and the FOS.

Option 3: Make a section 5 order on UCAS, the ACPO, the FOS and academies.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? A review will be conducted following a sufficient period after commencement for the practical and financial impact to be assessed.

Ministerial Sign-off For Implementation Stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

..... Date:

Summary: Analysis & Evidence

Policy Option: 1

Description: Encourage bodies not covered by the legislation to be more open by voluntarily adopting the standards of the Information Commissioner's model publication scheme.

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' There would be one-off costs of adopting the model publication scheme for UCAS, the ACPO, the FOS and Academies (if they chose to do so). The total costs assume an undiscounted unit cost of £1,900 per organisation.
	One-off (Transition)	Yrs	
	£ 765,000		
	Average Annual Cost (excluding one-off)		
	£ Nil		
	Total Cost (PV)		£ 765,000
Other key non-monetised costs by 'main affected groups' There would be negligible maintenance costs to the organisations for keeping the information up to date.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£ N/A		
	Average Annual Benefit (excluding one-off)		
	£ N/A		
	Total Benefit (PV)		£ N/A
Other key non-monetised benefits by 'main affected groups' The public would have access to more information from these bodies. Pressure on these bodies could lead to greater efficiency.			

Key Assumptions/Sensitivities/Risks Assumption that all of the bodies considered will adopt the scheme. Time taken to set up a publication scheme.

Price Base Year 2008	Time Period Years 11	Net Benefit Range (NPV) £-920,000 - £-610,000	NET BENEFIT (NPV Best estimate) £-765,000
-------------------------	-------------------------	--	--

What is the geographic coverage of the policy/option?	England, Wales & NI			
On what date will the policy be implemented?	Not known			
Which organisation(s) will enforce the policy?	N/A			
What is the total annual cost of enforcement for these organisations?	£ Nil			
Does enforcement comply with Hampton principles?	N/A			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	£ Nil			
What is the value of changes in greenhouse gas emissions?	£ Nil			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	No	No

Impact on Admin Burdens Baseline (2005 Prices)					(Increase -
Increase of	£	Decrease of	£	Net Impact	£

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Policy Option: 2	Description: Make a section 5 order on UCAS, the ACPO and the FOS.
-------------------------	---

COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' The listed organisations face one-off costs to prepare for dealing with requests and then the annual costs of processing requests.
	One-off (Transition) Yrs	
	£ 5,750	
	Average Annual Cost (excluding one-off)	
	£ 210,000	Total Cost (PV) £ 2.3m
Other key non-monetised costs by 'main affected groups' The ICO faces negligible costs to monitor UCAS, the ACPO and the FOS, and deal with any appeals from requests to those bodies.		

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups'
	One-off Yrs	
	£ N/A	
	Average Annual Benefit (excluding one-off)	
	£ N/A	Total Benefit (PV) £ N/A
Other key non-monetised benefits by 'main affected groups' Increased efficiency from the listed organisations. Increased public access to information.		

Key Assumptions/Sensitivities/Risks Time taken to establish system to respond to FOI requests. Number of requests each organisation will receive based upon comparison with similar bodies already covered by the act.

Price Base Year 2008	Time Period Years 11	Net Benefit Range (NPV) £-2.5m - £-2.1m	NET BENEFIT (NPV Best estimate) £-2.3m
-------------------------	-------------------------	--	---

What is the geographic coverage of the policy/option?		England, Wales & NI			
On what date will the policy be implemented?		Not known			
Which organisation(s) will enforce the policy?		The ICO			
What is the total annual cost of enforcement for these organisations?		£ N/A			
Does enforcement comply with Hampton principles?		N/A			
Will implementation go beyond minimum EU requirements?		N/A			
What is the value of the proposed offsetting measure per year?		£ N/A			
What is the value of changes in greenhouse gas emissions?		£ N/A			
Will the proposal have a significant impact on competition?		No			
Annual cost (£-£) per organisation		Micro	Small	Medium	Large
Are any of these organisations exempt?		No	No	No	No

Impact on Admin Burdens Baseline (2005 Prices)				(Increase -	
Increase of	£	Decrease of	£	Net Impact	£

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

Policy Option: 3	Description: Make a section 5 order on UCAS, the ACPO, the FOS and academies.
-------------------------	--

