

CROWN OFFICE CIRCULAR 3/2008

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| Title | BOOK OF REGULATIONS : UPDATING AND FREEDOM OF INFORMATION CONSIDERATIONS |
| Subject Heading | Freedom of Information/Data Protection |
| Principal Addressees | All Staff, particularly staff involved in preparing material for inclusion in the Book of Regulations |
| Date of Issue | 23 January 2008 |
| Previous Circulars Cancelled | None |
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Summary of Key Points

This circular -

- Identifies which Crown Office Division, and within each Division, which Team, has ownership of, and responsibility for updating and revising parts of the Book of Regulations;
- Explains how the Book of Regulations is treated within the COPFS [Publication Scheme](#); and
- Clarifies, with regard to the principles of freedom of information, the responsibilities of members of staff who draft new or additional material for the Book of Regulations.

Purpose

1. This circular provides guidance for staff on the procedures to be followed when preparing new or amended material for inclusion in the Book of Regulations. It also identifies which Team has lead responsibility for each chapter in the Book of Regulations.

Ownership of the Book of Regulations

2. The schedule of ownership at [Annex 1](#) allocates to certain Divisions within Crown Office overall responsibility for each chapter of the Book of Regulations.

3. However, it is important to note that sometimes other Divisions which lead on specific policy areas will contribute to relevant parts of chapters which cover those topics even though they do not have overall responsibility for the chapters.

4. Overall, it has been agreed that the Operational Policy Team (OPT) of the Business and Policy Development Division (BPDD) has ownership of the whole of the Book of Regulations and co-ordinates all additions and updates to it. In this role, the OPT will be able to ensure that the Book of Regulations is a cohesive resource for staff, both in terms of consistency of style, language and format, also ensuring that there are necessary cross references between related topics, including appropriate links to other guidance manuals.

COPFS Publication Scheme

5. Under the Freedom of Information (Scotland) Act 2002 (FOISA), COPFS must publish a Publication Scheme ([FOI Guidance Manual Vol 1](#)). Essentially the [Publication Scheme](#) is a guide to the information which is routinely published by COPFS and helps the public understand our functions.

6. One of the information categories listed in Part 2 of the Publication Scheme is “General prosecution policy, the publication of which will not prejudice the investigation and prosecution of crime”. The Book of Regulations, with the exception of chapter 3, is listed within this category as a document which can be provided to members of the public on request.

7. At the end of 2006, the Information and Records Management Team (IRM Team) carried out an exercise to edit certain information from the Book of Regulations which requires to be withheld under one or more of the FOI exemptions, primarily section 35, on Law Enforcement, which exempts from disclosure information which would or would be likely to prejudice substantially criminal investigations and prosecutions. This included removing style letters to ensure that they are not printed and relied on as original letters from COPFS staff. This edited version is now available for use in respect of any FOI requests received seeking information held within the Book of Regulations.

8. It is intended that eventually members of the public will be able to access the whole of the releasable version of the Book of Regulations directly via an electronic link in the Publication Scheme. However, at present a number of chapters are out of

date. Until each chapter is revised, the Publication Scheme on the COPFS website will contain an electronic link to chapters which are up to date and, otherwise, will indicate that members of the public have to make a written request for access to any information in the remaining chapters listed in the Publication Scheme.

9. This approach allows staff to retain control over the release only of accurate and appropriate information, and to explain, where necessary, in responding to requests for information, which sections of the Book of Regulations need to be revised and updated.

Book of Regulations : FOI Considerations

10. When revising or preparing new guidance for the Book of Regulations, the drafter should bear in mind the commitment we have made in the Publication Scheme to proactively publish as much information as possible. Therefore, staff must consider at the drafting stage whether the guidance can be produced in a format which can be released to the general public and, wherever possible, prepare it in that way. Where it is not possible to release the entire guidance, an edited version will also be required.

What if some of the material is not suitable for publication?

11. It may be that the guidance is, in general, non contentious and suitable for publication, but contains some information which is caught by an exemption under FOISA (eg information which if released would be likely to prejudice the investigation or prosecution of crime). In these circumstances, it is recommended that, where possible, the 'exempt information' be drafted into one or several specific sections which can easily be identified and edited to produce an edited releasable version of the guidance.

12. Parts of guidance which are not considered suitable for release to the public should be clearly marked "**Internal Guidance – For Staff Only**". This will allow relevant parts of the guidance to be removed easily when preparing a suitable version of the chapter for publication by way of an electronic link in the Publication Scheme on the COPFS website. (See paragraph 15 below for guidance on how to arrange for publication of releasable parts of the Book of Regulations.)

What if none of the information is suitable for publication?

13. The Publication Scheme states that that only Chapter 3 (Case Marking Guidelines) is fully exempt from publication. Therefore, when updating all other chapters, you must actively consider whether the information you are preparing is suitable for release.

