

# Publication schemes: a snapshot of compliance

February 2023

**ico.**

Information Commissioner's Office

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## Overview

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### Aims

To use a sample of public authorities to explore the level of compliance with the publication scheme requirements of the Freedom of Information Act 2000, and to produce:

- a picture of overall compliance across a number of sectors;
- an analysis of any identified compliance trends;
- case studies of good practice; and
- recommendations to help support public authorities comply with this area of the law.

### Main findings

- 1) 75% of public authorities had adopted the model publication scheme but only 25% had published all the examples of information we would expect them to have published.
- 2) Compliance appears to vary by sector. 100% of the universities in our analysis had a publication scheme, but only 25% of schools and 5% of medical practices complied.
- 3) Of the schemes we could see had been reviewed, a third had not been reviewed for more than five years.
- 4) Only 12% of authorities had evidence of publishing datasets.
- 5) There was evidence to suggest that small authorities struggled disproportionately with publication scheme compliance.

## Introduction

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*"A Freedom of Information Act must be a catalyst for changes in the way that public authorities approach openness... Experience overseas consistently shows the importance of changing the culture through requiring "active" disclosure, so that public authorities get used to making information publicly available in the normal course of their activities..."*

*"We believe it is important that further impetus is given to the proactive release of information. So, the Act will impose duties upon public authorities to make certain information publicly available, as a matter of course."*

- Section 2.17 of "[Your Right to Know](#)", the 1997 UK Government White Paper that preceded the Freedom of Information Act 2000.

Three years after the publication of this White Paper, the UK Parliament enacted the Freedom of Information Act 2000 (FOIA). The Act carried a legal obligation on public authorities to proactively release information: a duty to adopt and maintain a publication scheme and to publish information covered by it.

The Information Commissioner has overseen this obligation since the requirements – set out at section 19 of the FOIA – came into force following the implementation of the Act, which was staggered across different authorities between 2002-2004.

In that period we have created a model publication scheme for authorities to follow. We have also published guidance for authorities, to explain how to comply with section 19 of the Act. And we have [recently updated](#) our definition documents, which give specific examples of information that authorities should publish when that information is held.

The ICO's regulation of FOIA section 19 is mostly reactive: we handle complaints when the requirements laid out in the legislation appear not to have been met. But this is the first proactive analysis we have made into the application of publication schemes throughout the public sector in England, Wales and Northern Ireland. It follows [a similar analysis regarding the regime in Scotland](#) which was conducted by the Scottish Information Commissioner in 2018.

The work connects to our strategic enduring objective to promote openness, transparency and accountability, as described in our strategic plan, ICO25. It also forms part of the specific commitment we have made in ICO25 to help promote the routine proactive publication of information.

Seeing how publication schemes operate and the extent to which they support public transparency also connects to some of our international work. The International Conference of Information Commissioners (ICIC) has created a working group on transparency by design. One of the tasks of the working group, co-chaired by the ICO, is to research the role played by regulators across the globe in facilitating the implementation of transparency provisions such as this area of the FOIA.

## Analysis methodology

Our analysis of compliance focused on a sample of 200 public authorities divided equally from 10 sectors:

- Police
- Schools
- Universities
- Health
- Medical practices
- Central government
- Non-departmental public bodies
- County councils
- Parish councils
- Metropolitan, unitary and London borough councils

The 20 authorities from each sector were those about which we had received the highest total of freedom of information compliance complaints in those sectors between 1 April 2020 and 31 March 2021.

We used each authority's website to establish whether it was maintaining a publication scheme and whether it was publishing the information we would expect it to publish.

We considered each of the requirements of FOIA section 19 to see the extent to which authorities were complying with their obligations, and whether there was any sectoral or other thematic conclusions we could draw from the data.

Based on the outcome of this research, the organisation's publication scheme was given a score depending on how it had met various points of compliance, with those scores categorised as good, average or poor.

## A summary of what we found

Our analysis uncovered very mixed practices by public authorities in respect of their publication scheme compliance.

Three quarters of the organisations which we reviewed had adopted the model publication scheme and almost all of these published some of the information that we would expect them to. We could see that some authorities work in a culture where information is published before it needs to be requested under the FOIA. We have provided some case studies of good practice which we discovered along with our findings.

However we also found compliance gaps of concern. A quarter of authorities had not adopted the model scheme. Very few authorities committed to publish datasets, and less than a third of those that did appear to have lived up to that commitment.

Many of the schemes we saw were poorly maintained: of those that had review dates, a third were more than five years old. We found 3,780 weblinks in the publication schemes of the 200 public authorities in our analysis. 646 of these (17%) did not work.

More than three quarters of the authorities in our analysis appear to be failing to achieve compliance in at least one aspect of the law.

We awarded a score to each authority based on all the aspects of publication scheme compliance, as well as other features such as how easy the scheme was to locate on the authority's website. 58% of authorities received a good score, 17% an average score and 26% a poor score.

## Our response to the findings

The intention behind this work is to form a picture of compliance from a sample of authorities, not to name and shame specific bodies that appear

not to be complying with one aspect of the legislation at a specific moment in time.

In the first instance, the information gathered by this work will feed into the data which we are gathering to establish the best way to support public authorities before their practice becomes non-compliant. This upstream work will be led by a newly created, dedicated team at the ICO, with a goal to support compliance with proactive disclosure.

However, we are committing to more systemic enforcement action against public authorities that clearly and consistently fail to meet their FOI obligations.

As part of this commitment, we have published our [FOI and Transparency Regulatory Manual](#). This sets out our renewed approach for how we will take further enforcement action where it is needed. Under this framework, if a public authority fails to maintain an adequate publication scheme we could issue a Practice Recommendation relating to the [code of practice issued under section 45 of the FOIA](#).

We could also invite a public authority to consent to an audit to assess whether it is complying with the legislation and the extent to which it is following good practice.

We have therefore concluded this work with some concrete recommendations for public authorities to take now, along with more detail of the next steps which we intend to take as regulator.

## Detailed compliance findings

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### #1 Adoption and maintenance of a publication scheme

FOIA section 19(1)(a)

A public authority will have achieved compliance with this part of the Act if it has adopted the ICO's model publication scheme. This is a short template document that helps a public authority set out its commitment to proactively publish information.

It is, in effect, a contract between the public authority and the public it serves. It underpins the authority's obligation toward the principle of transparency, and legal embodiment of the cultural change to openness envisaged by the 1997 White Paper.

In adopting the model publication scheme, authorities are committing to making sure that information it holds about things such as what it does, or the public money it spends, is made available for public scrutiny, and that this happens as a matter of routine.

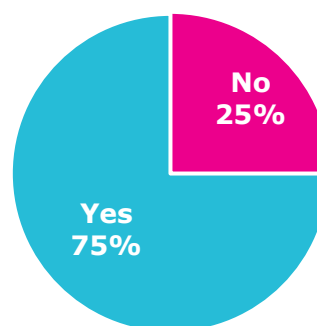
#### What we found

We found that of the 200 public authorities sampled, 150 (75%) had adopted the model publication scheme and had placed the scheme document on their website.

However we did find some significant variance in adoption of the scheme from sector to sector.

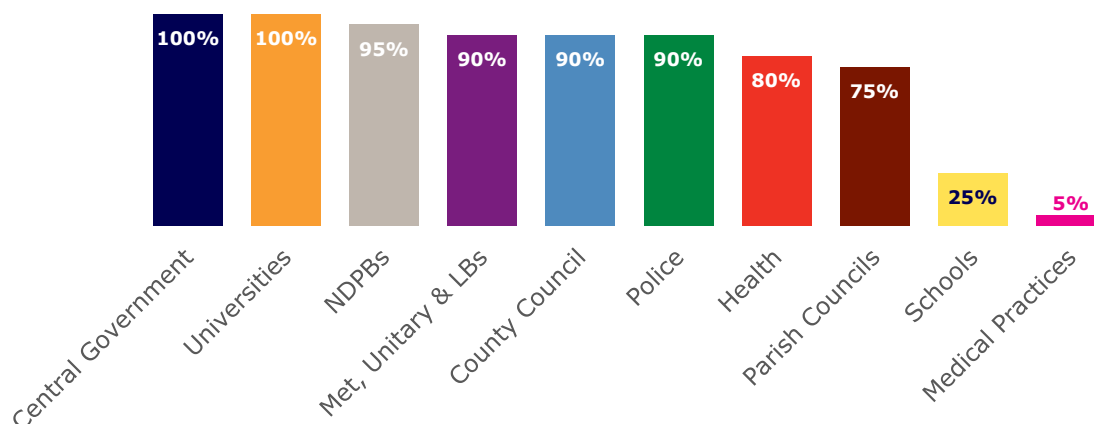
All of the organisations that we sampled from the university and central government sectors had adopted the model publication scheme. But only five of the 20 schools in our analysis and just one of the 20 medical practices we looked at had done so.

Has the authority adopted the model publication scheme





### Sectoral performance in adopting model publication scheme



We found four authorities – all from the local government sector – that had not created their own scheme at all, and had instead simply copied the ICO’s template scheme or guidance on their website. Our sample of 200 public authorities is relatively small. Nevertheless if it is representative, it would mean as many as 2% of public authorities were conducting this kind of practice.

## #2 Evidence of information being published in line with the scheme

FOIA section 19(1)(b)

A publication scheme describes the information that a public authority commits to routinely publish. Part of our analysis therefore focused on the extent to which public authorities were publishing examples of the information which we would expect them to.

As the regulator of the FOIA, the ICO has produced guidance in the form of [sector-specific definition documents](#). These provide examples to every public authority of the kind of information which, if it is held, we would expect them to publish in line with their publication scheme.

The definition document for [principal local authorities](#) for example, suggests that those authorities should publish council constitutions, the results of elections, and contact details for elected councillors.

We selected at random three examples of information from the relevant definition document in place at the time for each of the authorities in our analysis<sup>1</sup>. We searched each of the 200 authorities websites to see whether they had published three, two, one or none of the three examples. This was to sample whether authorities were publishing the information we would expect them to.

The example of the first authority to be tested this way was a school. We looked at whether it had published three items from the examples provided by the [Schools in England](#) definition document.

The three examples randomly chosen from the definition document were:

- 1) instrument of government/articles of association;
- 2) financial audit reports; and
- 3) performance data supplied to the government.

In this case, we found that the school had published information from all three examples. However our analysis suggests that in only a fraction of cases is this good practice replicated.

