

Code of Practice for Access to Information

A simple guide on how requests under the Code of Practice for Access to public information (“the code”) should be handled, and considerations for commissioned reports

Introduction

Following a review by the Policy & Resources Committee in early 2017 on the effectiveness of the code and how it is being applied, this short guidance document has been produced to set out the States of Guernsey’s process for dealing with requests for information under the Code and reports commissioned by government.

It is not intended that this note replaces the detailed document ‘Guidance on how to use the States of Guernsey Code of Practice for Public Information’, which is available www.gov.gg/information and covers a wide variety of considerations for those handling requests or making decisions under the code; these include dealing with requests, redactions, recording responses, commissioned reports, using the confidentiality policy, exemptions and when to apply them.

The below is the most up-to-date process for the operational implementation of the code.

The Policy & Resources Committee has agreed the following steps to further enhance the effectiveness of the code:

- All Access to Public Information questions and responses will be published on gov.gg
- Work will be carried out to promote awareness of the code across the public service
- Work will be carried out to promote awareness of the code with the general public
- The Chief Information Officer will be tasked with reviewing any decision where an exemption has been used under the code

Background

The States of Guernsey has agreed that the following guiding principles should apply to the Code of Practice on Access to Public Information:

- A presumption of disclosure
- A corporate approach
- A culture of openness
- Proactive publication
- Effective record management

The States of Guernsey also recognises that, like all governments, notwithstanding the presumption of disclosure in the balance of the public interest the States will need to keep some information confidential, and it has a duty to protect the proper privacy of those with whom they deal.

Process for dealing with Access to Public Information requests

Requests should be made in writing and should expressly state that the information is being requested under the “Code of Practice on Access to Public Information”.

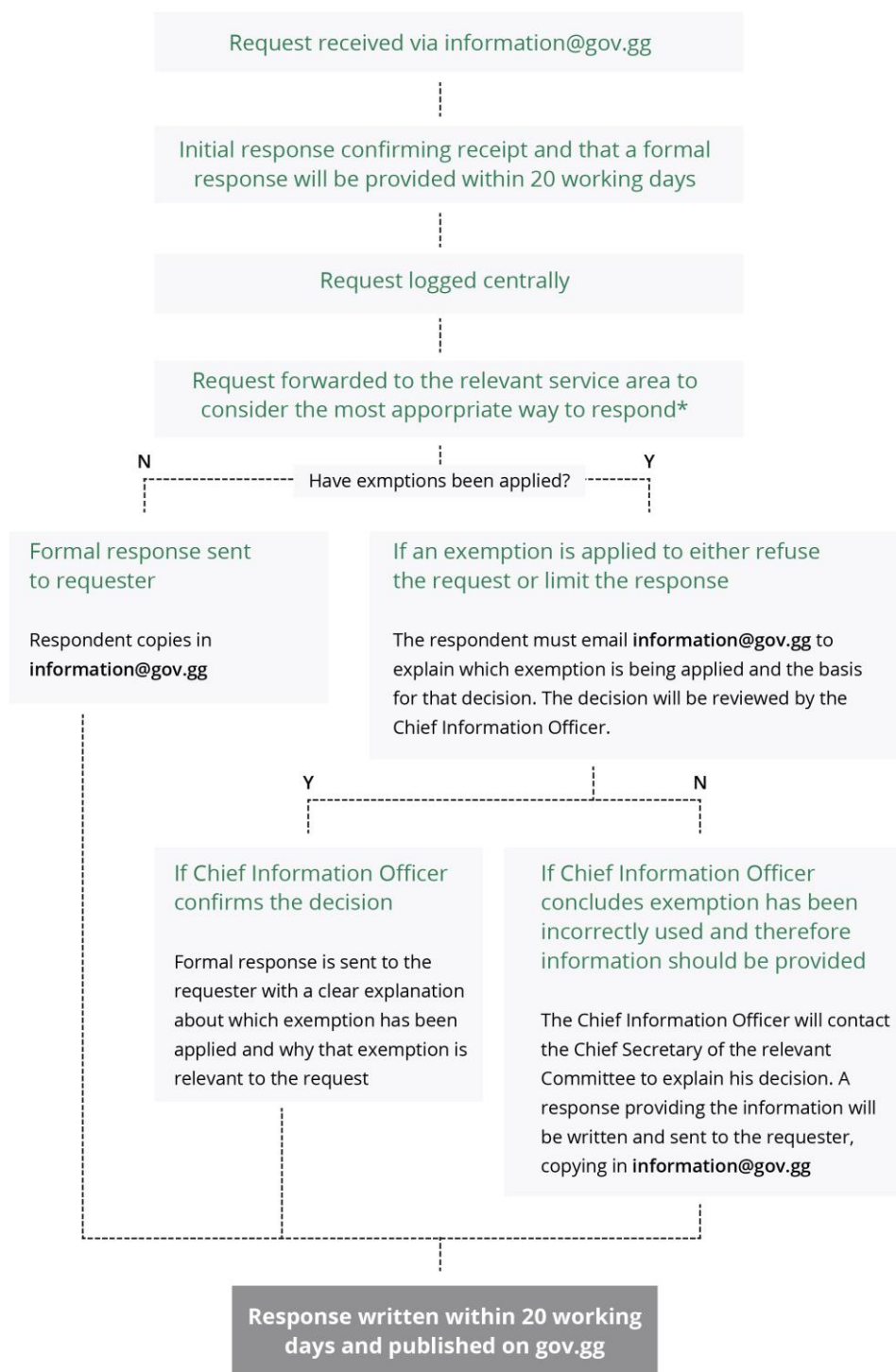
The request should be sent to information@gov.gg. If a service area receives the request directly, it should be forwarded to that address.

