



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Code of Practice on Access to Information

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1 Code of Practice on Access to Information

1.1 Purpose

This Code of Practice sets out:

- the principles guiding our approach to open government;
- the principles under which we will publish information or make it available on request; and
- the circumstances in which we may withhold information.

It also tells you where to seek advice about requesting information and reinforces:

- our commitment to open government; and
- our intention to be at the forefront of open government.

1.2 Scope

This Code of Practice sets out the principles by which we will meet our commitments and obligations under:

- the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004; and
- the relevant codes of practice and guidance issued by government departments and by the Information Commissioner.

This Code does not create rights of access to documents.

1.3 Principles of Our Approach to Openness

We are committed to the following principles. They are explained in detail in Part 3:

- Principle 1 - Maximising openness
- Principle 2 - Using clear language
- Principle 3 - Maintaining a Publication Scheme
- Principle 4 - Publishing on the internet
- Principle 5 - Respecting privacy, confidentiality and law
- Principle 6 - Prompt and comprehensive responses
- Principle 7 - Right of complaint
- Principle 8 - Providing information free of charge

1.4 Status

This Code does not override any law that require or prevent the disclosure of information.

This Code applies to the recorded information we hold as a public authority or that is held for us by another person. Except for environmental information, as defined in

the Environmental Information Regulations 2004, we do not hold information if we hold it on behalf of another person. For Subject Access Requests made under the Data Protection Act 1998, this Code applies where we are the data controller within the meaning of the Act.

Assembly Government Sponsored Bodies and executive agencies and subsidiaries of the Welsh Assembly Government are required to follow the approach to openness set out in this Code. Contracts with third parties entered into by the Welsh Assembly Government will include terms covering the disclosure of information. Information provided by third parties will be considered for disclosure if it is requested.

Although the Welsh Assembly Government was previously covered by the National Assembly for Wales corporate body's Code of Practice on Public Access to Information, this is the first Code which has been issued by the Welsh Assembly Government on access to information since its establishment as a separate legal entity under the Government of Wales Act 2006.

1.5 Review of this Code

We will as appropriate review this Code to ensure that we continue to meet legal requirements governing access to information.

2 Requests for Information

2.1 Providing Advice and Assistance

We will, as far as is reasonable, provide advice and assistance on making requests for information. Contact details are given in Part 4 and advice on making requests is given on our website.

Information about the different types of information we publish is also available on our website.

2.2 Making a Request

You can request information:

- in writing, including by fax or email;
- by contacting our Publications Centre to ask to see specific published information and to make an appointment to see it;
- by phone or in person if:
 - you are unable to put your request in writing because of a disability;
 - you are requesting environmental information; or
 - it is otherwise reasonable to do so.

If your request is not in writing because one of the circumstances specified above applies, we will write to you to confirm details of the information you asked for. Where we do so, you will need to check that our understanding of your request is accurate. If it is not, you should contact us to clarify the request but if you do not we will proceed on the basis of our interpretation of your request.

When requesting information, you must:

- give a name and address to which a reply may be sent;
- give enough detail for us to identify what information you want. If your request does not contain enough detail for us to decide what information you want, we will seek clarification from you and will only be able to proceed with your request when you have provided it;
- provide proof of identity when requesting your own personal information. You may be asked to pay a fee for such requests.

You may tell us how you would prefer to receive the information. For example:

- a copy of the information;
- by inspecting the information; or,
- a digest or summary of the information.

Whenever reasonable, we will provide information in the format you prefer. If we do not comply with your preference, we will explain why.

The processes we follow when finding, considering and disclosing information are set out in our guidance for handling requests for information.

2.3 Which Law Applies?

You do not need to mention which law you think applies to your request for information. We will gather the information you seek and examine it to see which laws apply and then apply them. This may mean that we apply more than one law to your request.

You are encouraged to be as precise as possible in your request; if you are not sure what to say in your request, you can ask us for help. You may, if you wish, restrict the information you seek. For example, you could ask us to send you only the personal information you are entitled to under the Data Protection Act 1998 and we would not send you any environmental information or any information covered by the Freedom of Information Act 2000.