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' The listed organisations face one-off costs to prepare for dealing with requests and then the annual costs of processing requests. The ICO will bear the annual cost of dealing with any additional appeals that stem from requests to the listed organisations.
	One-off (Transition)	Yrs	
	£ 765,000		
	Average Annual Cost (excluding one-off)		
	£ 720,000		
Total Cost (PV)			£ 8.7m
Other key non-monetised costs by 'main affected groups'			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£ Not yet known		
	Average Annual Benefit (excluding one-off)		
	£ Not yet known		
Total Benefit (PV)			£ N/A
Other key non-monetised benefits by 'main affected groups' Increased efficiency from the listed organisations. Increased public access to information.			

Key Assumptions/Sensitivities/Risks Time taken to establish system to respond to FOI requests. Number of requests each organisation will receive based upon comparison with similar bodies already covered by the act. Growth in the number of academies – assumed that there would be an extra 50 each year until the number reaches the Government's target of 400.

Price Base Year 2008	Time Period Years 11	Net Benefit Range (NPV) £-14.6m - £-3.8m	NET BENEFIT (NPV Best estimate) £-8.7m
-------------------------	-------------------------	---	---

What is the geographic coverage of the policy/option?		England, Wales & NI			
On what date will the policy be implemented?		Not known			
Which organisation(s) will enforce the policy?		The ICO			
What is the total annual cost of enforcement for these organisations?		£ N/A			
Does enforcement comply with Hampton principles?		N/A			
Will implementation go beyond minimum EU requirements?		N/A			
What is the value of the proposed offsetting measure per year?		£ N/A			
What is the value of changes in greenhouse gas emissions?		£ N/A			
Will the proposal have a significant impact on competition?		No			
Annual cost (£-£) per organisation		Micro	Small	Medium	Large
Are any of these organisations exempt?		No	No	No	No

Impact on Admin Burdens Baseline (2005 Prices)				(Increase -	
Increase	£	Decrease of	£	Net Impact	£

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

Evidence Base (for summary sheets)

1. Scope of the Impact Assessment

- 1.1. This impact assessment will be used to assess the potential impact on a body being brought within the FOI regime. These bodies will be required to respond to requests for information from members of the public for official information they hold within 20 days, subject to any permitted extension, or application of any exemptions.
- 1.2. These bodies will be required to make sure they have in place suitable processes to be able to log, allocate and respond to request for information, and that all staff that will be responsible for dealing with requests will receive appropriate training. They will also need to ensure that they have the appropriate appeals processes in place if requesters are not content with the responses they receive.
- 1.3. In addition, new bodies covered by the legislation will need to comply with section 19 of the FOIA and adopt and maintain a publication scheme. Section 19(2) of the Act lists the requirements of a publication scheme, which must:
 - specify classes of information which the public authority publishes or intends to publish
 - specify the manner in which information of each class is, or intended to be, published
 - specify whether the material is, or is intended to be, available to the public free of charge or on payment
- 1.4. The objective is to make more bodies open to public scrutiny to enable the public to obtain information on services that affect them.

Scope of the proposals

- 1.5. The proposals are to:
 - Encourage bodies not covered by the legislation to be more open by voluntarily adopting the standards of the Information Commissioner's model publication scheme¹ (The model publication scheme lays out the categories of information that an organisation should be publishing and how best to make them available).
 - Make a section 5 order to legally compel the listed organisations to follow the requirements of the FOIA.

Organisations in the scope of the legislation

- 1.6. The initial section 5 order will seek to bring in Academies, ACPO, FOS and UCAS, the breakdown of the number of each body is set out in the table below:

¹http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/generic_scheme_v1.0.pdf

<u>Body</u>	<u>Number</u>
Academies	Currently 133, an additional 80 should be open by September 2009. For the purposes of estimating costs, the assumption used is that an extra 50 will be opened each year until the target of 400 is reached. http://www.standards.dfes.gov.uk/academies/projects/?version=1
ACPO	1
FOS	1
UCAS	1
<u>Total</u>	136 to increase to 403