The request will be logged centrally by Corporate Communications and an initial response issued to the requester. The relevant service area will be asked to consider the request and determine how it intends to respond.

An exemption should be used under the code only if absolutely necessary, and any such decision must be explained in full in an email to information@gov.gg for the Chief Information Officer to review. You can find out more about applying exemptions in the ‘Guidance on how to use the States of Guernsey Code of Practice for Public Information’ available at www.gov.gg/information

The below flow chart further explains the process:

Requests for information under the Code of Practice on Access to Public Information



*If it becomes clear while going through the above process that a formal response will not be ready within 20 working days, an email must be sent to the requester to inform of the delay.

Commissioned reports

A resolution under the “States of Guernsey Policy for Access to Public Information” requires:

Every Department and Committee to publish details (namely the title of the report, who it is commissioned by and from and date of commission) of all reports commissioned by the Department or Committee within six months of that report being commissioned, unless the publication of such detail would fall within one of the exceptions from disclosure set out in the Code of Practice on Access to Public Information.

The resolution does not specify what a “report commissioned” means. Service areas should use their discretion. As a guide, a report commissioned may be interpreted as a piece of work commissioned from a third party to the States, such as a consultant or outside agency.

When a report is commissioned, the relevant service area should send a notification email to information@gov.gg. The commissioned report will then be logged centrally.

Given the guiding principle of a presumption of disclosure, a decision to withhold publication of the report via an exemption under the code should be taken only if absolutely necessary, and any such decision must be explained in full in an email to information@gov.gg for the Chief Information Officer to review.

In March and September, the States of Guernsey will update the commissioned reports page on www.gov.gg/information

The below flow chart further explains the process:

Commissioned Reports



*Where exemptions have been applied, and the decision upheld by the Chief Information Officer, a clear explanation will be included about which exemption has been applied and why that exemption is relevant.

Further advice and guidance

Further guidance about responding to requests for information is contained in the 'Guidance on how to use the States of Guernsey Code of Practice for Public Information' document available at www.gov.gg/information

The Corporate Communications team can also provide advice on how to respond to requests, or offer further guidance on exemptions, as required.

Post implementation reviews

In February 2016, as part of debate under Billet D'Etat IV (The Scrutiny Committee and the Public Accounts Committee – The Scrutiny Management Committee – Powers, Resources and Impartiality), the States resolved:

To direct the Policy and Resources Committee to consider fully the advantages of releasing all Post-Implementation Review reports on capital projects into the public domain as set out in paragraph 3.16 of that Policy Letter.

Since these developments there have been regular media queries regarding the publication of post-implementation reviews and it has been raised more publicly recently with reference to the application of the Code of Practice for Access to Public Information.

PIRs are not generally published but they have been in the past (eg. the PIR of the Les Beaucamps High School build) and only a few appear under the published list of reports commissioned.

Some PIRs show great examples of exemplary project management but for reasons of consistency, generally they have not been published and there are a number of reasons why PIRs have not been published in their entirety, including:

- Commercial sensitivity – there are a limited number of contractors in Guernsey and there is a risk that any negative comments on a review could impact on their ability to get contracts in future
- Candour and frankness – they are an internal tool used to critically analyse the performance of a project and participants are encouraged to provide constructive criticism so that improvements to processes can be made. If participants are aware that their comments or input might be published, this could harm the frankness and candour of the PIRs.
- Retrospective nature – they provide a point in time review which means that any improvements that have been made since publication is unlikely be taken into account by the public

The recent review of the Code of Practice for Access to Public Information, and the publication of reports commissioned over the last year, provides an opportunity to re-consider the publication in some manner of PIRs. As part of this exercise, the following should be taken into account:

- Policy on access to public information – the States have agreed to a number of guiding principles under this policy and that includes a presumption of disclosure with the aim of promoting transparency and accountability.
- Public interest – where projects are highly strategic in nature or use a proportionately high amount of the States of Guernsey budget, there is a public interest to promote understanding of the use of public resources.
- Scrutiny of lessons learnt – the Public Accounts Committee (Billet D'Etat IV, pg. 1151-1152) noted that the lessons learnt from projects were not always shared effectively

across the States which has meant that “whilst a few projects reviewed showed some good practices, a number of issues do continue to recur”. The publication of lessons learnt would encourage more scrutiny and provide the impetus to review the lessons learnt in a consistent manner across the States.

A consistent approach going forward

A review report - in effect an executive summary - that is suitable for publication must be written as part of the PIR process. This will include the review’s recommendations, and will be published on gov.gg.

Rather than publishing only the PIR’s recommendations, this approach will allow officers to set the scene for a project, provide more context around any lessons learnt, provide an opportunity to capture both excellent working practice and areas for improvement while at the same time retain the candour and frankness of the PIR.

The review reports need to become a seamless part of the assurance process, rather than an add-on, and could be designed by the Portfolio team.

The full PIR document will be provided to the Scrutiny Management Committee for information.

Internal Audits

Internal audits are targeted reviews, agreed between the States Head of Assurance and the Chief Executive. They offer an independent and objective service to the Chief Executive and usually focus on risk and improving the management of risk. Internal Audit reports are internal management documents that are usually sensitive in nature, as such they have never been publicly released and this position will be maintained.
