

Freedom of Information (Scotland) Act 2002 – Lothian Valuation Joint Board Publication Scheme - Update

26 June 2009

Purpose of report

- 1 To advise of the requirement to submit an updated Publication Scheme to the Scottish Information Commissioner (SIC) for approval in accordance with the Freedom of Information (Scotland) Act 2002 (FOISA).

Main Report

- 2 The Freedom of Information (Scotland) Act 2002 came fully into effect on 1 January 2005. The Act introduced a general statutory right of access to all types of “recorded” information of any age held by Scottish public authorities including Joint Boards and Assessors’ Services.
- 3 Subject to certain limited conditions and exemptions, any person who makes a request to a public authority for information is entitled to receive that information.
- 4 Each public authority is required under the Act to produce a Publication Scheme which sets out what information the authority will publish, how the information will be made available and whether this information will be available free of charge or on payment. The Board’s scheme was approved by the Scottish Information Commissioner and came into force on 1 June 2004.
- 5 The Board’s current Publication Scheme expires on 1 June 2009. The attached draft revised Scheme is submitted for approval. It has been prepared in accordance with the template and updated guidance issued by the SIC to assure compliance with the FOISA.

Recommendations

- 6 To note the requirement to submit a Publication Scheme relating to publication of information by the Board to the Scottish Information Commissioner (SIC).

- 7 To note the draft Scheme has already been submitted to SIC for informal comment.
- 8 To approve the attached draft Publication Scheme, with or without modifications.
- 9 To authorise the Chief Executive and Clerk to advise SIC of any modifications.


Tom Aitchison
Chief Executive and Clerk
15/6/09.

Appendix	Freedom of Information (Scotland) Act 2002 – Draft Publication Scheme
Contact/tel	Lesley Birrell, Office of the Chief Executive and Clerk ☎ 0131 529 4240 email: lesley.birrell@edinburgh.gov.uk
Background Papers	None

**LOTHIAN VALUATION JOINT BOARD
PUBLICATION SCHEME**

**Produced as required by the
Freedom of Information (Scotland) Act 2002**

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SECTION 1: INTRODUCTION TO THE PUBLICATION SCHEME

The Freedom of Information (Scotland) Act 2002 (FOISA) provides individuals with a right of access to all recorded information held by Scotland's public authorities. Anyone can use this right, and information can only be withheld where FOISA expressly permits it.

Section 23 of FOISA also requires that all Scottish public authorities maintain a publication scheme. A publication scheme sets out the types of information that a public authority routinely makes available. This scheme has been approved by the Scottish Information Commissioner, who is responsible for enforcing FOISA. Public authorities are also obliged to review their schemes from time to time.

The purpose of this scheme is to provide you with details of the range of information that we routinely publish. The scheme also provides details of how you can access this information, and tells you whether it is available free, or if there is a charge for the information.

This Scheme is based on the model Publication Scheme produced by the Scottish Assessors' Association. Following consultation with all Assessors, the model Scheme identifies key areas of information the public may require. These areas form the basis of our classes of information.

Assessors are committed to delivering an open and transparent service wherever possible and it is intended to publish information that the public has an interest in viewing.

Alongside FOISA, the Environmental Information (Scotland) Regulations 2004 (the EIRs) provide a separate right of access to the environmental information that we hold.

Where information is not published under this scheme, you can request it from us under FOISA. For further information on accessing information not covered by this scheme, refer to *Section 11 – How to access information not available under the scheme*.

SECTION 2: ABOUT ASSESSORS (LOTHIAN VALUATION JOINT BOARD)

Since the enactment of the Lands Valuation (Scotland) Act 1854, Assessors have been responsible for the valuation of all heritable properties for local taxation purposes within their respective valuation areas. Currently all rateable properties are shown in the Valuation Roll and domestic subjects are contained within the Council Tax List. These documents form the basis for levying non-domestic rates (Valuation Roll) and Council Tax (Council Tax Valuation Lists).

Each of the 32 Councils within Scotland is a valuation authority and responsible for appointing an Assessor who must in turn compile and maintain a Valuation Roll and a Council Tax Valuation List.