3 The Principles Explained

Principle 1: Maximising Openness

We will be as open as possible

- We will be as open as possible.
- We will only withhold information if it falls into one of the categories in Annex A or disclosure would breach any other provision of law. Annex A also shows, for each exemption, whether we will apply the public interest test or the substantial harm test or both. Annex B shows how those tests will be applied.
- Our staff will receive guidance and training on maximising openness.
- We will continuously seek opportunities to publish information unless it is exempt under this Code.
- We will publish the facts and factual analyses behind policy proposals and Ministerial decisions, unless they are exempt under this Code. This will normally be when the policies and decisions are announced. We will also publish any statistical information relevant to our policies and decisions unless it is exempt under this Code. This information is published on our website.
- We will, as appropriate, publish information about future legislation through, for example, consultation documents, explanatory memoranda, and draft legislation. This information will be published on our website.
- Our Cabinet minutes and papers will be published, though parts that are exempt under this Code will not be published.

Principle 2: Using Clear Language

We will use clear language which takes account of different needs

- We will use plain and gender neutral language in our dealings with the public.
- We will aim to produce brief and easy to read documents, and will avoid the use of small print.
- We will produce documents in English and Welsh in accordance with our Welsh Language Scheme.
- We will respect the differing needs of different sectors of the community.

Principle 3: Maintaining a Publication Scheme

We will maintain a Publication Scheme

- We maintain a Publication Scheme. It states our commitment to make information publicly available and sets out:
 - the information we promise to publish as a matter of course;
 - how this information will be published;
 - whether the information is available free of charge or not.
- The Scheme is published on our website.
- People without access to the Internet can read the scheme, and many of the documents listed in it, at any Information Link Library or at our Publications Centre in Cardiff. Personal callers are welcome by appointment. There are Information Link Libraries throughout Wales. The Centre can tell you where to find the one nearest to you.
- The Publications Centre will also provide copies of the Publication Scheme on request.

Principle 4: Publishing on the Internet

We will publish information on the Internet

- Our website holds information that falls within the categories listed in our Publication Scheme.
- We will provide bilingual websites in accordance with our statutory obligations and our policies on the use of the Welsh and English languages.
- All our published documents with ISBNs (International Standard Book Numbers) will either be published in full on the Internet or an order form will be provided for printed copies.
- Our website will conform to international and national standards for accessibility.
- Our website will provide search facilities, feedback and contact forms for further enquiries about the availability of information.
- Our website will list significant disclosures of information made in response to requests for information. This will not include personal data disclosed in response to subject access requests under the Data Protection Act 1998.

Principle 5: Respecting Privacy, Confidentiality and Law

We will respect personal privacy, the duty of confidence and all laws governing the release of information

- Before we reply to a request that will involve disclosing information about someone whose interests are likely to be affected by disclosure, we will normally consult them to ensure that any disclosure complies with the law.
- Examples of legislation covered by this principle include the Official Secrets Acts, the Data Protection Act 1998, the Human Rights Act 1998, the Environmental Information Regulations 2004, and the Freedom of Information Act 2000. Other laws include the law of defamation and the law of confidence.

Principle 6: Prompt and Comprehensive Responses

We will provide prompt and comprehensive responses to requests for information

- We will send information you request which is not exempt, promptly and in any case within legal time limits.
- We may send information in several batches to ensure that you receive as much as possible as early as possible.
- The law sets basic time limits and sets out how, in some circumstances, we may take longer. If we need to take longer, we will write to you explaining why and giving a new deadline.
- If you need our help to make a request we will write to you to confirm that we have understood your request correctly and so that you have a record of your request. Where we do so, you will need to check that our understanding of your request is accurate. If it is not, you should contact us to clarify the request but if you do not we will proceed on the basis of our interpretation of your request.
- Any information we disclose will be in the language in which we hold the information.
- If we receive a request in Welsh or English, the covering letter for our reply will be in the same language as the request.
- If we receive a request for information in a language other than English or Welsh the covering letter for our reply will, where practicable, be in that language.
- We do not have to obtain information we do not hold. If we think that another public authority holds some or all of the information, we will consult them and you about transferring your request. We will transfer the request if you agree or, if not, we will provide contact details for the other public authority.
- We will always be as open and helpful as possible but will, where appropriate, handle vexatious and repeated requests in line with the law.
- If we refuse to send you information, we will send a refusal letter within the legal deadline and tell you about our complaints procedure (see Principle 7).

Principle 7: Right of Complaint

We will provide a right of complaint where a member of the public is not satisfied with the response received

- We will try to provide the information you request and to avoid providing too much or too little. If this does not satisfy your needs, you are encouraged to contact the person who responded to your request to discuss ways of providing the information needed. In many cases, it may be possible to meet your needs without using the complaints procedure.
- Our Code of Practice on Complaints can be found on our website. Printed copies and advice are available from our Complaints Officer.
- In line with our Code of Practice on Complaints, any complaint that information which should have been provided has not been will be investigated. The Code of Practice on Complaints explains that you should normally complain first to the person who replied to your request. It also sets out the principles which will be followed when investigating your complaint.
- We will normally only consider a complaint if we receive it within six months of you first becoming aware of the matter you are complaining about.
- If, after using our complaints procedures, you are still unhappy with the outcome, you may refer the complaint to either the Information Commissioner or the Public Service Ombudsman for Wales. Usually, they will expect you to have followed our own procedures before they will investigate your complaint.