- 1.7. UCAS is the Universities and Colleges Admissions Service². It manages applications to higher education courses in the UK. Since almost all higher education institutions are members of UCAS, essentially all applicants to first degrees in the UK will apply through UCAS.
- 1.8. The ACPO is the Association of Chief Police Officers. It “leads and coordinates the direction and development of the police service in England, Wales and Northern Ireland.”³
- 1.9. The FOS is the Financial Ombudsman Service. Its role is to “settle individual complaints between consumers and businesses providing financial services.”⁴
- 1.10. “Academies are all-ability, state-funded schools established and managed by sponsors from a wide range of backgrounds, including high performing schools and colleges, universities, individual philanthropists, businesses, the voluntary sector, and the faith communities.”⁵

Analytical Principles

- 1.11. The Government will want to allow FOI to become established in these new organisations, and will look to review the case for further extensions on the Act after 2 years of the first section 5 order being commenced.
- 1.12. This section 5 order will only relate to bodies in England, Wales and Northern Ireland. The Government will seek to resolve any cross-border issues that may affect any bodies during the second phase of consultation. However, the benefits could be felt beyond the UK. For example many foreign students apply to British universities through UCAS and will benefit from a greater level of transparency from UCAS.
- 1.13. In conducting the cost benefit analysis, we have considered the effects of each policy option up to the end of 2020. In order to estimate costs over this period we have used the 3.5% social discount rate (taken from the Treasury’s Green Book) and assumed growth rate in wages of 2% per annum.

² http://www.ucas.ac.uk/about_us/whoweare/

³ <http://www.acpo.police.uk/>

⁴ <http://www.financial-ombudsman.org.uk/>

⁵ http://www.standards.dfes.gov.uk/academies/what_are_academies/?version=1

2. Rationale for Government Intervention

- 2.1. The conventional economic approach to Government intervention is based on efficiency or equity arguments. Government intervenes if there is a perceived failure in the way markets operate (“market failures”) or it would like to correct existing institutional distortions (“government failures”) e.g. existing laws or legislation. Government also intervenes for equity or fairness reasons.
- 2.2. The coverage of FOIA is limited to persons that meet the criteria set out under section 4 and section 6, which means the public access to official information, is also limited.
- 2.3. UCAS, ACPO, FOS and Academies are organisations that use public money. However, currently they do not fall under the criteria cited above. Increasing transparency will allow the public to hold these organisations to account over how they use taxpayers’ money. Without this obligation, these organisations could be inefficient in their use of public funds – a form of institutional failure. Hence this policy aims to prevent this potential inefficiency and satisfy the public’s demand for increased information on how public money is spent.
- 2.4. In addition, there is a risk that members of the public lose confidence in public services if they are unable to obtain information that they are interested in or in services that affect them. There is also currently a high level of public demand for increased transparency from public bodies. A section 5 order is currently the only means by which the coverage of the Act can be extended and an important means of satisfying the public’s demand for information.

3. Cost Benefit Analysis

- 3.1. This section compares the costs and benefits of each of the proposed policy options concerning extension of the FOIA.
- 3.2. There is only one piece of independent research that the Government can rely on in order to produce likely cost implications of extending the FOIA, which is the Frontier Economics report into the Impact of the FOIA. Inevitably, the public interest in a certain body is likely to waiver over time dependent on any high profile issues around at any one time.
- 3.3. From the Frontier Economics report and previous work on the FOIA, the following assumptions have been made:
 - Time taken to set up a publication scheme (2 man weeks).
 - Time taken to train staff to respond to requests (1 man week).
 - Time taken to establish a system to respond to requests (2 man days).
 - We have used gross weekly earnings data from the ONS and adjusted for superannuation and National Insurance contributions by 21.2% in order to estimate the cost of this time.
 - The number of requests expected at each institution has been estimated by using data from similar monitored bodies, taken from the Ministry of Justice’s annual reports on the FOIA⁶.