There are fourteen Assessors throughout Scotland, four are appointed directly by single Councils whilst the remaining ten are appointed by Valuation Joint Boards comprising two or more Councils. Where a Valuation Joint Board exists, all the duties of the constituent Councils as Valuation Authorities are delegated to the Board.

Until 1975 Statute required that Local Authorities appoint Assessors to be their Electoral Registration Officers. While that requirement has been revoked, in practice the overwhelming number of Authorities continue this practice no doubt reflecting the fact that Assessors have unrivalled knowledge of the properties within their area, in particular those of a predominantly non-residential character where nevertheless qualifying electors may be resident.

Lothian Valuation Joint Board has been established since 1996 and discharges jointly the function of 4 Valuation Authorities.

Lothian Valuation Joint Board is a body in its own right, separate from the City of Edinburgh, East Lothian, Midlothian and West Lothian Councils, comprising 16 members, elected councillors from each of the 4 authorities for which the Board has responsibility.

The Board appoint the Assessor responsible for the preparation and maintenance of the Valuation Roll and Valuation List, base documents which are required for the 4 Councils to ingather non-domestic rates and council tax.

The Councils of City of Edinburgh, East Lothian, Midlothian and West Lothian, have also appointed Lothian Valuation Joint Board to discharge jointly the function of Electoral Registration and so the Board is also responsible for the preparation and maintenance of the Register of Electors which is essential for all Parliamentary and Local Government Elections.

2.1 Services Provided

2.1.1 Valuation Roll

In Statutory terms, a general Revaluation of all non-domestic properties is required to take place every five years. This necessitates a complete reappraisal, by the Assessor, of the values shown for all properties in the Roll to reflect the movement in property values over the previous five years. Each owner, tenant or occupier shown in the Roll has a right of appeal against the valuation issued by the Assessor and considerable resources are devoted to the disposal of such appeals.

The next Revaluation will take effect from 1st April, 2010 and will be the tenth to take place in Scotland since the modern rating regime was established with the passing of the Valuation and Rating (Scotland) Act, 1956.

Assessors maintain the Valuation Roll between Revaluations by making entries for new properties, deleting entries for demolished properties and amending entries to reflect extensions, part demolitions etc.

2.1.2 Council Tax Valuation List

Assessors are responsible for compiling a Council Tax List showing each house, or "dwelling", located within the area of the Authority, which indicates the valuation band into which the property falls. There are eight bands of value, ranging from Band A (properties with a value not exceeding £27,000) to Band H (properties with a value exceeding £212,000). Every new Council Taxpayer has a right of appeal against the banding proposed by the Assessor. In addition, the Assessor maintains the Valuation List by making entries for new properties, either as "new build" or by sub-division of existing properties, deleting entries for those which have been demolished and amending entries to reflect, houses which have been extended and subsequently sold.

2.1.3 Electoral Registration

Where the Assessor also holds the office of Electoral Registration Officer, he is responsible for the annual production of the Register of Electors, which includes an entry for all persons qualified to vote. In order to prepare the Register, the Electoral Registration Officer must make a “house to house or other sufficient enquiry” to secure the names of persons entitled to be registered. Since 2001, the Register has become a “Rolling Register” and monthly updating is permitted.

2.2 Assessor as a Statutory Official

In order for any taxation system to be administered in an effective manner it is essential that the public perception is one of integrity and even-handed application.

Although the Scottish Government, through the Scottish Parliament, establishes the Statutory regime and Assessors are appointed by Local Authorities, they are recognised as having a significant degree of independence in the valuations that they make. Individual valuations are not therefore determined by the Parliament or the Local Authorities but by the Assessors. There is a right of appeal to a range of bodies who, again, act independently of Central and Local Government.

Assessors account directly to taxpayers and electors for their actions. In terms of their Statutory remit, independent adjudication is an integral part of the process. Where maladministration is an issue there is open resort to the Office of the Public Services Ombudsman.

Summary

Assessors, in their three main roles act as independent Statutory officials, directly charged with implementing Statutory regimes subject to the direction of independent appellate bodies. Their scope for action, their workloads and timetables are largely governed by Statute. Councils and Joint Boards are responsible for the appointment and funding of Assessors and Electoral Registration Officers. Administrative oversight is provided by the appointing bodies as well as by internal and external auditors.