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<sup>1</sup> The definition documents used for the analysis were those in place at the time. We have subsequently updated the documents and the refreshed iterations are available at: [ico.org.uk/for-organisations/guide-to-freedom-of-information/publication-scheme/definition-documents/](https://ico.org.uk/for-organisations/guide-to-freedom-of-information/publication-scheme/definition-documents/)

## What we found

In just 26% of the authorities surveyed could we find evidence of the three examples chosen from the relevant definition documents having been published.

We found that 41% of authorities had published two of the three selected examples, and that 27% had published one. We found 12 authorities (6%) where there was no evidence of any of our three selected examples being published.

All of this means that a third of authorities had published none or just one of three selected examples from the authority's relevant definition document.

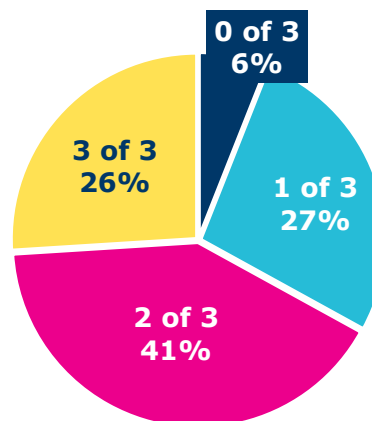
It is important to note that authorities may not have published the three selected examples, but may be publishing other examples from our definition documents. It may also be the case that the authorities do not hold the information to publish in the first place.

But the definition documents were created with the expectation that the examples of information they give would be documentation which those authorities would create and hold for their normal business purposes. It is guidance formed from our experience of working with FOIA authorities and in some cases following specific consultation with bodies; such as the Cabinet Office, with whom we consulted regarding the definition documents for central government departments.

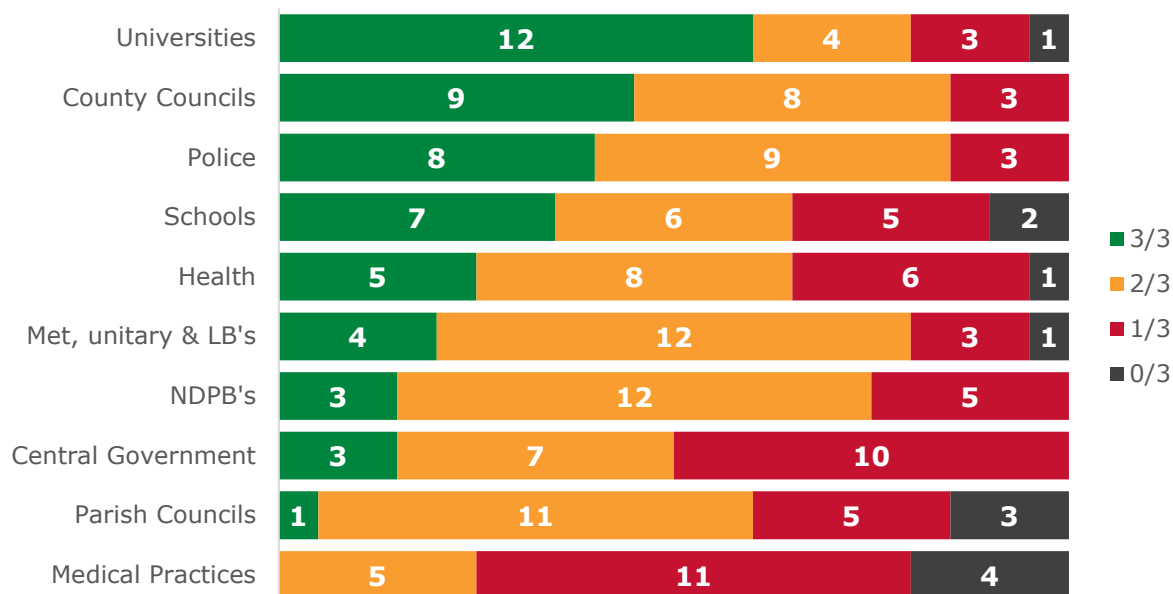
## Sectoral variations

We used the data from this analysis to explore whether different sectors of public authority were more likely to publish the examples provided by our definition documents. We built a sectoral picture by looking at all 20 authorities per sector, and seeing how many of them had published three, two, one or none of the examples we would expect them to publish.

Percentage of authorities publishing examples from ICO definition documents



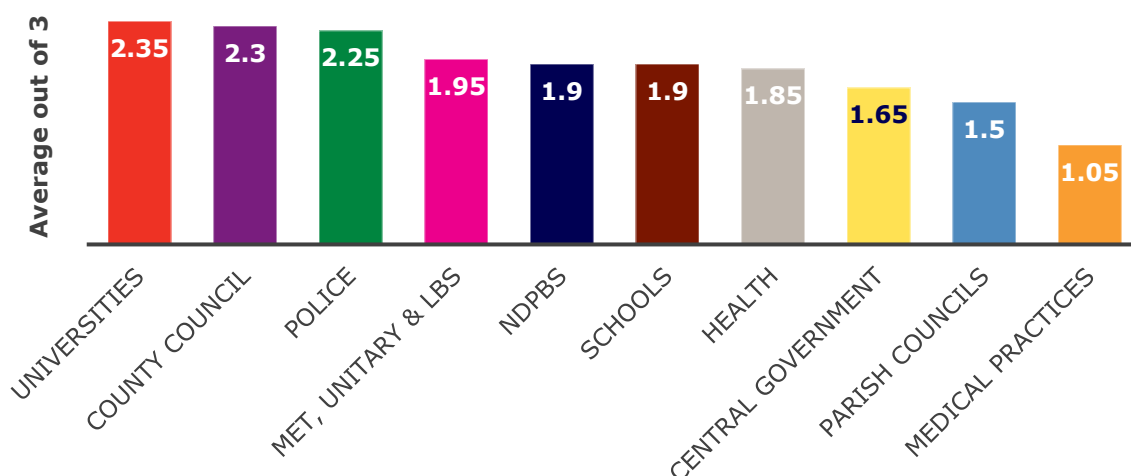
**Number of authorities publishing examples from ICO definition documents**



This found that the university sector was most likely to contain authorities publishing three examples from the definition documents: of the 20 universities in our analysis, 12 had published three items. Medical practices and parish councils were the sectors least likely to publish three definition document examples, and most likely to have published none.

Similar results can be seen in the average number of items from the definition documents that authorities have published in each sector:

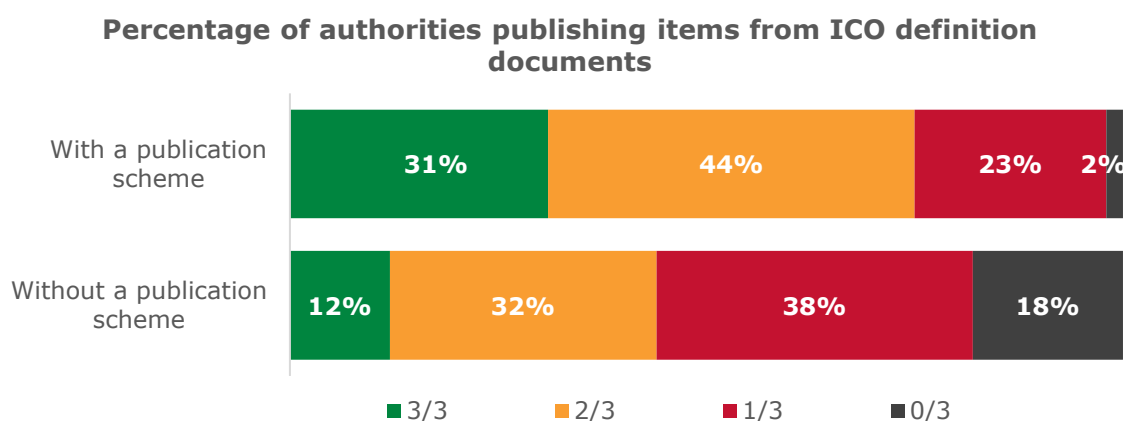
**Average number of documents published per authority by sector**



## Authorities with no publication scheme

Some authorities which did not appear to adopt the model publication scheme were nevertheless publishing examples of information as specified by our definition documents relevant to their sector.

However, authorities without a scheme were less likely to publish three items of information than those with a scheme. Our analysis found that 75% of authorities with a scheme published two or three examples from our definition documents, and this was only the case in 44% in those authorities that had not adopted the scheme.



### #3 Evidence of the scheme being periodically reviewed

FOIA section 19(1)(c)

Public authorities are required to review their publication scheme from time to time.

It makes sense that the information which an authority creates in the course of performing its role would change over time. We would therefore expect public authorities to review their publication scheme regularly to ensure that schemes are up to date, with new information added promptly and outdated information refreshed or removed.

In many cases it was not possible to make this judgement when looking at publication schemes online. If an authority did not specify when reviews were completed, there was limited ability to assess whether an authority had complied with section 19(1)(c) of the FOIA.

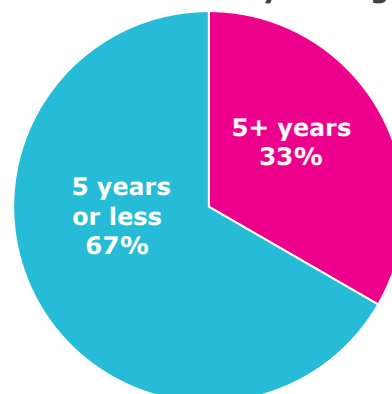
Our analysis therefore looked for evidence of schemes being periodically reviewed in two ways: by searching for a review date in the publication scheme document, but also by counting the number of weblinks in the document which did not work. The number of broken links would provide some insight into the level of maintenance a scheme had been given by the relevant authority.

#### What we found

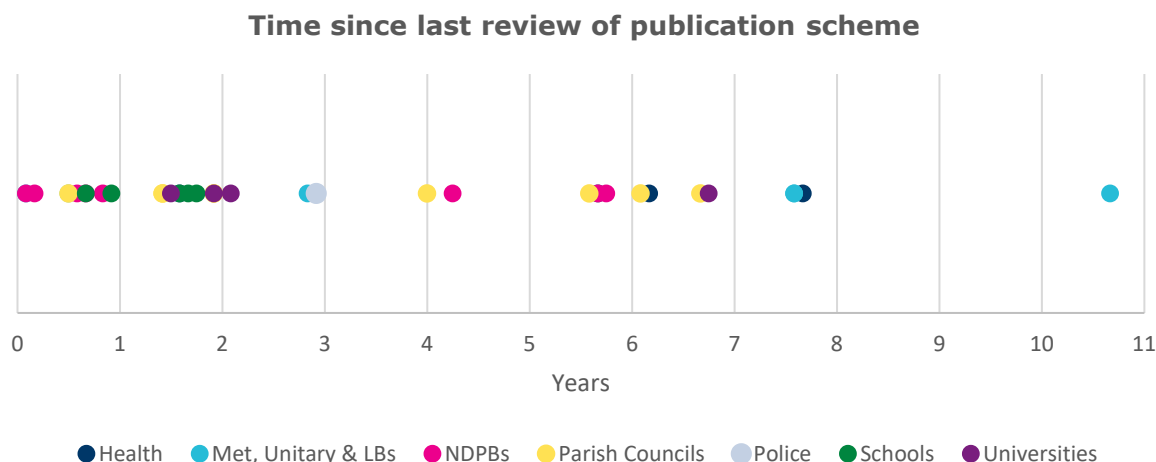
Review dates were not available from every authority, nor is this a legal requirement. But a review date was found in the schemes of 39 of the 200 authorities in our analysis.

