

STATES OF JERSEY



CODE OF PRACTICE ON PUBLIC ACCESS TO OFFICIAL INFORMATION: ANNUAL REPORT FOR 2007

**Presented to the States on 30th May 2008
by the Privileges and Procedures Committee**

STATES GREFFE

REPORT

Introduction

The Code of Practice on Public Access to Official Information was approved by the States on 20th July 1999 and came into force on 20th January 2000. A revised Code of Practice was adopted by the States on 8th June 2004.

The Code constitutes a States' policy and affects the States, Ministers and their Departments, Committees, Panels and any sub-committees and sub-panels.

The Code confers –

- a general right of access to information held by authorities which is – (a) not exempt, and (b) created after 20th January 2000;
- a right of access to personal information, that is information about an identifiable individual, subject to exemptions, and while safeguarding an individual's right to privacy. The authority has an obligation to correct any personal information held about an individual that is shown to be incomplete, inaccurate or misleading, except that expressions of opinion given conscientiously and without malice will be unaffected. For personal information, access is retrospective;
- a right of access to agendas, support papers and minutes, where these do not contain confidential information.

Further to the foregoing, the Code now includes provisions which have resulted in the creation of a central 'Information Asset Register'. The purpose of the Information Asset Register is to provide the public with a single, readily accessible point of access to the following –

- (a) strategic and/or policy reports;
- (b) reports deemed to be of public interest;
- (c) third-party reports or consultancy documents, which have been prepared for the authority or which are under preparation, where the cost of the report/document exceeds an amount fixed from time to time by the Privileges and Procedures Committee;
- (d) all unpublished third-party reports or consultancy documents which are over 5 years old.

The names of any such reports are added by Departments to the Information Asset Register which is now maintained on the States website (www.gov.je/statesreports). (In the case of third-party reports or consultancy documents, details of their status and cost of preparation are also included within the Register. In order to ensure that this register is up to date, PPC has asked the Chief Minister to confirm whether departments upload their reports and consultants' reports onto www.gov.je/statesreports in accordance with the States' decision of June 2004.

The Code has established a minimum standard of openness and accountability by the States of Jersey, which may, by its very nature, be exceeded.

Monitoring statistics

A. Applications to departments from the public

The number of enquiries received during the year ending 31st December 2007 was as follows –

Economic Development Department

Number of applications:	1
Number of applicants submitting more than one request:	0
Number of applications from private individuals:	1
Number of applications from journalists:	0
Number of applications from businesses:	0
Number of requests for personal information:	0
Number of applications dealt with within 21 days:	1
Number of requests for which a charge was made:	0
Number of requests refused:	0
Number of appeals to Minister:	1

Home Affairs Department

Number of applications:	1
Number of applicants submitting more than one request:	0
Number of applications from private individuals:	1
Number of applications from journalists:	0
Number of applications from businesses:	0
Number of requests for personal information:	1
Number of applications dealt with within 21 days:	1
Number of requests for which a charge was made:	0
Number of requests refused:	0
Number of appeals to Minister:	0

Housing Department

Number of applications:	5
Number of applicants submitting more than one request:	0
Number of applications from private individuals:	5
Number of applications from journalists:	0
Number of applications from businesses:	0
Number of requests for personal information:	5
Number of applications dealt with within 21 days:	5
Number of requests for which a charge was made:	0
Number of requests refused:	0
Number of appeals to Minister:	0

Planning and Building Services

Number of applications:	4
Number of applicants submitting more than one request:	1
Number of applications from private individuals:	0
Number of applications from journalists:	2
Number of applications from businesses:	2
Number of requests for personal information:	2
Number of applications dealt with within 21 days:	3
Number of requests for which a charge was made:	0
Number of requests refused:	2
Number of appeals to Minister:	1

Note: Refusals were made on the basis of Exemption 3.2.1(a)(xiv) in that such disclosure would, or might be liable to constitute a premature release of a draft policy which is in the course of development.

States of Jersey Police

Number of applications:	9
Number of applicants submitting more than one request:	2
Number of applications from private individuals:	2
Number of applications from journalists:	1
Number of applications from businesses:	3
Number of requests for personal information:	0
Number of applications dealt with within 21 days:	7
Number of requests for which a charge was made:	0
Number of requests refused:	1
Number of appeals to Minister:	0

Note: The refusal was made on the basis of Exemption 3.2.1(a)(ii) in that such disclosure would, or might be liable to prejudice the administration of justice, including fair trial, and the enforcement or proper administration of the law; Exemption 3.2.1(a)(iii) in that such disclosure would, or might be liable to prejudice legal proceedings or the proceedings of any tribunal, public enquiry, Complaints Board or other formal investigation and Exemption 3.2.1(a)(vi) in that such disclosure would, or might be liable to prejudice the prevention, investigation or detection of crime, the apprehension or prosecution of offenders, or the security of any property.

Those departments not mentioned above made a zero return. The Health and Social Services Department and the Education, Sport and Culture Department have advised the Committee that the requests received for personal information were now being dealt with under the Data Protection (Jersey) Law 2005.

TOTALS FOR 2007	
Total number of applications which mention the Code:	20
Total number of refusals:	3

Future proposals

The Privileges and Procedures Committee conducted an extensive evaluation of the Code of Practice on Public Access to Official Information in 2004 and published R.C.55/2004 entitled: 'Freedom of Information: Position Paper' on 21st December 2004. After a period of consultation the Committee acknowledged that the arguments in favour of introducing legislation were compelling and, as a result, lodged a proposition asking the States to agree that legislation should be drafted to replace the Code. This proposition (P.72/2005) was adopted by the States on 6th July 2005.

Work continued on the draft Freedom of Information Law, and on 26th April 2006 a consultation document (R.33/2006) was presented to the States, and the Committee considered responses received. The Committee has responded to concerns expressed that the draft Law was too complex and too costly to administer, and requested that a simpler version of the Law be prepared to address these concerns. A revised draft was presented to the States on 18th June 2007 (R.60/2007). Responses to consultation were mainly received in October and November 2007. In January 2008, the Committee considered the responses, which in certain cases referred to earlier responses to previous consultations.

The Committee was disappointed that the simplified Law would not appear to lead to cost savings, and was unclear whether the costs identified by individual departments were in fact attributable to, and were symptomatic of, the inability of a number of departments to be able to fully comply with, the Public Records (Jersey) Law 2002. In this regard the Committee questioned whether individual Ministers had sought to ensure that their departments complied more fully with the Public Records Law since the issue had been raised during the States' debate in July 2005 on Projet No. P.72/2005. Notwithstanding the foregoing, the Committee accepted that some

additional cost to the States could be anticipated following the introduction of a freedom of information Law.

The Committee wrote to the Chief Minister inviting his department to provide it with a progress report on the operation and effectiveness of the Code of Practice on Public Access to Information. It wished to be clear on whether the Code of Practice was deemed to be a sufficient measure or not, particularly given the recent transfer of access activity to the Data Protection (Jersey) Law 2002, and the extent of additional estimated cost (over and above the cost of administering the Code) arising from the introduction of a Law. It asked for the report to include clarification on how the Code was working, how requests for information were handled by each department, how much the current Code of Practice costs departments to implement per year, and what progress had been made on implementation of the Public Records (Jersey) Law 2002. The PPC asked what funding or staffing issues remained to be resolved, and whether it was perceived that the requirements for the Public Records Law and a Freedom of Information Law were closely linked.

PPC is currently awaiting information, and once it has been received the Committee will be able to consider the appropriate way forward with the draft Freedom of Information Law.