SECTION 3: PREPARING THE PUBLICATION SCHEME

When preparing or reviewing our publication scheme, we are obliged by FOISA to have due regard to the public interest in providing access to the information that we hold which relates to:

- **the services we provide;**
- **the costs of those services;**
- **the standard of those services;**
- **the facts that inform the important decisions we take; and**
- **the reasoning that informs our decisions.**

The content of this Publication Scheme was prepared with the agreement of members of the Scottish Assessors' Association after full consultation.

The classes of information identified in the Scheme have been arrived at based on the knowledge of the types of questions and enquiries made of Assessors/Valuation Joint Boards over a number of years, together with a consideration of the type of requests which have been made since the previous scheme was introduced in 2004, though no specific public consultations have taken place.

As a matter of routine, consideration will be given to any views expressed by members of the public as to the contents of the Scheme, which will be the subject of periodic review.

Under the terms of the existing legislation, it is not believed that there is a legal requirement for Assessors to publish information associated with Electoral Registration as this is a reserved matter in relation to Scottish devolution.

However, the view of Assessors is that although there may be duplication of information provided by Local Authorities and Assessors it is in the public interest to provide guidance within the Assessors Schemes. It should be noted that the legislation providing for Electoral Registration contains specific limitations on the ways in which the Electoral Register may be displayed, provided and used.

As explained earlier, either Councils or Joint Boards appoint Assessors. In the case of Valuation Joint Boards there may be a great deal of duplication as between the Assessor's and Joint Board's publication schemes because the Board's function is to appoint and provide sufficient support for the Assessor to carry out his Statutory duties. The publication scheme for Assessors will, therefore, provide details related to those functions that the Assessor is responsible for. The costs of providing the service, together with relevant policies of Valuation Joint Boards, will be found in the schemes published by the Board on their website www.lothian-vjb.gov.uk

An audit of information held by Assessors has been undertaken.

SECTION 4: ACCESSING INFORMATION UNDER THE SCHEME

Information available under our publication scheme will normally be available through the routes described below. *Section 12 – Classes of Information* provides more details on the information available under the scheme, along with additional guidance on how the information falling within each “class” may be accessed.

Online:

Most information listed in our publication scheme is available to download from our website, and on the SAA website (www.saa.gov.uk). In many cases a link within *Section 12: Classes of Information* will direct you to the relevant page or document. Where no such link is present, you can use our website’s “Search” facility at www.lothian-vjb.gov.uk. If you are still having trouble finding any document listed under our scheme, then please call Donald Kennedy on 0131 529 4243 or Lesley Birrell on 0131 529 4240 for further assistance.

By e-mail:

If the information you seek is listed in our publication scheme but is not published on our website, we can send it to you by email, wherever possible. When requesting information from us, please provide a telephone number so that we can telephone you to clarify details, if necessary.

By phone:

Information can also be requested from us over the telephone. Please call Donald Kennedy on 0131 529 4243 or Lesley Birrell on 0131 529 4240 to request information available under this scheme.

By post:

All information under the scheme will normally be available in paper copy form. Please address your request to:

Chief Executive and Clerk
Lothian Valuation Joint Board
City Chambers
High Street
Edinburgh
EH1 1YJ

When writing to us to request information, please include your name and address, full details of the information or documents you would like to receive, and any fee applicable (see *Section 6: Our Charging Policy* for further information on fees). Please also include a telephone number so we can telephone you to clarify any details, if necessary.

Advice and assistance:

If you have any difficulty identifying the information you want to access, then please contact Donald Kennedy on 0131 529 4243 or Lesley Birrell on 0131 529 4240 who will be happy to help.

SECTION 5: INFORMATION THAT WE MAY WITHHOLD

All information covered by our publication scheme can either be accessed through our website, or will be provided promptly following our receipt of your request.