Of the authorities with a review date in their publication schemes, we found a third were older than five years of age.

**Last review of scheme more than five years ago**



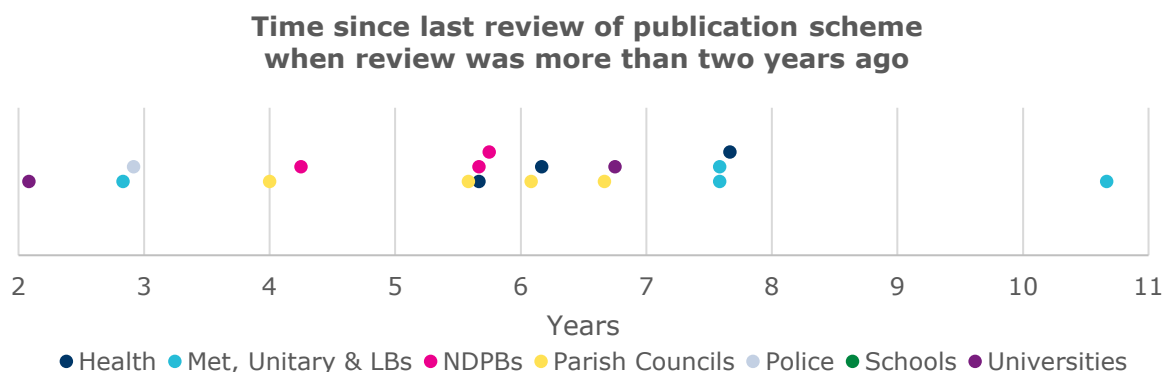
One public authority gave the date of its last review of its scheme as more than a decade ago.



Of the 39 authorities with review dates in their schemes, the data shows 21 had reviewed their scheme in the last two years. But many authorities had not reviewed their schemes over a much longer period of time. This suggests that the legal requirement to review schemes as set out at FOIA section 19(1)(c) is not established as a consistent process for many public authorities.

The cluster of reviews that appear to have taken place 6-8 years before our analysis – in the period 2013-2015 – may reflect public authorities taking account of changes in the law at that time.

The Protection of Freedoms Act 2012 and the Re-use of Public Sector Information Regulations 2015 both came into force in this period. One effect of both of these instruments was to amend the Freedom of Information Act. One such amendment was the requirement to publish previously disclosed datasets, which became part of the provision regarding publication scheme compliance at section 19 FOIA.



Our sample of 39 authorities with review dates will be too small to derive substantial sectoral conclusions. Though it may be worth exploring further the fact that of the 17 authorities which last reviewed their scheme more than two years ago, four were unitary councils and four were parish councils<sup>2</sup>. The unitary council sector was also responsible for three of the four longest periods since the scheme’s last review.

### Link integrity rate suggests hints at weak review processes

The publication scheme document for many authorities was embedded with weblinks that would connect a user directly to the information published via the scheme. This is a helpful practice, but we observed that many links of this kind did not work. This suggests that there is a lack of periodic review that all schemes should receive in order to comply with the legislation.

We checked the integrity of every single one of the 3,780 weblinks across the publication scheme documents of the 200 public authorities in our analysis. 646 of these (17%) did not work.

We found that all of the links worked in 100 of the 150 publication scheme documents, which represented a success ratio of 67%. Broken links were found in 47 publication scheme documents (31%). Three further scheme documents contained no links at all.

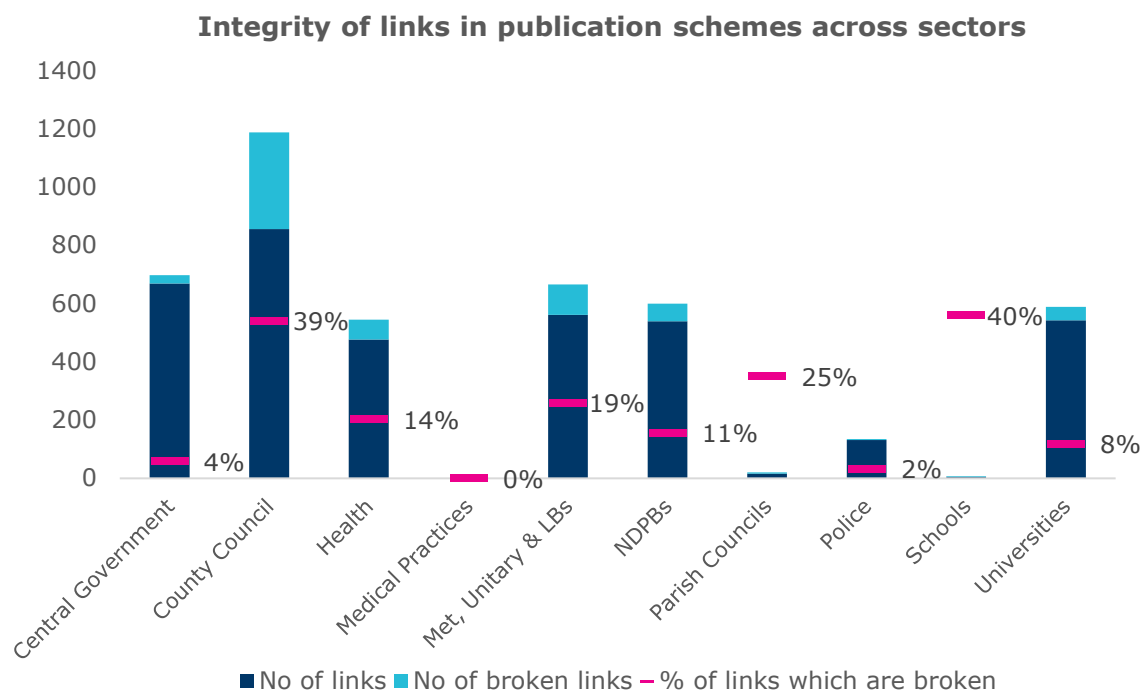
11 authorities needed to repair more than 40% of their links.

<sup>2</sup> Our use of ‘unitary council’ here is shorthand for principal councils across England and Wales, specifically: Metropolitan district councils, London Boroughs and unitary authorities



One public authority had 470 links in its scheme document but 238 of them – 51% – did not work. Another public authority had 72 links and we found 71 did not work.

We also analysed the broken link data across sectors to see if there were any clear trends.



This showed a notable gulf between the rate of broken links in the schemes for authorities in the Police (2%), central government (4%) and university sectors (8%) against those of county councils (39%) and schools (40%). Though county councils did offer many more links to information to begin with than their counterparts from across the public sector.

## #4 Specifying classes of information to be published and the manner and cost of publication

FOIA section 19(2)(a-c)

Public authorities are required to adopt the model publication scheme. They are also required to specify within the scheme the classes of information which the public authority publishes or intends to publish.

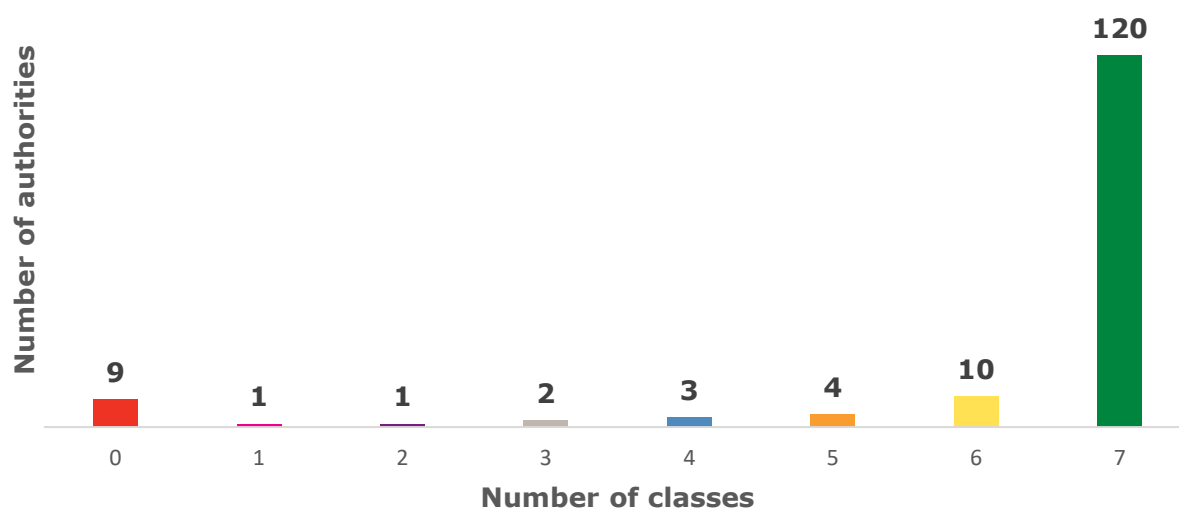
The ICO guidance explains that the seven classes of information for a public authority's publication scheme are:

### Seven classes of information for publication schemes

- Who we are and what we do
- What we spend and how we spend it
- What our priorities are and how we are doing
- How we make decisions
- Our policies and procedures
- Information held in registers required by law and other lists and registers relating to the functions of the authority
- The services we offer

Our analysis looked at which classes of information public authorities described themselves as publishing or intending to publish through their schemes.

