
STATES OF JERSEY



CODE OF PRACTICE ON PUBLIC ACCESS TO OFFICIAL INFORMATION: ANNUAL REPORT FOR 2009

Presented to the States on 15th April 2010
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; and
- 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; and
- (d) all unpublished third-party reports or consultancy documents which are over 5 years old.

The names of reports are added to the Information Asset Register which is maintained on the States' website (<http://www.gov.je/Government/Pages/StatesReports.aspx>). In the case of third-party reports or consultancy documents, details of their status and cost of preparation are also included within the Register, which is managed by the Chief Minister's Department.

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

Monitoring statistics

The number of enquiries received during the year ending 31st December 2009 was as follows –

Chief Minister's Department

Number of applications which mentioned the Code:	2
Number of applicants submitting more than one request:	0
Category of applicant –	
Private individual	1
Journalist	1
Representing charity/lobby group	–
Academic	–
Business	–
Politician	–
Number of requests for personal information:	0
Number of applications dealt with within 21 days:	1
Number of requests unanswered as information not held:	0
Number of requests for which a charge was made:	0
Number of times a request was refused: <i>Exemption 3.2.1(a)(v) cited</i>	1
Number of appeals to Minister:	1

A request for information from a private individual was refused by the Chief Minister and resulted in the matter being reviewed by the States of Jersey Complaints Board, in accordance with the appeal procedure set out in the Code of Practice on Public Access to Official Information. The Board agreed that no exemption could be legitimately applied to the information and asked the Chief Minister to review his decision (*see page 6*).

Education, Sport and Culture

The Department did not receive any official requests for information under the Code of Practice on Public Access to Official Information; however, it dealt with a volume of requests for information which did not cite the Code.

Health and Social Services

Number of applications which mentioned the Code:	1
Number of applicants submitting more than one request:	0
Category of applicant –	
Private individual	–
Journalist	1
Representing charity/lobby group	–
Academic	–
Business	–
Politician	–
Number of requests for personal information:	0
Number of applications dealt with within 21 days:	1
Number of requests unanswered as information not held:	0
Number of requests for which a charge was made:	0
Number of times a request was refused:	0
Number of appeals to Minister:	0

No requests for personal information were made to the Health and Social Services Department under the Code of Practice on Public Access to Official Information during 2009, although 399 requests for personal information were dealt with under the Data Protection (Jersey) Law 2005.

H.M.P. La Moye

H.M.P. La Moye did not receive any applications which mentioned the Code of Practice on Public Access to Official Information, although it did receive a number of requests for information which were dealt with in accordance with the Code as follows –

Number of applications which mentioned the Code:	0
Number of applicants submitting more than one request:	0
Category of applicant –	
Private individual	6
Journalist	1
Representing charity/lobby group	–
Academic	2
Business	10
Politician	1
Number of requests for personal information:	1
Number of applications dealt with within 21 days:	21
Number of requests unanswered as information not held:	0

Number of requests for which a charge was made:	0
Number of times a request was refused:	0
Number of appeals to Minister:	0

Numerous telephone calls were also received by H.M.P. La Moye from members of the press in connexion with a high profile Royal Court case.

Planning and Building Services

Number of applications which mentioned the Code:	4
Number of applicants submitting more than one request:	0
Category of applicant –	
Private individual	–
Journalist	–
Representing charity/lobby group	–
Academic	–
Business	1
Politician	–
Other – property owners	3
Number of requests for personal information:	4
Number of applications dealt with within 21 days:	3
Number of requests unanswered as information not held:	0
Number of requests for which a charge was made:	0
Number of times a request was refused:	0
Number of appeals to President/Minister:	0

Population Office

Number of applications which mentioned the Code:	1
Number of applicants submitting more than one request:	0
Category of applicant –	
Private individual	–
Journalist	–
Representing charity/lobby group	–
Academic	–
Business	–
Politician	1
Number of requests for personal information:	1
Number of applications dealt with within 21 days:	1
Number of requests unanswered as information not held:	0

Number of requests for which a charge was made:	0
Number of times a request was refused:	0
Number of appeals to President/Minister:	0