How do I know which parts of the guidance are suitable for release?

14. Guidance on applying the Freedom of Information exemptions is available in [Freedom of Information Guidance Manual Volume 2](#) on the intranet.

15. You can also contact the Information and Records Management Team (IRM Team), BPDD, for further advice and guidance.

Publication of Revised/New Material

16. Two “master copies” of the Book of Regulations are held by BPDD – that is, the master copy version of the Book of Regulations available to staff internally within COPFS and also the edited version included in the COPFS Publication Scheme. In order properly to keep these master copies up to date, changes must be co-ordinated at one central point, and not placed directly onto the intranet by individual members of staff. This central point of contact is the PA to the Head of BPDD (currently Maureen McCartney).

17. The following steps should be taken when arranging for any material to be added to the Book of Regulations, whether new guidance, or updated material, and whether or not an edited version has been produced for inclusion in the publication scheme:

- ◆ A necessary update/amendment to a chapter is identified.
- ◆ If the drafter belongs to a team which does not have lead responsibility for the chapter, he/she should liaise with the unit with lead responsibility to ensure that no other amendments are required to the chapter at that stage.
- ◆ The necessary new or updated guidance should be prepared.
- ◆ The drafter should then contact the Team Leader, OPT to ensure that the new/updated guidance is appropriately incorporated into the relevant chapter.
- ◆ The drafter should then seek the Crown Agent’s approval for the new or updated chapter.
- ◆ Once approval is received, the drafter will then liaise with the PA/Head of BPDD to ensure that the new master copy is placed on the intranet.
- ◆ Where necessary, the drafter will prepare an edited version of the chapter and liaise with the IRM Team so that it is incorporated into the materials available from the Book of Regulations via the Publication Scheme on the COPFS website.
- ◆ Prior to placing the releasable version on the website, the IRM Team will check over the proposed edited version and liaise with the drafter as necessary prior to adding the new material to the Publication Scheme.

See [Annex 2](#) for flow chart.

Changes made to Book of Regulations since December 2006

18. Any changes which have been made to the Book of Regulations since December 2006 have not been FOI-proofed by the IRM Team. Each Division identified as having ownership of each chapter should:

- ◆ Ensure that any new or updated sections added to the Book of Regulations which have been made since January 2007 have been notified to the PA/Head of BPDD and check with her that these appear in the master copy.
- ◆ Review the existing releasable version (available from the IRM Team) and update it to incorporate revisions and advise IRM Team of changes.
- ◆ Advise the IRM Team which chapters can be placed on the website in an electronic (and possibly edited) version.
- ◆ Advise the Operational Policy Team and IRM Team of the likely timescales for revision of the out of date chapters.

19. In addition, where a team has amended a chapter for which it does not have lead responsibility, they should liaise with the unit with lead responsibility to ensure that the updates are incorporated into the chapter.

20. Chapter 3 is not being considered for release, but PA/Head of BPDD should still be notified of any updates to this chapter for the master copy.

Information and Records Management Team
Business Policy and Development Division
January 2008

BOOK OF REGULATIONS : OWNERSHIP

| Chapter | Title | Division with Responsibility |
|----------------|---|--|
| 1 | General | BPDD (OPT) |
| 2 | Investigation of Serious Crime | BPDD (OPT) |
| 3 | Case Marking | BPDD (OPT) |
| 4 | Precognition and Management of Solemn Cases | High Court Unit |
| 5 | Productions | BPDD (OPT) |
| 6 | Solemn Procedure | HCU with input from BPDD (OPT) |
| 7 | Summary Procedure | BPDD (OPT) |
| 8 | Bail | BPDD (OPT) |
| 9 | Sentencing | BPDD (OPT) |
| 10 | Compensation by Offenders | VDPDD (Victims and Diversity Policy and Development Division) |
| 11 | Appeals | Appeals Unit |
| 12 | Deaths | VDPDD |
| 13 | Ultimus Haeres | QLTR |
| 14 | Specialities of Jurisdiction, Mutual Legal Assistance and Extradition | International Co-operation Unit. |
| 15 | Mental Disorder | VDPDD |
| 16 | Children | VDPDD |
| 17 | Confidentiality, Disclosure and Relations with the Media | BPDD (IRM Team) |

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| 18 | Armed Forces | BPDD (OPT) |
| 19 | Admin and Miscellaneous Procedures | BPDD (OPT) |
| 20 | Proceeds of Crime | NCD and CRU |
| 21 | Reporting to Crown Office | BPDD (OPT) |
| 22 | Victims, Next of Kin and Witnesses | VDPDD |
| 23 | Plea Adjustment | BPDD (OPT) |

BOOK OF REGULATIONS : UPDATING

System for the Updating of the Book of Regulations