⁶ 2008’s report is located here: <http://www.justice.gov.uk/publications/freedom-of-information-2008.htm>

Base Case

Description

- 3.4. The Impact Assessment and HMT Treasury Green Book Guidance requires that all options are assessed relative to a common “base case.” The base case for this IA is to “do nothing”, i.e. none of the organisations considered in this paper will be encouraged or compelled into abiding by the FOIA.
- 3.5. The model publication scheme is currently available for download from the Information Commissioner’s Office (ICO) website⁷. However without encouragement or obligation, adoption of the model scheme is unlikely.
- 3.6. We can expect public demand for information from Academies and UCAS to increase over time. There will be 213 academies open by September 2009 and Government has a target of 400. Meanwhile, the number of students entering university has been on an upward trend⁸ and the Government has had a long-held target of increasing the proportion of school leavers that go on to university to 50%.
- 3.7. In this scenario, the public will forgo the benefits of increased transparency from the organisations listed. Any potential efficiency gains will not be realised and the public will still not be able to satisfy their demand for information from these organisations.
- 3.8. UCAS, the FOS, the ACPO and the academies will forgo the costs of setting up a system to process FOI requests and the running costs of answering these requests.

OPTION 1

Description

- 3.9. Encourage bodies not covered by the legislation to be more open by voluntarily adopting the standards of the Information Commissioner’s model publication scheme.

Costs

Monetised

- 3.10. The cost of developing a publication scheme is likely to be quite low – we estimate that for a given organisation it would cost somewhere in the region of £900-£1400. The Information Commissioner’s office have developed a definition document which sets out the categories of information that should be made available – these could be used by private sector organisations to assess whether they are making as much information proactively available as they can to meet their customer’s needs.
- 3.11. The total cost of this would depend on how many organisations decide to produce a publication scheme. Assuming that UCAS, the ACPO, the FOS and the academies do all adopt the model scheme, then the global cost over 2010-2020 will be between £610,000 and £920,000 with a best estimate of approximately £765,000.

Non-Monetised

- 3.12. There would be negligible maintenance costs for the organisations to update the information they publish and so we have not estimated these.

⁷ <http://www.ico.gov.uk/>

⁸ Using data from UCAS, the number of accepted applicants has increased by approximately 22% from 2003 (374,307) to 2008 (456,627)

Benefits

Non-Monetised

- 3.13. There could be some institutional benefits of implementing a publication scheme – as it could demonstrate that one organisation is potentially more open and transparent than another which could be attractive to members of the public.
- 3.14. People will now be able to obtain some information they are interested in from an organisation through their publication scheme rather than having to ask for it. This will again be dependent on how many organisations voluntarily adopt the model publication scheme.
- 3.15. Publishing information online could lead to real efficiency gains. By collating information and data, organisations can better understand how they function and how they can improve. Furthermore, there is the possibility of a public outcry if details emerge that show significant waste of resources; this will act as an incentive to operate efficiently.

Net Impact

- 3.16. Without being able to force bodies to take on a public scheme the extent of the effects listed above are unclear – many organisations may choose not to participate.
- 3.17. However, those that do may be able to demonstrate better customer service and also have a better public perception about them, as they will appear more open and transparent.
- 3.18. The expected, monetised net impact will be negative, at worst the net cost will be £920,000 over 2010-2020. However, these costs are small at less than £84,000 per year, spread between all the organisations. Meanwhile there are several valuable non-monetised benefits, particularly potential efficiency gains.

OPTION 2

Description

- 3.19. Make a section 5 order just covering UCAS, the FOS and the ACPO.

Costs

Monetised

- 3.20. The three organisations will face estimated total costs of approximately £2.1m-£2.5m over 2010-2020, dependent largely on the extent of public interest and the number of requests made.

Non-Monetised

- 3.21. There will also be the cost to the ICO of monitoring the three bodies and assessing any additional appeals made. This is expected to be negligible.
- 3.22. Coming under a section 5 order will increase the incentives of these organisations to practise better data management. They may then need to review and/or update their IT and administrative systems.
- 3.23. Additionally, more requests to these bodies may have an effect on the number of requests to organisations already covered by the FOIA. Information received from these

3 bodies may lead to follow up requests directed at other organisations, which would bear the cost of responding to an increased number of requests.