Principle 8: Providing Information Free of Charge

We will aim to provide information free of charge

- We are allowed to charge for information. We charge for some publications (our Publication Scheme shows which). We usually charge £10 for Data Protection Act subject access requests.
- Our aim is to avoid charging and we will only make charges for anything other than subject access requests and publications in exceptional circumstances.
- We may refuse to comply with a request if we estimate that the cost of compliance exceeds the limit set by law and nothing in this Code obliges us to comply with such a request.
- If we decide to charge a fee, we will ask you for the fee promptly and explain how we calculated it.
- We may review this principle in the light of experience.
- We will also review this principle in the light of any fees regulations made under the Freedom of Information Act 2000 and/or Data Protection Act 1998.

4 Contacts

4.1 Making Requests

If you know which part of the Welsh Assembly Government deals with the topic about which you want to request information or if you know the name of the person who deals with the matter, you may contact them directly with your request. The locations our offices are given on our website. If you do not know who to contact, you can use our general enquiry point:

Welsh Assembly Government
Cathays Park
Cardiff
CF10 3NQ
Tel: 0845 010 3300 (bilingual greeting)

4.2 Getting Advice or Assistance

If you need advice or assistance with requests for information from the Welsh Assembly Government, please contact:

Access to Information Unit
Welsh Assembly Government
Cathays Park
Cardiff
CF10 3NQ
Tel: 029 2080 1177
Email: FreedomOfInformationOfficer@wales.gsi.gov.uk, or
Email: DataProtectionOfficer@wales.gsi.gov.uk

4.3 Publications Scheme

Our Publications Centre can help you find documents we publish. You can contact them in writing or by phone.

Publications Centre
Welsh Assembly Government
Cathays Park
Cardiff
CF10 3NQ
Tel: 029 2089 8688
Email: assembly-publications@wales.gsi.gov.uk

Our Publication Scheme can be obtained from our Publications Centre and is also on our website.

4.4 Complaints

You can get advice about the Welsh Assembly Government's complaints procedures from our Complaints Officer.

Complaints Officer
Welsh Assembly Government
Cathays Park
Cardiff
CF10 3NQ
Tel: 029 2080 1378
Email: complaints@wales.gsi.gov.uk

4.5 Our website

Our website is www.wales.gov.uk.

We publish some information in a special section of our web site at www.information.wales.gov.uk. This includes:

- this Code of Practice;
- advice to officials on access to information;
- the facts and factual analyses behind ministerial decisions at subject to the exemptions in this Code;
- our list of significant disclosures; and,
- advice to anyone intending to make a request.

4.6 Statute Law Database

You can view the full text of the Freedom of Information Act 2000, Environmental Information Regulations 2004 and Data Protection Act 1998 at: www.statutelaw.gov.uk

List of exemptions and other reasons for withholding information

This list is intended as a quick reference to the exemptions and other reasons that may be the basis for withholding information and the tests that we will apply. For the full text of each, you should refer to the legislation (the Statute Law Database website holds up to date copies of each law).

As far as exemptions are concerned the purpose of this annex is only to show what tests we will use in deciding whether or not an exemption applies to information.

A1 - Derived from the Freedom of Information Act 2000

Fol Act 2000 Part I	Section
1(3)	Description of information does not allow us to locate and identify the information.
9(2)	Fee not paid within three months
12	Cost of compliance exceeds the appropriate limit
13	Fees lawfully requested for disclosure not paid
14	Vexatious or repeated

