



PROFESSIONAL OVERSIGHT BOARD

FEEDBACK ON THE CONSULTATION OF THE DRAFT PUBLICATION SCHEME

APRIL 2008



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One Introduction

- 1.1 “Professional Oversight Board Draft Publication Scheme” was published for public consultation on 24 December 2007 with a deadline for comment of 17 March 2008.
- 1.2 The Freedom of Information Act 2000 (FOIA), which was passed on 30 November 2000, gives a general right of access to information held by public authorities, sets out exemptions from that right of access and places a number of obligations on such authorities. The effect of section 1252(3) of Companies Act 2006 is that the Oversight Board is designated as a public authority for these purposes in relation to the exercise of the statutory functions delegated to it by the Secretary of State from 6 April 2008. The Oversight Board is not designated in relation to the exercise by it of non statutory functions.
- 1.3 The FOIA requires the Oversight Board to adopt and maintain a publication scheme which has been approved by the Information Commissioner.
- 1.4 The purpose of this consultation was to obtain the views of our stakeholders on the scope and coverage of our draft Publication scheme.
- 1.5 The consultation paper sought views on whether the Oversight Board:
- had categorised information as being excluded from publication which could be released?
 - had omitted any information/documents which should be classed as exempt from the publication scheme?
- 1.6 There were 5 responses to the discussion paper¹. Respondents by type of stakeholder were as follows:
- | | |
|---|----------|
| Accountancy firms | 4 |
| Professional Bodies – representative body | 1 |
| Total | 5 |
- 1.7 The FRC believes that the responses will be of interest to others and has therefore made them available on its website at: []
- 1.8 This feedback paper summarises the comments that were either put forward by a number of respondents or which seem particularly pertinent to the issues concerned and how we have dealt them.

¹ A list of respondents is set out in Appendix 1

Two Key Issues

- 2.1 Respondents were broadly supportive of the draft publication scheme and welcomed the opportunity to comment on it ahead of its publication. Two respondents welcomed the increase in transparency of the regulatory process. E&Y expressed a belief in *"...openness, transparency and constructive dialogue...[when] working with regulators like POB and the Audit Inspection Unit."*
- 2.2 One respondent expressed concern that the publication scheme was silent on the issue of the public interest test and that there should be a clear distinction made between "public interest" and "information that some members of the public might be interested to know"
- 2.3 No respondents felt that the publication scheme categorised information as being excluded from the scheme which could be disclosed. However a couple of respondents did feel that, in the area of our non statutory duties, by including documents relating to non statutory duties in the publication list we could be opening ourselves to the risk of requests for information over and above what we have voluntarily agreed to publish. PwC expressed concern that the *"...inclusion of documents relating to non statutory duties will put unnecessary risks and additional pressure on the POB...by including it within the publication scheme will subject it to FOI requests..."*
- 2.4 Two respondents expressed opposing views on whether the list of companies whose audits have been inspected should be published. KPMG believe the publication of this list to be *"...a logical extension of transparency and confidence."*
- 2.5 Two respondents expressed concern about how the Oversight Board would handle requests for information which required disclosure of information where the disclosure would contain sensitive information relating to third parties such as companies or audit firms. Grant Thornton were of the view that the Oversight Board should *" Notify the relevant parties that a request has been received, specify a right of representation by the company to the POB as part of the release decision process, and set out POB's regard to the interest of the company through a FOIA section 1 request"*

Three The Oversight Board's response to the issues raised in response to the consultation

- 3.1 The Oversight Board recognises that there is interest in increased transparency that comes from being designated a public authority for FOIA purposes and that our stakeholders are concerned that only those activities for which this designation has been made should be subject to this additional scrutiny. Accordingly, as will be apparent from the following paragraphs, whilst we believe that the issues raised in response to the consultation were covered we have made them more explicit where we think this would be helpful for users.
- 3.2 The Oversight Board's response to the key issues summarised above are set out below.

Non statutory functions

- 3.3 It is our intention to publish information and/or respond to individual requests for information in respect of the statutory functions delegated to us by the Secretary of State to the extent that it is not covered by an exemption. The Oversight Board is not designated under the FOIA in relation to its exercise of non statutory functions. Where we have indicated that we will provide information in relation to our non statutory functions, we have confirmed that this will be on an entirely voluntary basis. We do not believe that by including in the Scheme and Publications List information in relation to the exercise of non statutory functions and which is published voluntarily, we shall be making the Oversight Board subject to the FOIA in respect of those functions.

Public interest

- 3.4 Our Publication Scheme clearly states that, in creating and reviewing our Scheme, we must consider the public interest when:
- Allowing public access to the information we hold; and
 - Publicising the reasons for decisions that we make.
- 3.5 For further clarification, we have produced a separate document, 'Freedom of Information: Guidance Note' which is included within the Publication list and will be available on our website. This provides further detail of how the public interest test shall be applied to each request we receive. Furthermore, this document provides guidance relevant to making a request for information under the FOIA.

List of audits reviewed by the Audit Inspection unit

- 3.6 The Audit Inspection Unit conducted a consultation in 2007 and it was decided then that such a list could lead to speculation which may attempt to link comments in the summary reports on the firms with particular audits. That risk would be particularly acute where the firm had few clients in a particular sector and this could be potentially damaging to both the audit client and the audit firm.
- 3.7 The decision was made then that the list of inspected audits would not be published and therefore such a list is not included in our Publications list.

Requests for information involving third parties

- 3.8 The FOIA requires us to be mindful of the commercial interests of the parties on whom we hold information and therefore, in the 'Freedom of Information Act: Guidance note' referred to above we confirm that we may notify third parties if a request for information about them is made. We also recognise that we may also need to consult third parties (including another public authority) in order to reach a decision on whether the requested information can be released.

Appendix 1

Respondents to the consultation paper

<i>Accountancy Firms</i>	Ernst & Young Grant Thornton KPMG PricewaterhouseCoopers (PwC)
<i>Professional Bodies</i>	Consultative Committee of Accountancy Bodies (CCAB)