Our aim in maintaining this publication scheme is to be as open as possible. You should note, however, that there may be limited circumstances where information will be withheld from one of the classes of information listed in *Section 12 – Classes of Information*. Information will only be withheld, however, where FOISA (or, in the case of environmental information, the Environmental Information (Scotland) Regulations 2004) expressly permits it.

Information concerning items of a confidential nature, with respect to business that has been gathered by Assessors as part of their Statutory duties, may not be made available.

In this respect Assessors/Valuation Joint Boards will, when appropriate, apply reasonable consideration of the exemptions afforded under the Freedom of Information Act, 2002 particularly Sections 33, 35, 36 and 38 e.g. Information, which if disclosed,

- 1) would be likely to prejudice substantially the commercial interests of any person,**
- 2) would prejudice substantially the assessment of any tax,**
- 3) would constitute a breach of confidence actionable by any person, or**
- 4) if personal data, would contravene any of the Data Protection principles.**

Whenever information is withheld we will inform you of this, and will set out why that information cannot be released. Even where information is withheld it may, in many cases, be possible to provide copies with the withheld information edited out.

If you wish to complain about any information which has been withheld from you, please refer to *Section 10 – Complaints*.

SECTION 6: OUR CHARGING POLICY

Unless otherwise stated in *Section 12 – Classes of Information*, all information contained within our scheme is available from us free of charge where it can be downloaded from our website or where it can be sent to you electronically by email.

We reserve the right to impose charges for providing information in paper copy or on computer disc. Charges will reflect the actual costs of reproduction and postage to the authority, as set out below.

In the event that a charge is to be levied, you will be advised of the charge and how it has been calculated. Information will not be provided to you until payment has been received.

Reproduction costs:

Where charges are applied, photocopied information will be charged at a standard rate of 10p per A4 side of paper (black and white copy) and 30p per A4 side of paper (colour copy).

Computer discs will be charged at the rate of £1.00 per CD-Rom.

Postage cost:

We will pass on postage charges to the requester at the cost to the authority of sending the information by first class post.

For the avoidance of doubt these costs relate to the delivering of information in Section 12 which are shown as free.

SECTION 7: OUR COPYRIGHT POLICY

Lothian Valuation Joint Board holds the copyright for the vast majority of information in this publication scheme. All of this information can be copied or reproduced without our formal permission, provided it is copied or reproduced accurately, is not used in a misleading context, and provided that the source of the material is identified.

The publication scheme may, however, contain information where the copyright holder is not Lothian Valuation Joint Board. In most cases the copyright holder will be obvious from the documents. In cases where the copyright is unclear, however, it is the responsibility of the person accessing the information to locate and seek the permission of the copyright holder before reproducing the material or in any other way breaching the rights of the copyright holder. Wherever possible, this scheme will indicate where we do not own the copyright on documents within *Section 12 – Classes of Information*.

Information about Crown copyright material is available on the website of the Queens Printer for Scotland at www.oqps.gov.uk. We can provide you with a copy of this information if you do not have internet access.

Re-Use of Public Sector Information

Access to the information does not mean that copyright has been waived, nor does it give the recipient the right to re-use the information for a commercial purpose. If you intend to re-use information obtained from the scheme, and you are unsure whether you have the right to do so, you are advised to make a request to Lothian Valuation Joint Board to re-use the information. Your request will be considered under the Re-Use of Public Sector Information Regulations 2005 (RPSIs) for which a charge may be imposed. In the event that a charge is payable, you will be advised what this is and how it has been calculated. If you would like more information on the re-use of information, please contact Donald Kennedy on 0131 529 4243 or Lesley Birrell on 0131 529 4240.

Guidance on the RPSI regulations can also be found on the Office of Public Sector Information (OPSI) website at <http://www.opsi.gov.uk/advice/psi-regulations/index.htm>. We can provide you with a copy of this information if you do not have internet access.

SECTION 8: OUR RECORDS MANAGEMENT AND DISPOSAL POLICY

To ensure that records are managed properly, the Assessor/Valuation Joint Board aims to conform to the Code of Practice on Records Management which has been issued by Ministers in accordance with Section 61 of the Freedom of Information (Scotland) Act 2002 and intends to adopt a Records Policy on 23 March 2009 detailing how it intends to manage its records. This details the Assessors/Valuation Joint Boards commitment to ensuring that records are accurate and reliable, can be retrieved easily and are kept for no longer than is absolutely necessary.

