



Complying with the Records Management Code: Evaluation Workbook and Methodology

Summary and Introduction

Summary

The Freedom of Information Act was implemented fully in January 2005. The Act creates a right of access to official information and places a duty on public authorities to publish information in accordance with “publication schemes”. In addition, the Act encourages all public authorities to maintain their records in accordance with the provisions of a Code of Practice issued by the Lord Chancellor under section 46 of the Act giving guidance on the practice which, in his opinion, it would be desirable for them to follow in connection with the keeping, management and destruction of records (hereafter referred to as the Records Management Code).

This evaluation workbook has been developed by The National Archives (TNA) to assist public authorities in assessing conformance of their record management systems to the Records Management Code.

The workbook focuses on the areas listed in the records management code for action. The action points are further defined in the model action plans. These are:

- Records management function
- Record Management policy statement
- Roles and responsibilities
- Training and awareness
- Records creation and record keeping
- Records maintenance
- Records disposal
- Access regimes for managing FOI requests (part of Records creation and record keeping which it has been more convenient to handle separately)

It also contains a module on

- Performance measurement

Completing the questionnaire contained in this workbook will establish the degree to which an organisation complies with the Record Management Code. It also provides a mechanism to evaluate the level of risk to the organisation by records management that does not conform to the Records Management Code and considers appropriate mitigation strategies.

This first edition of the workbook has been published following the publication of consultation draft in 2005. The comments and contributions which are here formally acknowledged have informed the revision which led to the development of this edition. As public authorities use this workbook for self assessment it is hoped that the experience gained will result in further comment and feedback to The National Archives, which will be used by us to inform further improvements. Anyone wishing to comment on this document or requiring further information

and assistance concerning the role of this workbook are requested to send all submissions or queries to The National Archives at:

rmadvisory@nationalarchives.gov.uk

Introduction

Statutory Context

- 1.1 The Freedom of Information Act (hereafter FOIA) was implemented fully in January 2005. It creates a right of access to official information and places a duty on public authorities to publish information in accordance with “publication schemes”.
- 1.2 As required by section 46 of FOIA, the Lord Chancellor has issued a code of practice on records management in relevant authorities (public authorities and other bodies whose administrative and departmental records are “public records” as defined by the Public Records Act 1958). This Code is in two parts:
 - Part I sets out practices which ‘relevant authorities’, should follow in relation to the creation, keeping, management and destruction of their records. ‘Relevant authorities’ are FOI public authorities and any other bodies that, although not subject to FOIA, are subject to the Public Records Act 1958 and the Public Records Act (NI) 1923
 - Part II describes the arrangements, which public record bodies should follow in reviewing public records and transferring them to the Public Record Office (now known as The National Archives) or to places of deposit or to the Public Record Office of Northern Ireland (Part II of the Code).
- 1.3 This workbook is intended to be used to assess compliance only with Part 1 of the Code of Practice referred to above (hereafter the Code of Practice is referred to as the Records Management Code) and is relevant for all public authorities subject to the FOIA. Part II of the Code will be the subject of separate guidance. A copy of the Records Management Code is available on the website of the Department for Constitutional Affairs at:
<http://www.dca.gov.uk/foi/codesprac.htm>
- 1.4 TNA has produced, or collaborated in the production of, model action plans to help different parts of the public sector achieve conformance to the Records Management Code; they are on the TNA website at:
<http://www.nationalarchives.gov.uk/policy/foi/>
- 1.5 Section 47(1) of the Freedom of Information Act requires the Information Commissioner to promote the observance of the code of practice by public authorities and section 47(3) allows him, with the consent of an authority, to carry out assessments of whether good practice is being followed
- 1.6 If the Commissioner considers that an authority is not managing its records in conformance to the Records Management Code, he may issue a practice recommendation under section 48 of FOIA. A practice recommendation must be in writing and must specify the provisions of

the Code which have not been met and the steps which should, in his opinion, be taken to promote conformity.

- 1.7 If the Commissioner requires information to assess whether an authority's records management conforms to the Records Management Code, he may issue an 'information notice' under FOIA section 51. This requires the authority to provide specified information to a specified deadline.
- 1.8 The need to locate and retrieve information takes on added importance under FOI. The requirements of sections 1 and 16 of the Freedom Of Information Act 2000 and the good practice set out in the Lord Chancellor's Code of Practice under section 45 of the Act, on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act, cannot be met unless adequate record keeping systems are in place.
- 1.9 Furthermore, authorities failing to conform to the Records Management Code may also be failing to comply with other legislation such as the Public Records Acts 1958 and 1967, the Public Records Act (Northern Ireland) 1923, the Data Protection Act 1998, the Local Government Act 1972, and the Local Government (Access to Information) Act 1985.
- 1.10 Some public authorities may also be subject to other statutory or regulatory regimes or to major initiatives such as the Modernising Government programme. Local authorities and health authorities, for example, will also need to take account of the information governance regime, which is to be applied by the Social Care Information Governance Project. Effective records management will facilitate compliance with these other obligations. Additional information on relevant sector specific guidance and regulation of records and information management is provided in the last chapter at page 98.

