

**EXPLANATORY MEMORANDUM TO
THE FREEDOM OF INFORMATION (ADDITIONAL PUBLIC AUTHORITIES)
ORDER 2008**

2008 No. 1271

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 This Order adds six public bodies to Schedule 1 to the Freedom of Information Act 2000 (“the Act”). As a public authority for the purposes of the Act, each body will be required to make information available to the public in accordance with the Act.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Background**
 - 4.1 Section 4(1) of the Act allows the Secretary of State to designate a body or office as a “public authority” and so bring it within the scope of the Act, provided that the following conditions, set out in section 4(2) and 4(3), are met:
 - 4.1.1 that the body or office is established by Her Majesty’s prerogative, enactment or subordinate legislation, or by a Minister of the Crown, a government department, the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government; and
 - 4.1.2 that in the case of a body, it is wholly or partly constituted by appointment made by the Crown, a Minister of the Crown, a government department, the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government; and that in the case of an office, appointments are made by the Crown, a Minister of the Crown, a government department, the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government.
 - 4.2 The purpose of an order under section 4(1) of the Act is to add newly created public bodies or offices, or public bodies or offices which had not previously been added, to the list of bodies covered by the Act.
 - 4.3 The six bodies to be added to Schedule 1 by this Order each meet the conditions set out in section 4(2) and (3) of the Act. All six bodies were established after the Act came into force. The Order is the sixth order to be made under section 4(1) of the Act (including amendment order 2004 No. 1870).

5. Territorial Extent and Application

5.1 This instrument extends to the United Kingdom.

6. European Convention on Human Rights

6.1 The Minister of State has made the following statement regarding Human Rights:

In my view the provisions of The Freedom of Information (Additional Public Authorities) Order 2008 are compatible with the Convention rights.

7. Policy background

7.1 The Act makes provision for the disclosure of information held by public authorities. This contributes to the Government's aim to strengthen the connection between citizens and the state. The Act aims to enable greater transparency, accountability and engagement, for example by providing more information about how public money is spent and providing the context for better-informed public debate.

7.2 The Act will apply to the public bodies covered by the Order as soon as the Order comes into force. Each body has been consulted to ensure that it will be able to meet its obligations under the Act when the Order comes into force.

8. Impact

8.1 An Impact Assessment has not been prepared for this instrument because it does not impose or reduce costs on business, charities or voluntary bodies.

8.2 A public sector Impact Assessment has not been carried out for this instrument. The absence of an impact assessment is justified for the following reasons. The change covered by the instrument does not impose new costs of more than £5 million per annum on any of the public bodies covered by the instrument. Five of the bodies—the Big Lottery Fund, the Consumer Council for Water, the Olympic Lottery Distributor, the TB Advisory Group (“TBAG”) and the UK Commission for Employment and Skills (“UKCES”)—already comply with the spirit of the Act voluntarily and those bodies have requested to be included in the operation of the Act. Any additional impact of formal inclusion in the Act on these bodies is therefore expected to be minimal. The Legal Deposit Advisory Panel (“LDAP”) and the TBAG are administered by secretariats provided, respectively, by the Department for Culture, Media and Sport and the Department for Environment, Food and Rural Affairs. The DCMS and the DEFRA consider that any impact upon the secretariats arising from the inclusion of the LDAP and the TBAG in the Act will also be minimal.

8.3 Generally, public sector bodies that are added to the Schedule and covered by the Act will be required to produce a list of publications that they routinely make available (a publication scheme) and publish in accordance with it. The public

sector bodies will also be required to answer requests for information. This will require them to determine if they hold requested information, and if so disclose that information, unless they consider relevant exemptions from disclosure apply and reply accordingly. There is no obligation for public authorities to reply to vexatious requests or those that exceed a costs threshold which is determined from time to time by the Secretary of State. The costs of disbursements can be recovered. There is no significant impact on any other part of the public sector.

9. Contact

Janet Hawkes at the Ministry of Justice can answer any queries regarding the instrument.

Tel: 020 7210 8893

E-mail: janet.hawkes@justice.gsi.gov.uk