A2 - Derived from the Freedom of Information Act 2000

Fol Act 2000 Part II	Exemption	Absolute or Qualified?	Public interest test?	Substantial harm test?
21	Information accessible to applicant by other means	Absolute	No	No
22	Information intended for future publication	Qualified	Yes	Yes
23	Information supplied by, or relating to, bodies dealing with security matters	Absolute	No	No
24	National Security	Qualified	Yes	No
26	Defence	Qualified	Yes	No
27	International relations	Qualified	Yes	Yes
28	Relations within the United Kingdom	Qualified	Yes	Yes
29	The economy	Qualified	Yes	Yes
30	Investigations and proceedings conducted by public authorities	Qualified	Yes	Yes
31	Law enforcement	Qualified	Yes	Yes
32	Court records, etc.	Absolute	No	No
33	Audit functions	Qualified	Yes	Yes
34	Parliamentary privilege	Absolute	No	No
35	Formulation of government policy, etc.	Qualified	Yes	Yes
36	Effective conduct of public affairs	Qualified	Yes	Yes
37	Communications with Her majesty, etc. and honours	Qualified	Yes	Yes
38	Health and safety	Qualified	Yes	Yes
39	Environmental Information	Qualified	Yes	No
40(1)	Personal information (about applicant)	Absolute	No	No
40(2)	Personal information about others where the circumstances described in section 2(3)(f)(ii) FoIA are the case	Absolute	No	No
40(2)	Personal information about others where the circumstances described in section 2(3)(f)(ii) FoIA are not the case	Qualified	Yes	No
41	Information provided in confidence	Absolute	No	No
42	Legal professional privilege	Qualified	Yes	Yes
43	Commercial interests	Qualified	Yes	Yes
44	Prohibitions on disclosure	Absolute	No	No

A3 - Derived from the Environmental Information Regulations 2004

EIR 2004 regulation	Exception	Public interest test?	Substantial harm test?
12(4)(a)	Information not held when request received	Yes	No
12(4)(b)	Request is manifestly unreasonable	Yes	No
12(4)(c)	Formulated in too general a manner	Yes	No
12(4)(d)	Material is still in course of completion, unfinished documents or incomplete data	Yes	Yes
12(4)(e)	Internal communications	Yes	Yes

A4 - Derived from the Environmental Information Regulations 2004

EIR 2004 regulation	Exception	Public interest test?	Substantial harm test?
12(5)	Where disclosure would adversely affect -		
12(5)(a)	International relations, defence, national security or public safety	Yes	Yes
12(5)(b)	Course of justice, fair trial, criminal or disciplinary inquiry	Yes	Yes
12(5)(c)	Intellectual property rights	Yes	Yes
12(5)(d)	Confidentiality of proceedings of a public authority where confidentiality is provided by law	Yes	Yes
12(5)(e)	Confidentiality of commercial or industrial information where confidentiality is provided by law to protect a legitimate economic interest	Yes	Yes
12(5)(f)	Interests of person who provided information where that person: (i) not under legal obligation to have supplied the information (ii) did not supply it in circumstances where the public authority is entitled to disclose the information apart from these regulations (iii) has not consented to disclosure	Yes	Yes
12(5)(g)	Protection of the environment to which the information relates	Yes	No

A5 - Derived from the Environmental Information Regulations 2004

EIR 2004 regulation	
8(5)	Fee not paid within 60 working days
13	Personal data of third parties. We will apply this exception as it appears in the legislation.

A6 - Derived from the Data Protection Act 1998

The Data Protection Act 1998 and orders made under it set out exemptions from the duty to provide access to your personal data. We will apply them as they appear in the legislation.

How we will apply the public interest and substantial harm tests to Freedom of Information Act 2000 exemptions and Environmental Information Regulations 2004 exceptions

Annexes A2, A3 and A4 show, exemption by exemption, whether the public interest and substantial harm tests are applied to information falling under the exemptions in Part II of the FoIA and regulation 12 of the EIRs. This annex sets out what each test means:

- If Annex A2 or A3 shows that an exemption is qualified, and that we will apply the public interest test and the substantial harm test, we will only rely upon the exemption if disclosing the information would cause or be likely to cause substantial harm to the purpose which the exemption aims to protect. Even if disclosure would cause or be likely to cause such substantial harm, we will not rely upon the exemption unless the public interest in avoiding that harm outweighs the public interest in disclosure of the information;
- If Annex A2, A3 or A4 shows that an exemption is qualified, and that we will apply only the public interest test, it means that we will only rely upon the exemption if the public interest in withholding the information for the purpose that the exemption aims to protect, outweighs the public interest in disclosing the information;
- If Annex A2 or A3 shows that an exemption is absolute, and that we will apply neither the public interest test nor the substantial harm test, it means that we will rely on that exemption and not disclose the information;
- We will only rely upon exceptions 12(5)(a) to 12(5)(f) in Annex A4 if disclosing the information would cause substantial harm to the purpose which the exception aims to protect. Even if disclosure would cause such substantial harm, we will not rely upon the exception unless the public interest in avoiding that harm outweighs the public interest in disclosure of the information.