For further information on Records Management and the Assessors/Valuation Joint Boards Records Policy, please contact Donald Kennedy on 0131 529 4243 or Lesley Birrell on 0131 529 4240.

SECTION 9: FEEDBACK

FOISA requires that we review our publication scheme from time to time. As a result, we welcome feedback on how we can develop our scheme further. If you want to comment on any aspect of this publication scheme, then please contact us. You may, for example wish to tell us about:

- **other information that you would like to see included in the scheme;**
- **whether you found the scheme easy to use;**
- **whether you found the publication scheme useful;**
- **whether our staff were helpful;**
- **other ways in which our publication scheme can be improved.**

Please send any comments or suggestions to:

The Chief Executive and Clerk
Lothian Valuation Joint Board
City Chambers
High Street
Edinburgh
EH1 1YJ

SECTION 10: COMPLAINTS

Our aim is to make our publication scheme as user-friendly as possible, and we hope that you can access all the information we publish with ease. If you do wish to complain about any aspect of the publication scheme, however, then please contact us, and we will try and resolve your complaint as quickly as possible. You can contact:

The Chief Executive and Clerk
Lothian Valuation Joint Board
City Chambers
High Street
Edinburgh
EH1 1YJ

Any complaint will be acknowledged within two working days of receipt and we will respond in full within twenty working days.

You have legal rights to access information under this scheme and a right of appeal to the Scottish Information Commissioner if you are dissatisfied with our response. These rights apply only to information requests made in writing* or another recordable format. If you are unhappy with our responses to your request you can ask us to review it and if you are still unhappy, you can make an appeal to the Scottish Information Commissioner.

The Commissioner's website has a guide to this three step process, and he operates an enquiry service on Monday to Friday from 9:00am to 5:00pm. His office can be contacted as follows:

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS

Tel: 01334 464610
Email: enquiries@itspublicknowledge.info
Website: www.itspublicknowledge.info

*verbal requests for environmental information carry similar rights.

SECTION 11: HOW TO ACCESS INFORMATION WHICH IS NOT AVAILABLE UNDER THIS SCHEME

If the information you are seeking is not available under this publication scheme, then you may wish to request it from us. The Freedom of Information (Scotland) Act 2002 (FOISA) provides you with a right of access to the information we hold, subject to certain exemptions. The Environmental Information (Scotland) Regulations 2004 (EIRs) separately provide a right of access to the environmental information we hold, while the Data Protection Act 1998 (DPA) provides a right of access to any personal information about you that we hold. Again, these rights are subject to certain exceptions or exemptions.

Should you wish to request a copy of any information that we hold that is not available under this scheme, please write to

The Chief Executive and Clerk
Lothian Valuation Joint Board
City Chambers
High Street
Edinburgh
EH1 1YJ

Charges for information which is not available under the scheme:

The charges for information which *is* available under this scheme are set out under *Section 6 – Our Charging Policy*. If you submit a request to us for information which *is not* available under the scheme the charges will be based on the following calculations:

General information requests:

- There will be no charge for information requests which cost us £100 or less to process.
- Where information costs between £100 and £600 to provide you may be asked to pay 10% of the cost. That is, if you were to ask for information that cost us £600 to provide, you would be asked to pay £50, calculated on the basis of a waiver for the first £100 and 10% of the remaining £500.
- We are not obliged to respond to requests which will cost us over £600 to process.
- In calculating any fee, staff time will be calculated at actual cost per staff member hourly salary rate to a maximum of £15 per person per hour.
- We do not charge for the time to determine whether we hold the information requested, nor for the time it takes to decide whether the information can be released. Charges may be made for locating, retrieving and providing information to you.

- In the event that we decide to impose a charge we will issue you with notification of the charge (a fees notice) and how it has been calculated. You will have three months from the date of issue of the fees notice in which to decide whether to pay the charge. The information will be provided to you on payment of the charge. If you decide not to proceed with the request there will be no charge to you.