### Number of authorities and classes referenced in schemes

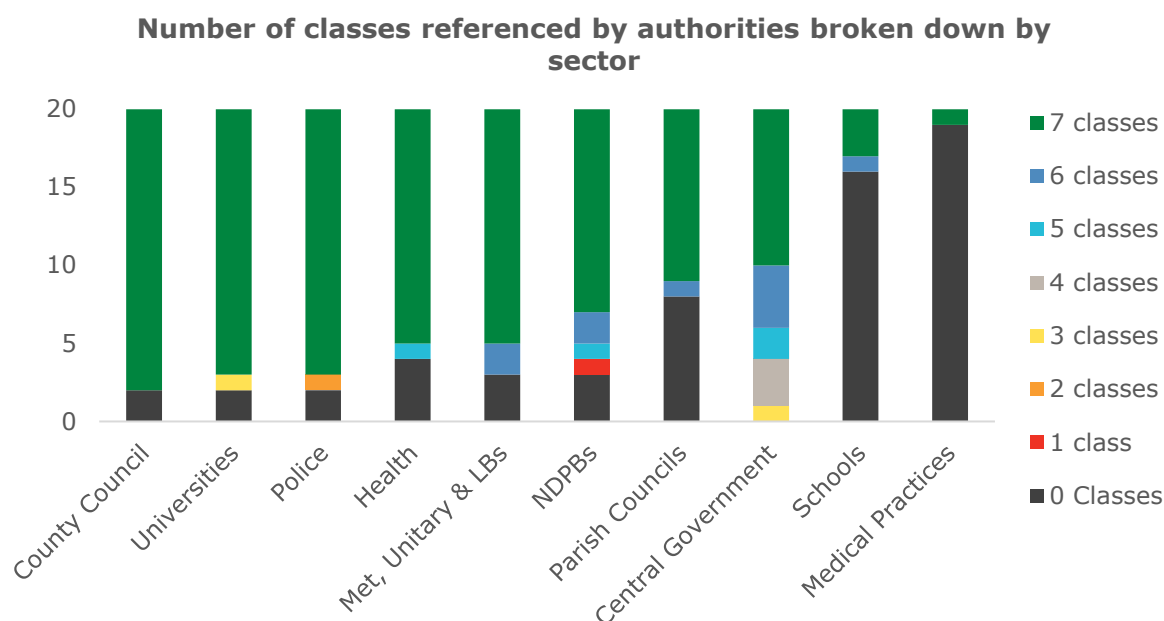


Of the 150 authorities with a scheme in our analysis, 120 (80%) committed to publishing information from all seven classes of information via their scheme.

130 (87%) committed to publish from at least six classes or more. Less than 7% were committing to publish from three or fewer classes.

Nine (6%) public authorities had not specified any of the classes at all in their schemes. Three of these were parish councils and two were universities.

Our view is that it seems unlikely that some authorities would not hold any of the information listed in at least some of the classes. These authorities therefore need to review their schemes and confirm which classes of information, and ideally what specific information within those classes, they will be publishing as a matter of routine.

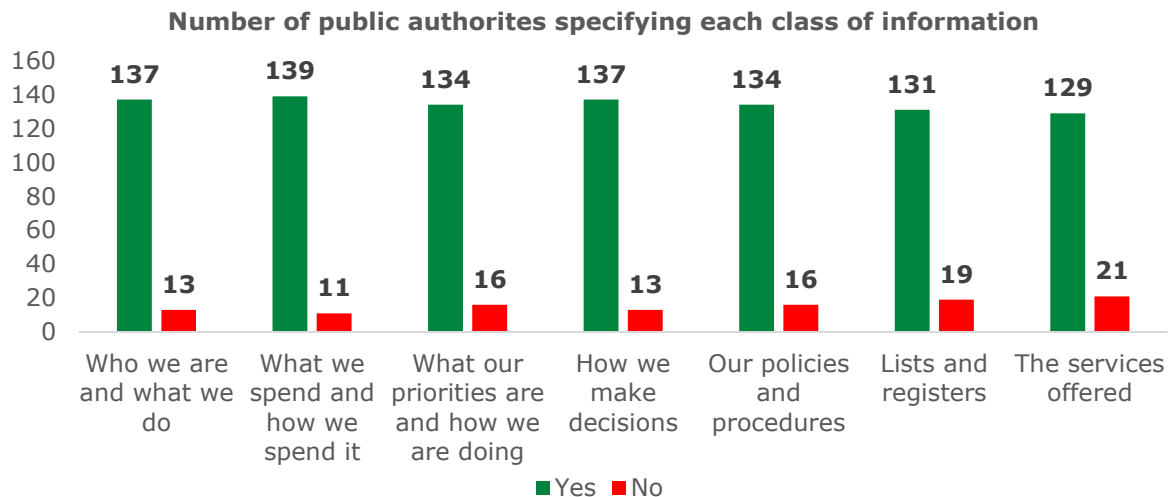


There was also variation both within and between sectors in the number of classes of information being specified by authorities.

Out of the 20 county councils in our analysis, 18 specified seven classes in their schemes but the remaining two specified none. There were similarly polarised results in the universities, police, and health sectors, where only one authority across the three sectors had specified anything other than none or seven classes. This at least suggests an all-or-nothing approach to class specification, and that by and large the organisations in these sectors are aware of their responsibilities and meet the obligations of the law.

This differs quite starkly from the results that we found in the schools and medical practices sectors. Out of the 40 schemes we reviewed across these two sectors, only four authorities' schemes specified seven classes. 35 of the remaining 36 authorities failed to specify any classes of information to be published.

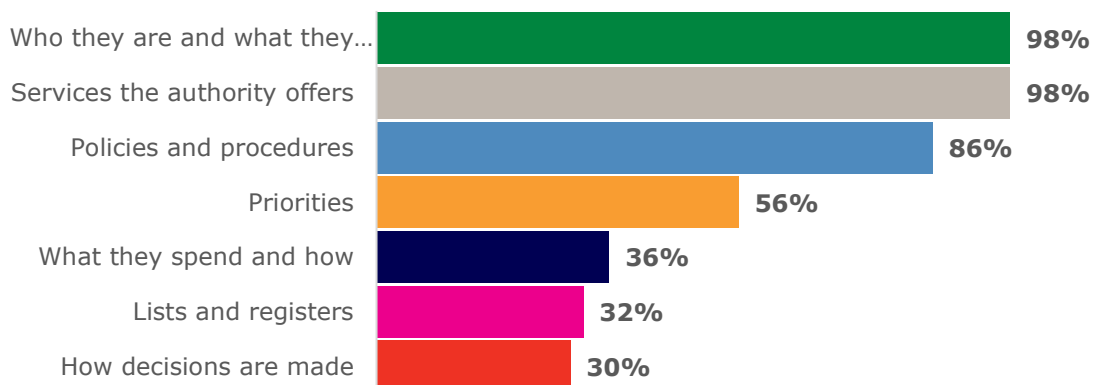
### **Classes most likely to be specified by authorities**



From which classes public authorities were committing to publish information from, we found that the classes of information marginally least likely to feature were 'lists and registers' and 'services offered'.

We also found that while 50 authorities had not adopted the model publication scheme, almost all of these authorities (98%) had published some information falling under two classes: who they are and what they do, and the services they offered.

**Percentage of authorities without a scheme publishing information under classes**



However, these authorities were less likely to publish information from the other classes. Overall, we found that two thirds of the authorities that did not have a scheme had not published information about how decisions are made, their lists and registers and what they spend and how they spend it.

## Manner of publication and charging information

FOIA Section 19(2) also requires public authorities to specify the manner in which information of each class is intended to be published by the authority. We would therefore expect to see a clear indication from authorities of what information is covered by their scheme, and how the public can obtain it. The information should, for example, be available through the public authority's website if it has one.

Of the 150 authorities which had adopted the model publication scheme, almost all – 147 – had used their website to publish the information. The three remaining authorities, both parish councils, explained that the information in their scheme was available only in hard copy on request from their clerk. A number of alternative methods were also offered to provide information on request including email, hard copy and DVD or CD.

To achieve compliance, public authorities also have to say whether the material in their publication scheme is, or is intended to be, available to the public free of charge.

Our analysis found that the scheme of more than a third of public authorities did not make any reference to a charge being made for material made available, with just 63% making reference to charging.



It is likely that many authorities will have simply considered that this was not necessary when it was clear that the information was freely available on their website. It could be argued that the provision is dated, a legacy of a time when public authorities had a limited internet presence if they had one at all. Public authorities should nevertheless be aware that they will not be able to charge for providing information offline from the scheme if they had not indicated in advance what the potential charges are.

## #5 Datasets

FOIA section 19(2)(a)(i)

ICO guidance [defines a dataset](#) as:

“A collection of factual information in electronic form to do with the services and functions of the authority that is neither the product of analysis or interpretation, nor an official statistic and has not been materially altered.”

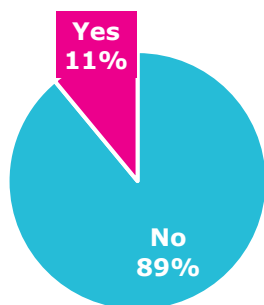
Public authorities are required to publish datasets that have been disclosed in response to FOIA requests under their publication scheme. They are also required to publish any updated versions of the datasets that they hold. This should be done unless, after reading our guidance, the authority is satisfied that it is not appropriate to publish.

### What we found

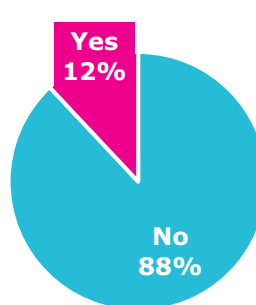
We found that very few public authorities published datasets or contained a commitment in their publication scheme document to do so.

Just 22 (11%) of the authorities in our analysis had a commitment to publish datasets written into their schemes. Of the 200 authorities in our analysis, we could only find evidence of 24 (12%) publishing datasets. Only seven authorities had achieved both, and five of those were central government departments.