Benefits

Non-Monetised

- 3.24. Greater public scrutiny in organisations ensures that decisions are being made well and with justification. Therefore, UCAS, the FOS and the ACPO may operate more efficiently after coming under the section 5 order, providing better value for money for the taxpayer.
- 3.25. The public will be able to obtain more of the information that they want (this benefit will clearly be smaller under option 2 than under option 3 as long as there are people concerned with finding information on academies). Enabling the public to gain access to this type of information can help build confidence in the services that these organisations are delivering.
- 3.26. The fact that these three bodies are now compelled to respond to FOI requests may put pressure on other public bodies not included under the scope of the section 5 order to be more open. Hence the above benefits may also be applicable to these other organisations.
- 3.27. Additionally, more requests to these bodies may have an effect on the number of requests to organisations already covered by the FOIA. Requests could go to UCAS, the FOS and the ACPO instead of to other organisations (e.g. we could see that with the introduction of UCAS, requests to the DCSF fall). These other organisations would benefit from a subsequent cost saving.

Net Impact

- 3.28. In terms of monetised costs and benefits there will be an expected net cost of approximately £2.3m, or an average of £210,000 a year over 2010-2020.
- 3.29. It's difficult to estimate the size of the non-monetised benefits here but given recent events concerning expenses of both the Government and the BBC, one suspects that a lot of people would want to access this sort of information. Some progress can be made using the economic construct of 'willingness to pay'. If just 3m people were willing to pay £1 for this (receive at least £1 of benefit from the policy) then that would more than cover the range of estimated costs to UCAS, the ACPO & the FOS for the duration of 2010-2020. In fact, it is entirely possible that more people would benefit and by a larger amount than £1 each.

OPTION 3

Description

- 3.30. Make a section 5 order covering UCAS, the ACPO, the FOS and all academies.

Costs

Monetised

- 3.31. As for option 2 above but extending these to include academies. Given the difficulty of estimating how many annual requests an individual academy will receive⁹, the estimated

⁹ We have assumed that all academies receive 1 FOI request per year to calculate the lower bound, 10 requests per year to calculate the upper bound and 5 requests per year for the expected costs.

range of possible costs over 2010-2020 is wide: between £3.6m and £12m with a best estimate of about £7.4m. There may be economies of scale for academies if several academies can work together on best practice for establishing and maintaining their publication schemes. However we have assumed in calculations that each academy operates independently.

- 3.32. As for option 2 there will also be the cost to the ICO of processing extra appeals and monitoring that UCAS, the ACPO, FOS and academies are all abiding by the FOIA. This cost will clearly be higher under option 3 than option 2. The estimated cost to the ICO of dealing with the expected number of appeals over 2010-2020 is about £1.3m or around £120,000 per annum. The upper and lower bounds for the total cost over 2010-2020 are £2.6m and £190,000 respectively.

Non-Monetised

- 3.33. Coming under a section 5 order will increase the incentives of these organisations to practise better data management. They may then need to review and/or update their IT and administrative systems.
- 3.34. This option may also encourage more requests to other bodies covered by the act. This will increase the cost borne by these other bodies.

Benefits

Non-Monetised

- 3.35. The non-monetised benefits will also be very similar to those of option 2. However they are expected to be greater given the addition of academies to the section 5 order.
- 3.36. UCAS, the FOS, the ACPO and academies may operate more efficiently after coming under the section 5 order, providing better value for money for the taxpayer.
- 3.37. The public will be able to obtain more of the information that they want. Enabling the public to gain access to this type of information can help build confidence in the services that these organisations are delivering.
- 3.38. There may be additional pressure on other public bodies not included under the scope of the section 5 order to be more open. The effect is likely to be slightly higher here than under option 2.
- 3.39. There may be a reduction in requests to bodies already under the act with a subsequent reduction in costs for those bodies.

Net Impact

- 3.40. The net monetised impact is negative. The expected net loss is £7.4m, or around £675,000 per year on average.