Role of The National Archives (TNA)

- 1.11 FOIA section 47 provides a mechanism for the Information Commissioner to *consult with the Keeper of Public Records about the promotion by the Commissioner of the observance by public authorities of the provisions of the code of practice under section 46*. To support this process, a Memorandum of Understanding between the Keeper of Public Records and the Information Commissioner has been agreed to clarify their relationship and to establish a working framework for the development of this relationship in practice.
- 1.12 In respect of auditing and assessing conformance to Part 1 of the Records Management Code the Memorandum states:
 - The principal method for monitoring conformity will be self-assessment by public authorities.
 - The Commissioner may request the Keeper to carry out assessments of conformity with the Records Management Code on his behalf. The detailed arrangements for such assessments may be formalised in a service level agreement.

- Selected authorities may be actively audited by the Keeper, in accordance with guidelines set out by the Commissioner for such audits.
- 1.13 To support public authorities in assessing their compliance with the Record Management Code The National Archives (TNA) has produced this evaluation workbook.
- 1.14 A separate programme to assess compliance with the Record Management Code in central government departments is being developed for implementation in the summer of 2006. This approach will focus on the risks associated with non-compliance and will take the form of a targeted assessment of specific area of records management activity which, following an initial assessment, are seen to present a real risk to the organisation. The assessment will comprise a series of interviews with departmental staff, which will be analysed and put into a report to a senior manager within the organisation. The report will take the form of a high-level risk assessment with suggested actions to mitigate the risks.
- 1.15 A number of tools are being developed to support the programme, namely an initial high level risk assessment questionnaire, scripts to be used during assessment interviews and a template for the final risk assessment or report. These tools may also assist public authorities outside central government to support their own compliance assessment activities and all of these other tools will be published on The National Archives (TNA) website during 2006.

Audience

- 1.16 This workbook is aimed at organisations subject to FOIA or one of the Public Records Acts but may also be useful to other organisations. . It is intended for use by those undertaking an assessment of conformance, who are expected to be records or information managers or internal and external auditors.
- 1.17 FOI public authorities include:
- central government departments, agencies and non-departmental public bodies,
 - local government authorities,
 - the education sector (schools, further and higher education bodies)
 - the health service,
 - police forces
 - any other organisation which is defined as a public authority under the FOIA
 - anybody that is a public record body under one of the Public Records Acts.
- 1.18 An up-to-date list of FOI public authorities can be found on the website of the Department for Constitutional Affairs (DCA) at:

<http://www.dca.gov.uk/foi/coverage.htm>

1.19 Other organisations not subject to the Act may also find the guidance useful when evaluating their own record management policies and procedures, although it should be noted that these organisations might have different needs that are not covered within this guidance.

Purpose

1.20 To support these provisions, TNA has developed an audit methodology in the form of this evaluation workbook, which can be used to assess records management practices.

1.21 The workbook focuses on the key areas of the Records Management Code, which are:

- Records management function
- Record management policy statement
- Roles and responsibilities
- Training and awareness
- Records creation and record keeping
- Records maintenance
- Records disposal
- Access regimes for managing FOI requests (part of Records creation and record keeping which it has been more convenient to handle separately)

It also contains a module on

- Performance measurement

1.22 A completed workbook will provide a statement of the extent to which records management practices conform to the Records Management Code and provide a mechanism to evaluate the level of risk to the organisation caused by records management that fails to conform to the Records Management Code. It will also enable an historical audit trail of compliance to be maintained.

1.23 The workbook is intended to be used irrespective of the size or complexity of the organisation being assessed. However, it is recognised that the relevance of some elements will depend on the role, complexity and size of a public authority. Where they are relevant it should be possible to determine the impact of the risk and the effectiveness of the contingency resource earmarked for mitigating or avoiding it.

1.24 It is also intended to be used whether records are paper-based or in digital form including those held in an electronic document and records management system (EDRMS). It is assumed, however, that organisations will increasingly rely on electronic information and the workbook has been developed to reflect the need to competently manage records in both physical and electronic form. Where an authority has implemented or is implementing an EDRMS solution the workbook should elicit the additional evidence needed to validate the use of such

systems as well as the record management systems of public authorities who do not require or do not currently possess such an infrastructure.

1.25 For more information and assistance on this workbook please contact:

rmadvisory@nationalarchives.gov.uk