**Public Authorities with a commitment to publish datasets**



**Public Authorities with published datasets**

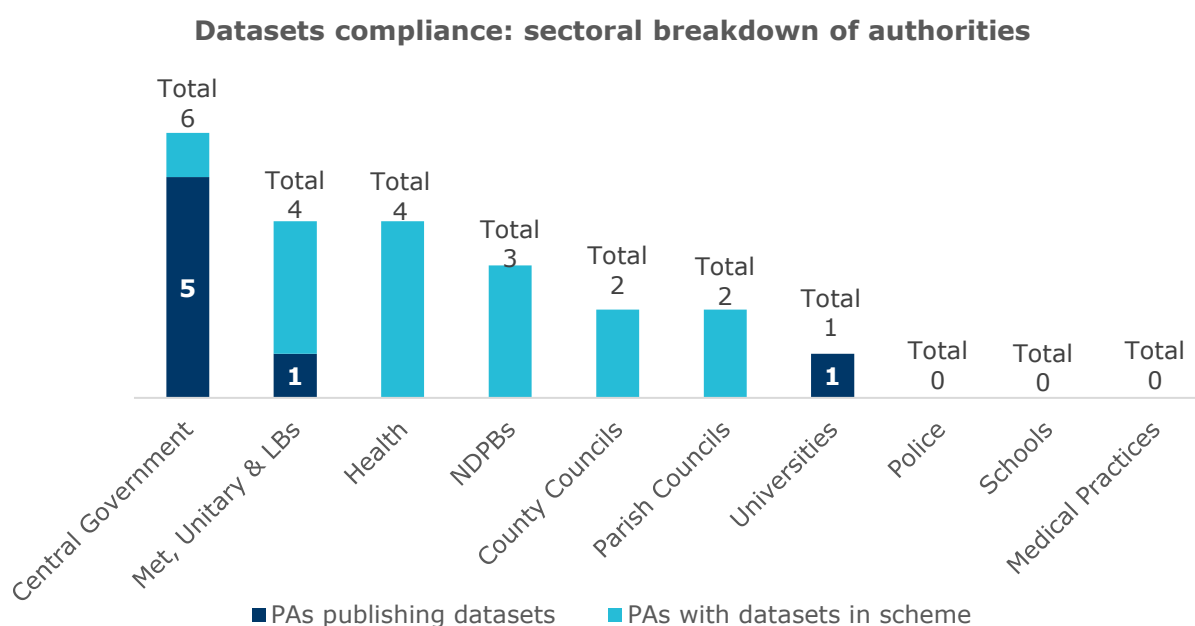


We checked a selection of datasets from the seven authorities that had said that they committed to publishing them and had actually done so. We found that none of the authorities appeared to publish an updated version of their original datasets, though of course it is possible no updated versions were held.

However we also found that some of the information published as datasets did not, in fact meet the above definition of a dataset. Whilst labelled as datasets these were commonly documents, such as reports, that contained analysed data rather than those that may fall under the FOIA’s definition of datasets of electronic information that has not been analysed, interpreted or altered.

Whilst new documents marked by authorities as datasets were published, for example a report with the same title but for the following year, we were unable to establish that any of the original published versions had been updated.

To have so few of the public authorities in our sample comply with this aspect of the legislation does imply a wider failure to incorporate the requirement into normal practice. This further hints at the potential lack of attention and care provided to publication scheme compliance across the board, and is an area we are recommending to investigate further.





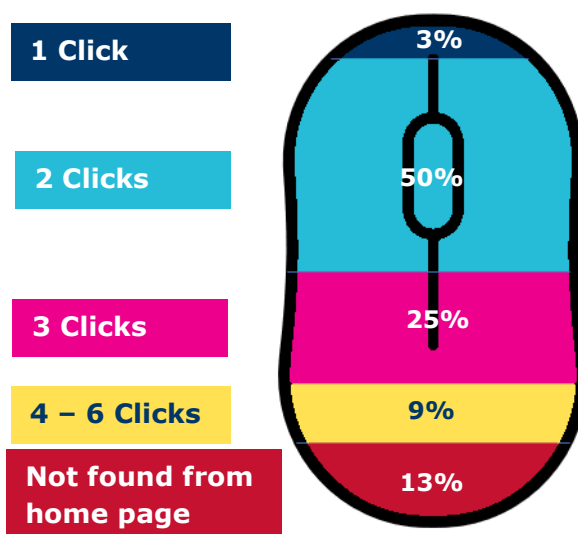
## Further findings

### Locating publication schemes

To gauge how accessible publication schemes were to the public we counted the number of mouse clicks it took to reach from the public authority’s website home page.

The scheme for four (3%) authorities was one click away but for half of the authorities with a scheme, it was two clicks from the home page.

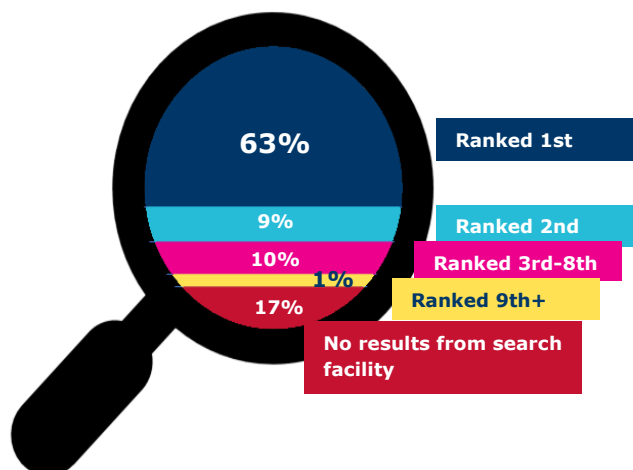
For a quarter of authorities it could be found in three clicks. In the case of fourteen authorities (9%) it could be found in four to six clicks. A total of 19 (13%) publication schemes could not be found from the information available on the homepage, and needed instead to be found by searching the website.



### Search engine rankings

We also looked at how discoverable the scheme was via the authority’s website search facility. We did this by noting what rank the website search facility returned for the scheme document after a search for the phrase ‘publication scheme’.

For 95 authorities (63%) the scheme document was ranked as the first result from the search. For 14 (9%) it was second. One publication scheme was 22<sup>nd</sup> in the ranking. 25 schemes (17%) could not be found by searching the term ‘publication scheme’ but could be found from the homepage or in one case via an external search engine.



## Case studies of good practice

Our work has uncovered a number of potential issues with publication scheme compliance. But through our analysis we have also observed evidence of good practice in which authorities are compliant with the provisions required, and are clearly working to ensure that relevant information is easily available to the public. All the following case studies achieved good scores under our scoring framework.

### Lewannick Parish Council

Lewannick Parish Council						
Adopted scheme	Publishing information	Reviewed scheme	Specified classes	Specified manner	References charging	Datasets
✓	✓	✓	✓	✓	✓	✓

Lewannick Parish Council had a publication scheme that listed all seven classes of information and under each heading provided an itemised list of what was available and how to access it. Though there were not many links in the scheme the ones that did exist worked. It had been reviewed 17 months ago, and charges were explained. Two of the types of information suggested by our [template guide to information for parish councils](#) were listed. These were staff structure and procedural standing orders. It also contained an option to obtain information in large print.

### University College London

University College London						
Adopted scheme	Publishing information	Reviewed scheme	Specified classes	Specified manner	References charging	Datasets
✓	✓	?	✓	✓	✓	✓

Though no specific review date for University College London’s publication scheme was given it did state that it was reviewed annually. All of the links in their publication scheme were working and helped navigate to the published information. The publication scheme specified all seven classes

of information and listed the specific items of information available under each class. We found that all three types of information selected from the [definition document for higher education institutions](#) were published. These were about how the institution is organised, staff allowances and expenses and academic quality and standards. Information about charges was also included, and though the scheme did not refer to datasets some were found on their website.

### John Hampden Grammar School

John Hampden Grammar School						
Adopted scheme	Publishing information	Reviewed scheme	Specified classes	Specified manner	References charging	Datasets
✓	✓	✓	✓	✓	✓	✗

John Hampden Grammar school in High Wycombe had a publication scheme that had been reviewed in the last 19 months. All three types of information selected from the [definition document for schools](#) were published. These were schools session times and term dates, extra-curricular activities and out of school clubs. Information about charges was included but there was no reference to datasets. The school also stated that information listed in the publication could also be obtained by pdf or in hard copy.

### Imperial College London

Imperial College London						
Adopted scheme	Publishing information	Reviewed scheme	Specified classes	Specified manner	References charging	Datasets
✓	✓	?	✓	✓	✓	✓

Imperial College London published all three types of information selected from the [definition document for higher education institutions](#). Although there was no review date in Imperial's scheme most of the weblinks in the scheme did all work though a number took the user back to the homepage instead of the published information. Information about charges was included along with a detailed charging schedule. The

publication scheme did refer to datasets and we found evidence of them being published.

## Ministry of Defence

Ministry of Defence						
Adopted scheme	Publishing information	Reviewed scheme	Specified classes	Specified manner	References charging	Datasets
✓	✓	?	✓	✓	✗	✓

Although there was no review date in the MoD's scheme, it contained 45 weblinks to information provided, and every single one worked correctly. Our [definition document for government departments](#) proposed that the Ministry publish information about legislation relevant to the department's functions, pay and grading structures and performance reports to Parliament. We found evidence of publication of all three. Datasets were referenced in the scheme, and we found evidence of them being published accordingly.

## Police Service of Northern Ireland (PSNI)

Police Service of Northern Ireland (PSNI)						
Adopted scheme	Publishing information	Reviewed scheme	Specified classes	Specified manner	References charging	Datasets
✓	✓	?	✓	✓	✓	✗

The PSNI was the best performing police force in this analysis. Whilst their publication scheme had no review date, a small number of links were given in the scheme and they all worked. All three types of information selected from the [definition document for Police Authorities and the Northern Ireland Policing Board](#) were published. These were: roles and responsibilities, contracts and performance of the authority. The seven classes of information were specified. The publication scheme did not refer to datasets but some were found on their website. Information about charges was included along with a detailed charging schedule. The

PSNI stated that information from their publication scheme was available on their website, by CD, DVD or video.

## Scoring and rating publication schemes

This project has identified many gaps in compliance with the various provisions of the FOIA relating to publication schemes.

But we have observed that an authority's scheme may be failing in one area but achieving compliance in another: for example, a London borough council had adopted the model publication scheme and published the information we would expect it to, but had not reviewed the scheme for 7.5 years, and gave no commitment to publishing datasets.

We have therefore given each authority's scheme a score based on how it appears to be performing against the requirements of the law.

We have also given each scheme a rating based on that score. So for example, a scheme that achieved a score of more than 41 points would have achieved a good score.

Good score	41+
Average score	21-40
Poor score	0-20

### Scoring framework

Public authorities were awarded points for the following:

Section of FOIA	Scoring criteria	Points available
19(1)(a)	Adoption of model publication scheme	10
19(1)(b)	Publication of information in line with ICO definition document.	6 per example
19(1)(c)	Evidence that scheme had been reviewed in previous 2.5 years	5

19(2)(a)	Any class of information specified in scheme	2 per class
19(2)(b)	The manner of publication has been specified	5
19(2)(c)	Charging schedule or clarification that information will be provided free	5
19(2A)(a)(i)	Scheme requires publication of datasets published in response to FOIA requests	5
19(2A)(a)(i)	Evidence of datasets being published accordingly	5
	Scheme is one or two clicks from the homepage	2
	Scheme is top of search ranking for phrase 'publication scheme'	2

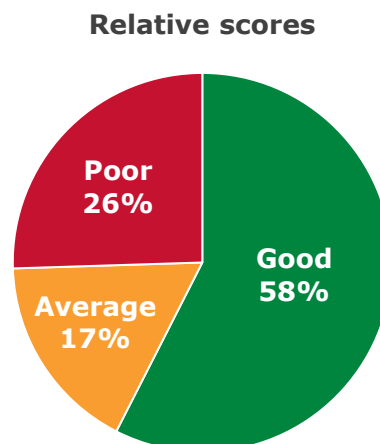
Our scoring system reflects the extra value for the publication of information. This is why it is possible for an authority that has not adopted the model publication scheme to score points if it has published information of the kind we would expect it to.