Charges for environmental information:

We do not charge for the time to determine whether we hold the information requested, nor for the time it takes to decide whether the information can be released. Charges may be made for locating, retrieving and providing information to you.

In the event that we decide to impose a charge we will issue you with notification of the charge and how it has been calculated. The information will be provided to you on payment of the charge. If you decide not to proceed with the request there will be no charge to you.

Charges are calculated on the basis of the actual cost to the authority of providing the information.

- Photocopying is charged at 10p per A4 sheet for black and white copying, 30p per A4 sheet for colour copying.
- Postage is charged at actual rate for first class mail.
- Staff time is calculated at actual cost per staff member hourly salary rate to a maximum of £15 per person per hour.

The first £100 worth of information will be provided to you without charge.

Where information costs between £100 and £600 to provide, you will be asked to pay 10% of the cost. That is, if you were to ask for information that cost us £600 to provide, you would be asked to pay £50, calculated on the basis of a waiver for the first £100 and 10% of the remaining £500.

Where it would cost more than £600 to provide the information to you, however, we will ask you to pay the full cost of providing the information, with no waiver for any portion of the cost.

Requests for your own personal data:

You are entitled to request your personal data from Lothian Valuation Joint Board who reserves the right to charge £10 for requests for an individual's own personal data.

SECTION 12: CLASSES OF INFORMATION

The Freedom of Information (Scotland) Act, 2002 requires a Publication Scheme to specify the classes of information the Public Authority already publishes or intends to publish. Our intention is to publish as much information as possible on subjects where there is known to be public interest. However, exemptions under the Freedom of Information (Scotland) Act, 2002 may allow us to withhold some information, as indicated in Section 5.

Assessors/Valuation Joint Boards publish, or intend to publish, information under the Classes listed below:-

- a) Who's Who and Where**
- b) Valuation Joint Board Minutes of Meetings***
- c) Annual Accounts***
- d) Electoral Register (Edited)**
- e) How Are We Doing?**
- f) Policy and Procedures**

** May be exemptions in this Class*

a) **Who's Who and Where**

Class Definition:

"Details of the organisational structures and key personnel. This will include, the senior personnel and office locations."

Availability:

Website
Email, post, inspection

Cost:

Free

b) **Valuation Joint Board Minutes of Meetings**

Class Definition:

"In recognition of the need to have regard to the public interest in allowing access to public information held and in the publication of reasons for decisions made, the Minutes of formal Board Meetings, concerning the work of the Assessor, are published. They contain discussion of key strategic issues under consideration and the primary decisions relating to resource and budgetary matters. The annual accounts and policy and procedures are listed as a separate class.

Details of Standing Orders, Schemes of Delegation can also be found within this Class."

Availability:

Website
Email, post, inspection

Cost:

Free

c) **Annual Accounts**

Class Definition:

"Within this category details of the Accounts in relation to the Assessors function can be found. This will also include that of the Electoral Registration Officer."

Availability:

Email, Post, inspection

Cost:

Free

d) **Electoral Register (Edited)**

Class Definition:

“Edited version of the Register of Electors. This version does not include the names of those electors whose names appear in the Full version of the Register but who have taken advantage of the Representation of the People Legislation and chosen to have their names excluded from the Edited version of the Register, which can be sold to anyone.”

Availability:

Paper copies can be inspected at Local offices, or post

Cost:

Per Representation of the People (Scotland) Regulations 2001

If in Data Format

The fee for purchasing a copy of the register in data format, is at the rate of £20 per Constituency plus £1.50 for each 1,000 entries (or remaining entries) in it.

Or if Printed

The fee for purchasing a copy of the register in the printed form, is at the rate of £10 plus £5.00 for each 1,000 entries (or remaining entries) in it.

e) **How Are We Doing?**

Class Definition:

“A copy of the most recent Public Performance Report revealing our performance objectives/targets and Best Value Indicators which are produced on an annual basis.”

Availability:

Website

Email, post, inspection

Cost:

Free

f) **Policies and Procedures**

Class Definition:

“Details of Policies and Procedures, including Document Retention and Records Management (where approved) can be found within this class”

Availability:

Email, post, inspection

Cost:

Free