SUMMARY OF OPTIONS

Table 1: Summary of Options

Option	Key Costs (2010-2020)		Key Benefits (2010-2020)		Net Impact
	Monetised	Non-Monetised	Monetised	Non-Monetised	
Base Case	N/A	N/A	N/A	N/A	No change to the status quo
Option 1: Encourage Organisations to adopt Model Publication Scheme	Cost of adopting model scheme (expected to be £765,000 if all organisations participate).	Negligible maintenance costs.		Benefits to an organisation's reputation. Increased information for the public. (smaller than option 2/3) Possible efficiency gains (smaller here than in options 2 & 3)	Monetised – net loss of £765,000.
Option 2: Make a section 5 order covering UCAS, the ACPO and the FOS	Expected one-off and running costs of £2.3m to the 3 organisations.	Negligible monitoring costs for the ICO.		Efficiency gains. Greater public access to information.	Monetised – net loss of £2.3m.
Option 3: Make a section 5 order covering UCAS, the ACPO, the FOS and academies	One-off and running costs of approx. £7.4m Cost to ICO of approx. £1.3m	Costs of monitoring and dealing with appeals for the ICO.		Efficiency gains (larger than option 2). Greater public access to information (greater than option 2).	Monetised – net loss of £7.4m

3.41. The Government is committed to FOIA and wants to ensure that it continues to be an effective piece of legislation. With that in mind, option 3 is the preferred option as it will provide members of the public greater access to official information. However, the Government would also like to encourage bodies to adopt option 1, so that members of the public can see that they are being as open as possible and will try to meet their customer's needs as far as possible.

3.42. Options 2 or 3 would appear to be the most appropriate at this time and would give members of the public certainty over bodies that they can make requests from.

However, we would encourage as many of those organisations that were nominated as part of the process to adopt option 1.

- 3.43. The costs and benefits of option 3 are very similar to those for option 2, but magnified due to the addition of the academies in option 3. As it is very difficult to evaluate the benefits exactly, it is tricky to say whether one option has a higher net benefit than the other does.

4. Enforcement and Implementation

- 4.1. There will be no enforcement measure for Option 1
- 4.2. Bringing bodies within the FOI regime (Option 2/3) will mean that bodies will be subject to the appeals process under FOI. The Information Commissioner is the independent regulator of FOI and may make decision notices about an organisation that they will need to comply with.
- 4.3. There will need to be a consultation with those bodies proposed to be brought within the scope of the Act as to when FOIA should be implemented in their organisation in order to give them enough time to make sure they have the correct processes in place to deal with requests. It is likely that bodies will receive a substantial volume of requests in the very early stages of being covered by the legislation.

5. Impact Tests

- 5.1. A number of Impact Tests have been developed which need to be considered where applicable:

Competition Assessment

- 5.2. UCAS, the FOS and the ACPO are not in competition with anyone. If UCAS releases more information then this could have implications upon competition between universities for students. If the FOS releases information this could have some implications in the market for financial services. However, in both these cases, consumers and higher education applicants already have a lot of information on which to base their decision and so it is unlikely that there will be a significant effect on competition.
- 5.3. Academies are in competition with other schools in the state sector and private sector for students (and to attract teachers – as an employer). On the one hand, state schools already have to comply with the FOIA and so bringing academies under the FOIA may lead to fairer competition. On the other hand, private schools are not obliged to release information to the public. On balance, all schools need to be fairly open in terms of releasing information to prospective parents, and so the additional obligations of the act should not have a significant impact on competition here. The required openness of bodies under FOIA may even prove to make these schools more attractive to prospective parents.

Small Firms Impact Test

- 5.4. The Impact Assessment Guidance states that “any new proposal that imposes or reduces the cost on business requires a Small Firms Impact Assessment Test”. It is unclear at this stage what the precise impact of extending the coverage of the FOIA on small firms might be. We do not anticipate a significant impact on small firms; however, we will keep this under review throughout the consultation process.

Legal Aid and Justice Impact Test

5.5. As applicable.

EIA

5.6. Mandatory filter and possible full IA on race, disability and gender

Human Rights

5.7. There are human rights considerations which need to be considered before any order is made under section 5. The Department will be undertaking the necessary assessment.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes/No	Yes/No
Small Firms Impact Test	Yes/No	Yes/No
Legal Aid	Yes/No	Yes/No
Sustainable Development	Yes/No	Yes/No
Carbon Assessment	Yes/No	Yes/No
Other Environment	Yes/No	Yes/No
Health Impact Assessment	Yes/No	Yes/No
Race Equality	Yes/No	Yes/No
Disability Equality	Yes/No	Yes/No
Gender Equality	Yes/No	Yes/No
Human Rights	Yes/No	Yes/No
Rural Proofing	Yes/No	Yes/No

Annexes

1.