The scoring framework also acknowledges that some aspects of compliance are more difficult to judge when the authority has not been directly engaged. For example, an apparent lack of datasets could be a result of the authority not publishing datasets which they have disclosed in response to FOIA requests, and therefore failing to comply with the requirement to do so; but it could also be because the authority has simply not disclosed any datasets in the first place.

However, other forms of compliance are easier to judge. The existence of the publication scheme as the evidence of accountability is binary: the authority has either adopted the scheme or it has not. The fundamental importance of this 'contract' being available to the public is therefore also reflected in our scoring framework.

Under this system, the public authority achieving the highest score was Imperial College London with 64 points. Nine authorities failed to score a single point, including a London borough council, two schools, two parish councils and four medical practices.

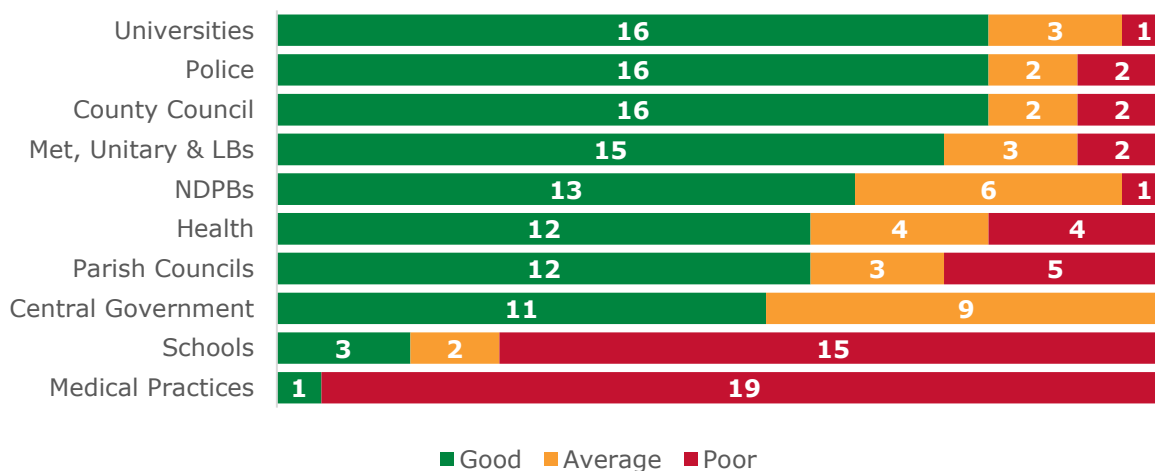
In all, 115 (58%) authorities achieved a 'good' score, another 34 achieved an average score (17%), and 51 authorities (26%) received a poor score.



### Sectoral analysis

Breaking each authority and its score rating into their sectors helps explore whether some sectors were more likely than others to deliver a good, or poor, publication scheme, based on the authorities in our analysis.

Ratings breakdown by sector



The results show an almost identical ratio of good, average and poor scores across the universities, police, county council and unitary council sectors. From all four of these sectors approximately three quarters of the schemes achieved good scores.

It also found medical practices and schools were again the two sectors with disproportionately poor results. Both sectors had more poor schemes, and fewer good ones, than any other sector.

Only one scheme from any of the medical practices we looked at delivered anything other than a poor score, and in 19 of the 20 authorities no scheme was in place at all.

Pos.	Top scoring authorities	Score
1	University	64
2	Police force	61
3	University	61
4	University	61
5	School	59
6	Central Government Dept	59
7	University	59
8	School	59
9	Central Government Dept	57
10	School	57

The school sector returned an extreme range of results: 15 of the 20 school schemes were rated as poor. But of the five schools that had a scheme, three not only achieved a good score but, in a league table of all the authorities based on their scheme's scores, all three finished in the top ten.

In one example, Wells Park School had adopted the model publication scheme and had published the information we would expect them to. It had also itemised all seven classes of information with descriptions of the information

under each class. We also found that it had been reviewed within the previous eight months.



## Trends identified in smaller authorities

The results of our analysis suggest that some sectors of public authority perform better than others against the publication scheme provisions of the FOIA.

We found that parish councils, schools and medical practices were least likely to have adopted the model publication scheme. We also found that parish councils and medical practices were least likely to have published three examples of the information we would expect them to.

There was a similar story against other metrics. There were four parish councils amongst the 17 authorities with the longest apparent gap between scheme review dates. Of all the sectors in our analysis, parish councils also had the third highest proportion of broken links, with the school sector having the highest. Medical practices did not present many broken links or elderly review dates in their schemes, but this was only because there was just one active scheme across the 20 medical practices we reviewed in our analysis.

Parish councils did have a better story to tell on compliance factors such as the specification of classes, or the manner of publication. 15 had adopted the scheme and 12 had published two or more examples from our relevant guidance. The parish council sector achieved better scores as a result.

On the other hand, medical practices and schools were the two worst performing sectors against our scoring and rating framework. In the league table of authorities based on our scores for their schemes, the bottom of the table consists of nine authorities that failed to score a single point: four of these were medical practices, two were schools, and another two were parish councils. Of the 19 authorities that scored only six points, 11 were medical practices and three were schools.

Pos.	Bottom scoring authorities	Score
192	Medical Practice	0
193	Medical Practice	0
194	Parish Council	0
195	Met, Unitary & LB	0
196	Medical Practice	0
197	Parish Council	0
198	Medical Practice	0
199	School	0
200	School	0

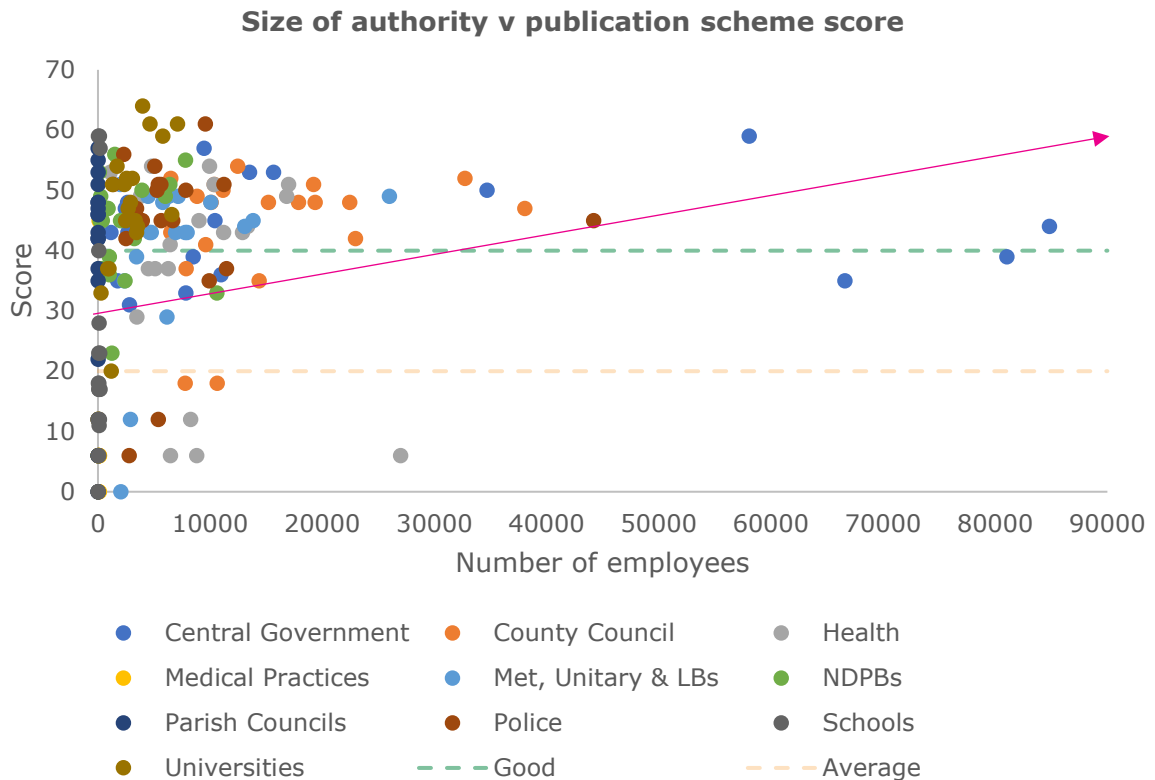
Against this background, we can also see that parish councils, medical practices, and schools were the sectors with the smallest authorities, by employee size, in our analysis. The average size of the 20 medical practices we looked at is 62 employees, with similarly small figures for our parish councils (2) and schools (84). These average figures are significantly smaller than the average central government department (20,948) or average university (3,038) under the scope of this work.

Given that the sectors of typically smaller bodies appeared to be the ones most likely to struggle with compliance, we explored whether the results of our scores were directly proportionate to the size of the public authority: did the data suggest that bigger authorities were more likely to achieve a good score for their publication scheme?

To do this we established from publicly available sources the approximate size of the workforce for every public authority in our analysis<sup>3</sup>. We plotted the size of each authority against the score we awarded for their publication scheme, to see if there was a direct correlation between the two metrics.

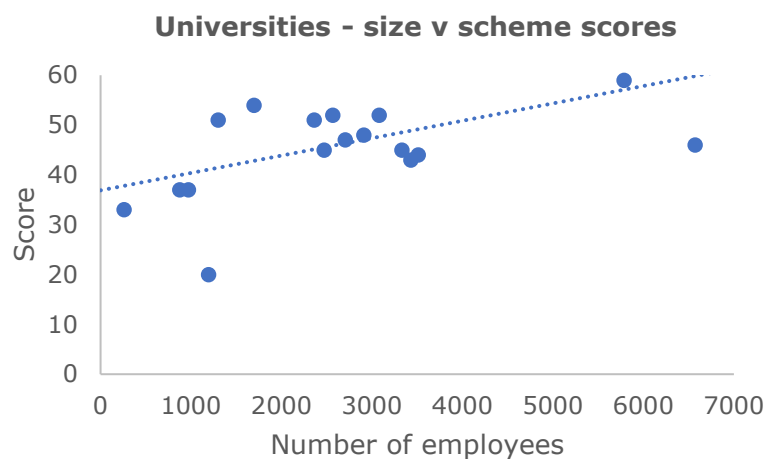
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<sup>3</sup> Including: Compare school performance gov.uk; NHS Digital; hesa.ac.uk; Local Government Association; ONS June 2021, civil service employment by department; Police workforce, England and Wales: 31 March 2021 (gov.uk).