Probation

Number of applications which mentioned the Code:	2
Number of applicants submitting more than one request:	1
Category of applicant –	
Private individual	–
Journalist	2
Representing charity/lobby group	–
Academic	–
Business	–
Politician	–
Number of requests for personal information:	1
Number of applications dealt with within 21 days:	1
Number of requests unanswered as information not held:	0
Number of requests for which a charge was made:	1
Number of times a request was refused:	0
Number of appeals to President/Minister:	0

Two requests were made by the Jersey Evening Post and were corporate requests to which the Department contributed. A request was also received by the Department from an individual for personal information, which did not mention the Code. This request was received in December 2009 and the Department responded within 48 hours, however disclosure itself was expected to take some time as third party and exempt information would need to be redacted. The Department expressed the view that, if it were regularly asked for this kind of disclosure, it would not have the resources to oblige and would anticipate seeking exemption under paragraphs 3.2.1(a)(ii),(vi), (xv), (xvi) and 3.2.1(b) of the Code, as otherwise all material would need to be examined in order to remove exempt information.

Social Security

The Department did not receive any requests which mentioned the Code; however, during 2009 it dealt with 34 subject access requests under the Data Protection (Jersey) Law 2005.

States of Jersey Police

All recorded requests for information to the States of Jersey Police came from the local media, and, while they were dealt with in accordance with the Code of Practice

on Public Access to Official Information, none of the requests for information made reference to the Code –

Number of applications which mentioned the Code:	0
Number of applicants submitting more than one request:	4
Category of applicant –	
Private individual	–
Journalist	15
Representing charity/lobby group	–
Academic	–
Business	–
Politician	–
Number of requests for personal information:	0
Number of applications dealt with within 21 days:	15
Number of requests unanswered as information not held:	0
Number of requests for which a charge was made:	0
Number of times a request was refused:	0
Number of appeals to Minister:	0

Treasury and Resources

Number of applications which mentioned the Code:	2
Number of applicants submitting more than one request:	0
Category of applicant –	
Private individual	1
Journalist	–
Representing charity/lobby group	–
Academic	–
Business	1
Politician	–
Number of requests for personal information:	1
Number of applications dealt with within 21 days:	2
Number of requests unanswered as information not held:	0
Number of requests for which a charge was made:	1
Number of times a request was refused: <i>Exemption 3.2.1(a)(iii) cited</i>	1
Number of appeals to Minister:	0

N.B.: Those Departments not mentioned made a nil return.

TOTALS FOR 2009	
Total number of applications which mentioned the Code:	12
Total number of refusals:	2

The table below shows the number of applications received and refused under the Code from 2003 to 2009 –

	2003	2004	2005	2006	2007	2008	2009
Requests received	62	80	62	73	20	21	12
Requests refused	2	1	3	9	3	2	2
Appeals to Minister	1	0	0	2	2	0	1
Appeals to States of Jersey Complaints Board	0	0	0	0	0	0	1

The States of Jersey Complaints Board dealt with its first complaint in respect of a refusal to provide information in 2009. This followed a decision of the Chief Minister not to provide requested information to a private individual, and resulted in an application by the applicant for his complaint to be reviewed under the Administrative Decisions (Review) (Jersey) Law 1982, as amended. The matter was considered by the Complaints Board at a hearing on 16th September 2009. The Board agreed that none of the exemptions could legitimately apply to the information and the Chief Minister could not, as a result, rebut the presumption of openness. It therefore asked the Chief Minister to reconsider his decision not to provide the requested information, and the Chief Minister subsequently released the information requested. The Board's findings were presented to the States on 14th October 2009 by the Privileges and Procedures Committee (R.115/2009 refers).

In 2005 the States adopted the proposition 'Freedom of Information – proposed legislation' (P.72/2005) and agreed that the Code of Practice on Public Access to Official Information should be replaced by a Freedom of Information Law. The Committee would hope to lodge the Draft Freedom of Information (Jersey) Law 201- in the near future for debate by the States. The format of this Report has been maintained in the same way since the introduction of the Code. In the event that the draft Law is rejected, the form of monitoring the Code may need to be reviewed.