

Transparency policy on the Government's Major Projects Portfolio (GMPP) and guidance for departments on exemptions

The Government's transparency policy requires Departments, from May 2013, to publish information on their Major Projects, six months in arrears, and update this annually. The major projects concerned are those which are on the Government Major Projects Portfolio (GMPP).

The data to be published includes the Major Project Authority's delivery confidence assessment (MPA RAG rating) together with the Department's actions taken or planned to address issues and risks. The full list of data for publication is at [Annex A](#) attached.

The Departmental project data will be published alongside the Major Projects Authority's Annual Report in May, which will include the full list of Major Projects on the GMPP and aggregated data. The data for publication in May 2013 will be drawn from same period, the second quarter of 2012/13. The annual updates will similarly be drawn from the second quarter of the relevant financial year, which will aid comparison. The reporting cycle is illustrated below:

FY 12/13									FY13/14
Q1			Q2	Q3			Q4		Q1
			Data source for publication.						Data published (ie six months in arrears).

Publishing performance data will provide Departments with added impetus to plan and manage implementation of their Major Projects much more effectively. There is therefore a presumption in favour of publication.

Exemptions to this policy should be limited and consistent with the Freedom of Information Act 2000 (FoIA) and the Government's approach to the public interest test. Each department retains autonomy in the assessment of exemptions to the publication requirements. Departments should not withhold information which would have to be disclosed if requested under the FoIA.

This note sets out some guiding principles and a checklist to support Departments in forming their decisions.

Guiding principles

In deciding the need for any exemption to the Government's transparency policy on its Major (GMPP) Projects, Departments should be guided by the following:

- Publication and genuine transparency is the standard: there is a presumption in favour of publication.
- Exemptions are made sparingly.
- Each piece of data or information is assessed case-by-case ie project by project (no blanket exclusions).
- Decisions are consistent with the Freedom of Information Act 2000 (FoIA) and with Government policy on the application of the public interest test.¹
- Exemptions, other than those which would be automatic if requested under FoIA eg secret projects, are not permanent and should be reviewed periodically.

Checklist

Any exemption from the transparency policy on the government's major projects data should be consistent and justifiable. Departments may find it helpful to self-assess against this checklist.

- Is the data already authorised to be in the public domain? If yes, publish.

If the information is already *authorised* to be in the public domain ie not leaked information, there is unlikely to be any point in withholding it. Non-disclosure could not be sustained if there were a FoI request for the exempted information and the Department's reputation would be harmed.

An example is the list of GMPP projects. In May 2013, the MPA will publish the GMPP list as it stood at quarter two of Financial Year 12/13, along with their Departmental owners, and the total Whole Life Cost of the portfolio. Therefore, from May 2013, this information will be in the public domain, and in relation to that specific information there will be no justification for an exemption from the transparency policy.

- Is the data of a kind which is covered by an absolute exemption under the FoIA? If yes, must not publish.

¹ A copy of the FOIA and extensive guidance on its application are on the Ministry of Justice website <http://www.justice.gov.uk/information-access-rights/foi-guidance-for-practitioners>.

No details of any secret project will be published by the MPA. Where the secret project is *part* of a programme which is listed on the GMPP ie not separately identified nor identifiable, then the exemption may only be relevant to some of the data. If in doubt, the Department should err on the side of caution and take legal advice.

- Is the data of a kind which is covered by a qualified exemption under the FoIA and does the public interest test favour disclosure at the time the assessment is being made?

For example, in respect of national security, consistency with the FoIA (in particular section 24) means that the information should only be considered exempt from publication where necessary to safeguard national security, i.e. not simply where the information relates to national security, and if the public interest would not be served by publication. Changes that would increase the public interest in withholding the information should be considered as well.

In the defence field, consistency with the FoIA includes instances where disclosure of the information would be likely to prejudice the capability, effectiveness or security of the Armed Forces (which is a qualified exemption under section 26 FoIA).

- Has the time-sensitive nature of the data passed? If so, does the public interest test now favour disclosure? If yes, publish unless there are other good grounds for exemption.

The data which Departments is required to publish is six months in arrears. Departments will need to consider whether any of it is sensitive at the point of publication in May, as sensitivity tends to change over time.

- Would publication prejudice commercial interests?

The commercial interests may be those of a supplier or the Government's own commercial interests. Grounds for exemption from publication of major projects' data can include time-sensitive instances where disclosure would undermine the confidence that suppliers or investors may have in the project, or threaten the ability of the Government to attract market finance.

- Are the grounds for exemption from the transparency requirements consistent with the FoIA and Government policy on its application? If not, publish.

Departments need to assure themselves that their decisions to exempt data from the publication requirements would be the same if there were a request under the FoIA for that exempted information at the same point in time.

Finally:

- Have you checked with your Departmental experts on FoI that your reasons for non-publication of the data would be consistent with the FoIA and the Government's approach to the public interest test?

It is important that the FoI experts in departments are aware of and, where appropriate, involved in, Departmental decisions to exempt information from the transparency policy on major projects' information. This is to ensure that decisions are consistent with the FoIA and policy on it, as well as awareness should there be requests under the FoIA for the exempted information.

Further guidance

Advice and guidance on the FoIA should be sought from your Departmental experts.

There is also extensive guidance on the FoIA on the Ministry of Justice website which should help Departments in forming their judgments on exemptions to the transparency policy on major projects' data.

<http://www.justice.gov.uk/information-access-rights/foi-guidance-for-practitioners>

GMPP project information for publication from May 2013, six months in arrears, and updated annually.

1 Basic project identification

- Project name and short description.
- Summary of project aims.

2 RAG rating

- The MPA RAG rating six months in arrears ie GMPP Q2 12/13²
- Department's commentary on actions planned or taken on the RAG rating. Where this is Red or Amber Red, the Department must comment on action taken to tackle the issues and risks threatening delivery.

3 Financial information:

- Total budgeted Whole Life Cost (including non-governmental costs).
- Forecast spend for FY 12/13.
- Department's commentary, and explanation where variance (for 12/13) is plus or minus five per cent, and action planned or taken to contain costs.

4 Timetable information

- Start date.
- End date.
- Department's commentary on whether the project is on schedule, and an explanation for any significant slippage and summary of action planned or taken to bring the project back on schedule.

² Where the MPA has exceptionally, not provided a RAG rating, the Department should use its own.