This demonstrated some evidence to support the idea of a trend in favour of bigger authorities. The trend line formed from the average points of data illustrates that in very general terms the scores do improve with authority size.

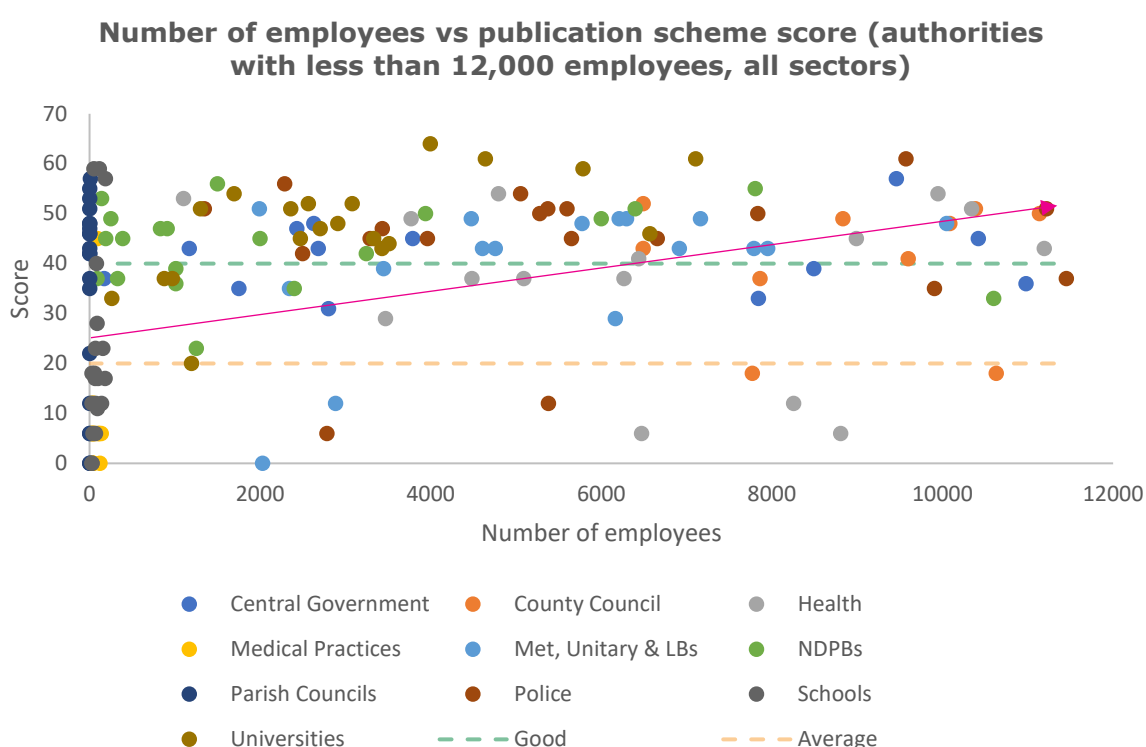
It is also the case that when we distil the data to specific sectors, every sector – other than Health – shows an upward trend suggesting better scores for bigger bodies. The universities sector provides one such example.



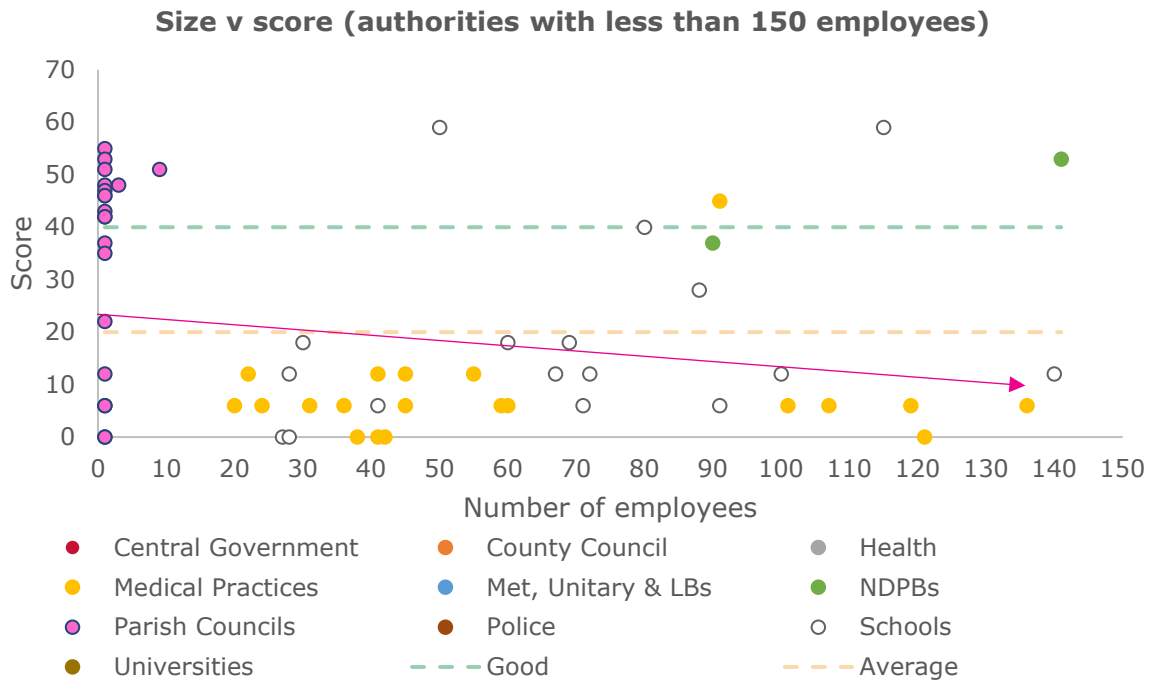
We can also see in the scatter graph above that there is a cluster of authorities to the bottom left: these authorities have poor scores (20 or lower) and are in the smaller half of the authorities we have analysed.

Nevertheless it would be difficult to describe the NHS foundation trusts caught in this bracket as 'small'. Only 19% of the authorities in the analysis have more than 10,000 employees. A small number of very large authorities distort the analysis of size-score proportionality, especially among the 87% of authorities that have workforces smaller than 12,000 staff.

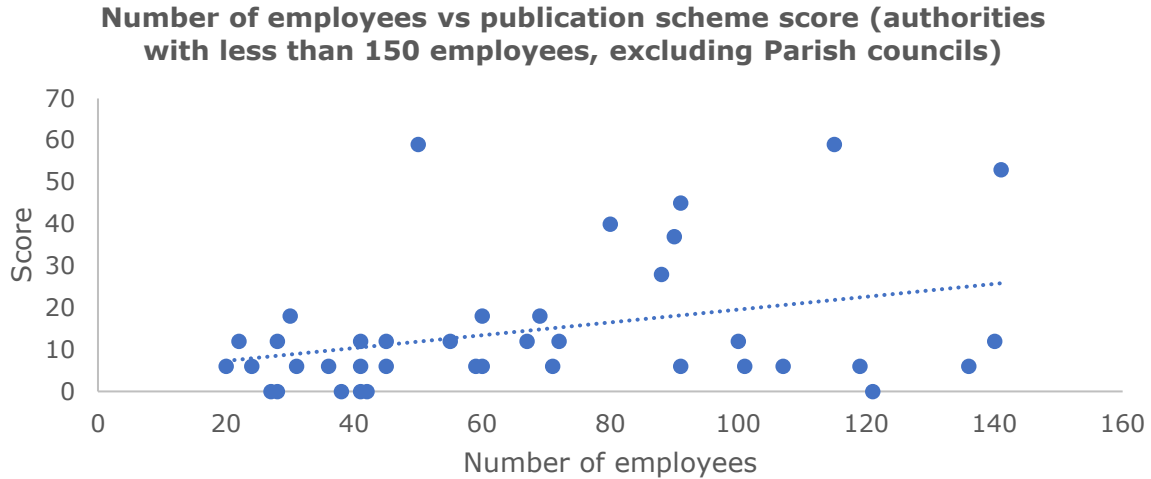
It is therefore useful to remove the small number of very large authorities to see if the trend continues to exist. The result shows that the size-score correlation is weaker. However, using this method, we can see more clearly that there are a substantial number of small authorities with good scores in the top left quadrant of the resulting chart:



We can also see a clear cohort of much smaller authorities clinging to the 'Y' axis. This cluster represents a group of 60 authorities with workforces of less than 150. At first glance, a further scatter graph based on the data from just those authorities appears to undermine the argument that bigger authorities are more likely to deliver better schemes. Among just these authorities, the size-score correlation trend line has reversed into a downward direction, implying that in this group of small authorities, bigger does not mean better:



However the graph does show a cluster of small, high scoring authorities in the top left. All of these authorities are in the parish council sector. When this sector is removed, the upward trendline is restored:



This suggests the size and score relationship does exist but that parish councils are performing disproportionately well according to their size, which is something that can also be seen when we demonstrate the relationship between size and score in an entirely different way.

Each bar in the graph below represents one public authority. Each bar is laid out in order of size: the bar furthest to the left is the smallest

authority in our analysis: a parish council with one member of staff; while and the bar furthest to the right is our largest authority: a central government department with 84,830 staff. The bars are red, amber or green depending on whether the authority's scheme achieved a poor, average or good score.

### Size of public authority and ratings of their publication scheme



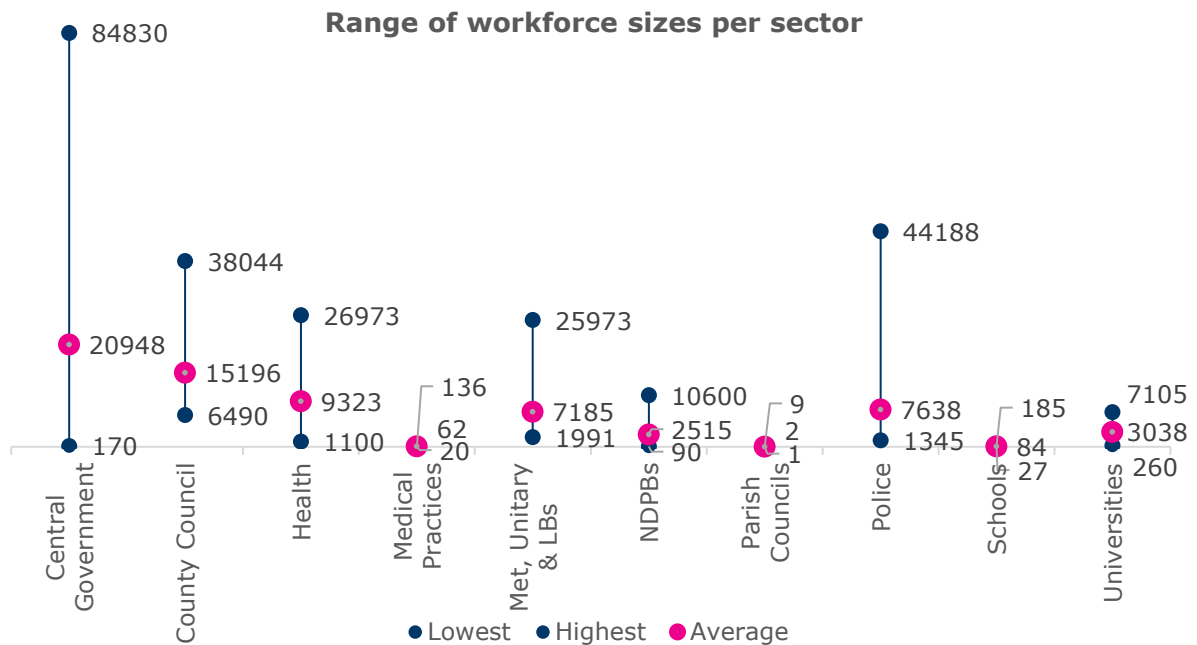
This representation shows the cluster of poor schemes belonging to small & medium size authorities and illustrates a very general picture of improvement increasing with size.

However we can also see that larger bodies are not immune to offering poor publication schemes, and a pillar of green bars at the extreme left of the graph shows that many of the very smallest authorities are performing well. In fact, ten of the smallest 13 authorities have good schemes. All ten of these authorities are parish councils.

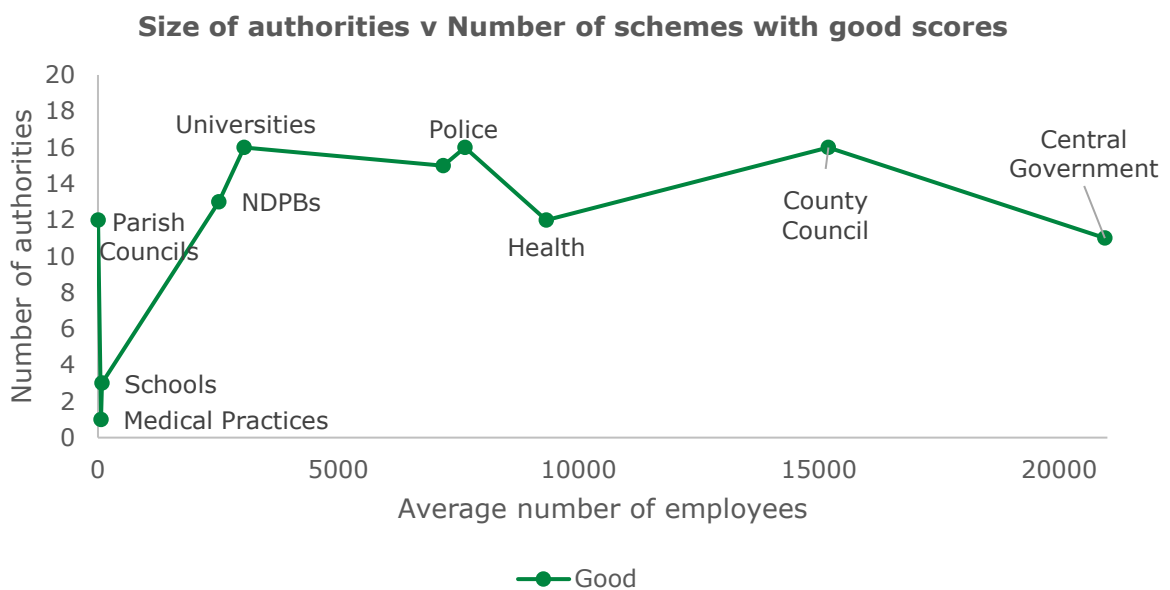
This is noteworthy, and raises the question as to whether the parish council sector as a whole is performing disproportionately well against the other sectors represented in our analysis, and whether the sector is disproportionality overperforming when considering the average size of the authorities within it.

To explore this question further, we compared each sector against each other by using the workforce numbers we had to arrive at an average workforce figure for each sector. So for example, the average workforce of the schools in our analysis was 84, of the county councils 15,196, and of the parish councils: 2.

It should be acknowledged that the average figure metric has limitations, particularly for the sectors where there is a substantial range between the largest and smallest authorities. Of the central government departments in our analysis one had a workforce of more than 84,000, but another just 170.



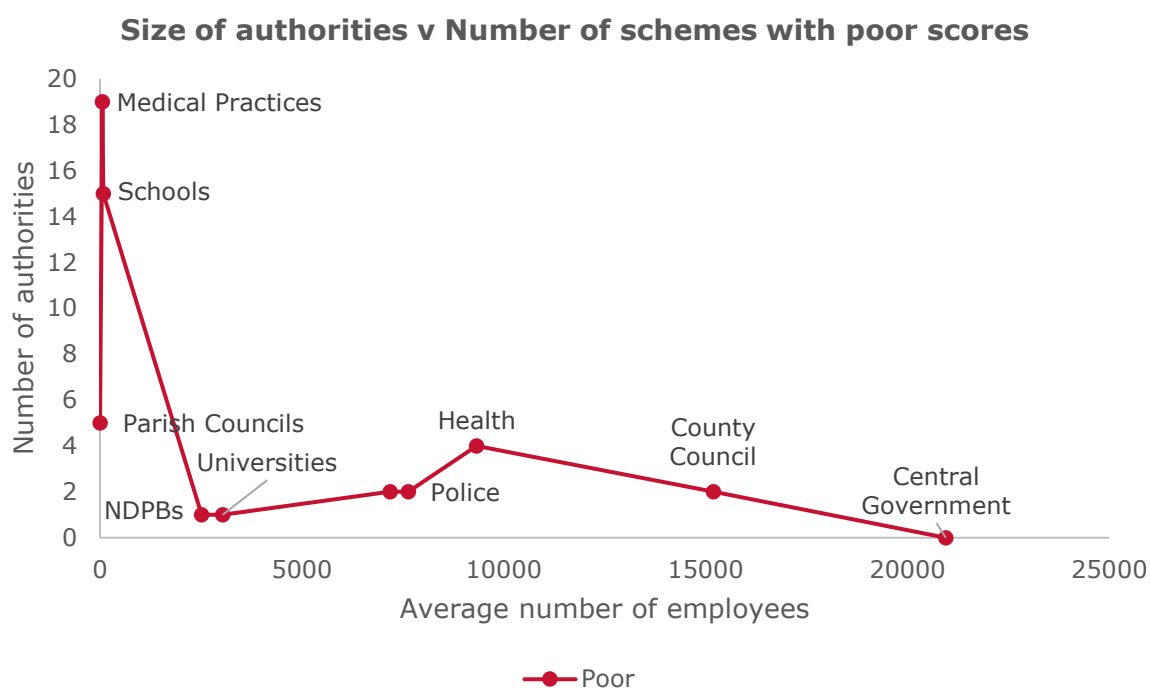
But the average figure uses all of the authorities in our analysis to deliver a useful way to compare sectors. It helps explore whether the sectors with typically bigger bodies are delivering a higher number of good schemes and a smaller number of poor ones.



When we use the figures, and perform the comparison, it again shows that the proportionality does exist to some extent: with two of the smallest sectors in schools and medical practices delivering few good schemes, and many more being produced by the sectors with more staff.

But it also suggests that the proportionality ends at a certain size: there is a levelling-off in the number of good schemes in the sectors with more than 2,000 staff, with the NDPB sector and its 2,515 employees per authority average performing as well as the central government sectors and its 20,948 average.

Exploring the data in this way also helps illustrate the outlier that is the parish council sector. The sector has many more good schemes than sectors of equivalent authority size.

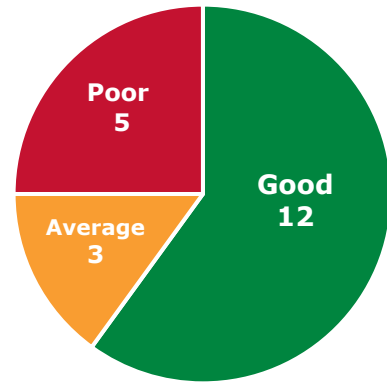


The proportionality between size and score, and the parish council outlier, can also be seen when looking at the number of schemes rated as poor. This again shows that the smallest sectors of schools and medical practices deliver the highest number of poor schemes.



The bigger sectors deliver far fewer, and the biggest sector – central government – delivers the least. But once more the parish council sector is performing against the trend that bigger performs better.

**Ratings of schemes in the parish council sector**



## Next steps

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As part of ICO25 we have committed to support the administration of FOIA and the EIR by helping public authorities to be more open through advice, tools, practice directions and promoting proactive publication of information routinely; and to evolve the FOIA and EIR framework within our jurisdiction by experimenting with ways to encourage public authorities to be more transparent and open.

We have recruited an Upstream Regulation team to help deliver on these areas. The goals of the Upstream Team include to better understand how public authorities are performing in line with their statutory duties and how we can support them; and to support compliance with proactive disclosure.

We will therefore use this report alongside the results of external research we are procuring, together with output from the ICIC Transparency by Design Working Group, to develop what we can do in relation to proactive publication and deliver against the strategic aims articulated in ICO25 of promoting openness, transparency and accountability.

## Recommendations to public authorities

- 1) Consult the [ICO guidance for public authorities on publication schemes](#) to make sure you are aware of the legal requirements.
- 2) Pay particular attention to the [requirements regarding dataset publication](#). Many public authorities may have overlooked their legal obligations to publish datasets released in response to FOIA requests.
- 3) Put in place a process so that your scheme is regularly reviewed and maintained. Consider the [seven classes of information](#), and how regularly the kind of information you hold in these classes changes over time.
- 4) Review the ICO's [new definition document](#) relating to your sector to see whether you are publishing all the examples of information that could be in your scheme.