



Falkland Islands Government

Access to Information

Code of Practice

Introduction

This Code of Practice describes the Falkland Islands Government's (FIG's) policy to providing access to information and responding to requests for information. This Code only applies to the FIG.

The FIG believes that government should be open and transparent and that information should be made available except where disclosure would not be in the public interest. The Appendix to this Code sets out the circumstances where access to information may be withheld.

This Code aims to guide FIG's openness and transparency in relation to:

- access by an individual to information about themselves
- access to information about policy making
- access to information about decisions

Openness and transparency will need to be balanced with:

- respecting and maintaining personal privacy
- respecting and maintaining commercial confidentiality
- preserving confidentiality where disclosure would not be in the public interest

Code of Practice Dates

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Responsible officer for review: Director of Central Services

Information to which FIG will give access

(subject to the exemptions in Appendix 1)

1. Access by an individual to information about themselves

FIG will provide access to people to information that FIG holds about them so that they are aware of the information held and can ensure that the information is accurate.

2. Access to information about policy making

FIG will provide access to the facts and analysis relevant to policy proposals and decisions. This information will normally be made available when policies and decisions are announced.

FIG will also make available, where they exist, explanatory material on department's dealings with the public such as rules, procedures, guidance to government officers and manuals. This is intended to help the public understand the actions of FIG.

3. Access to information about decisions

FIG will provide reasons for the decisions that it takes that directly affect people.

4. Access to information about services

FIG will provide access to information about how FIG services are run, how much they cost, what standard of service are expected, who is responsible for the service and how queries and complaints will be dealt with.

5. Access to Other Information

FIG will provide access to other information that it holds relating to the business of government in response to a request.

How requests for information will be dealt with by FIG

6. How requests should be made

Requests can be made in writing or by email and should set out clearly the information requested. Requests should be made to the officer responsible for the area of FIG concerned but if this is not clear then requests can be directed to the relevant Director who will then pass the request on to the relevant officer.

7. How requests will be dealt with by FIG

Responses to requests for information will be made as soon practicable. FIG will acknowledge all requests for information within three working days. FIG will endeavour to respond to requests within 20 working days of the request being received. If a request is complicated or requires research of records or archives it may take longer to respond and in such cases a response will be sent to the person making the request explaining the reason for the delay. Where the information cannot be provided an explanation will be given. If a request for information asks for information that is exempt information then some or all of the request may be refused. The categories of exempt information are set out in the Appendix to this Code.

8. Charges for provision of information

A small charge may be made for copies of documents and for dealing with the request. Where a request is complicated, requires detailed research or concerns a large volume of information then a charge will be made which reflects the costs to FIG in responding to the request.

9. Requests and how they relate to other legal rules

This Code is non-statutory. This means that it cannot override anything contained in the laws that apply to the Falkland Islands. Where there is a legal right or procedure for access to information in certain areas (such as health and medical records) the legal process will be followed and not this Code.

The Code does not apply to information held by the Courts or contained in Court documents. The Court's rules about disclosure will apply to information held by the Court.

10. Complaints about a decision to disclose or not disclose information or about charges

Complaints about a decision not to provide information under the Code or about a decision to provide information that should not have been provided or about the charges imposed for provision of information should be made to the officer responsible to whom the request for information was made in line with the Corporate Complaints Procedure.

11. Vexatious requests for information

All requests will be processed in accordance with this policy. However, during this process, staff may have contact with unreasonable behaviour from individuals requesting information or unreasonably persistent individuals. FIG will not tolerate deceitful, abusive, offensive, threatening or other forms of unacceptable behaviour from individuals requesting information. When it occurs, we will take proportionate action to protect the wellbeing of our staff and the integrity of our processes.

FIG considers unreasonably persistent requests to be those who, because of the frequency or nature of their contact with FIG, hinder FIG's consideration of their or other people's, requests or impact on FIG's ability to provide a service.

Our staff who provide information also need to continue providing FIG services and ensure their time and resources is used to best effect. They cannot do so if someone tries to dominate our attention with frequent, lengthy contacts and repetitive information. This hinders the consideration of their, or other people's, requests and the provision of FIG services. When necessary, we will take action to restrict an individual's ability to submit further information requests on a matter when unreasonable behaviour of this nature persists.

Should an officer believe that an individual has become abusive, persistent or vexatious they should raise this matter to their Head of Service. The Head of Service shall assess the matter and make a formal recommendation to their director. A request can only be categorised as vexatious by a Director and in doing so the Director must consult with, and obtain agreement from, a Peer Director. At this point all contact relating to the request (except for the provision of essential or statutory services) will cease along with any investigation into their request for a period of time determined by the two Directors. Heads of Service and Directors should take into account the guidance on categorising information requests as vexatious (Appendix 2).

Appendix 1 Exempt Information

This Appendix sets out the categories of information that are exempt from disclosure.

It is the same categories of exempt information that is set out in Schedule 3 of the Committees (Public Access) Ordinance 2012

| Paragraph Number in Schedule 3 | Category Heading | Conditions and Rules |
|--------------------------------|---|---|
| 1 | Confidential information | <p>Information provided by the Governor, the Commander of British Forces or the UK Government is exempt if it was provided on terms which forbid disclosure to the public</p> <p>Information is also exempt if disclosure is prohibited by law or by the courts</p> |
| 2 | National security, defence and other security matters | <p>Information is exempt if it is:</p> <ul style="list-style-type: none"> • information which exemption is required to protect national security • information which disclosure would prejudice the defence of the islands or the capability, effectiveness or security of the armed forces including the FIDF • information which disclosure would prejudice security in some other way, including internal security, aviation or maritime security or the security of buildings, infrastructure or resources |
| 3 | International relations and relations with the UK and other Overseas Territories | <p>Information is exempt if disclosure would prejudice:</p> <ul style="list-style-type: none"> • international relations • relations between the Falkland Islands and the UK, or • relations between the Falkland Islands and one or more other Overseas Territories of the UK |
| 4 | Economic Interests | <p>Information is exempt if disclosure would prejudice the economic interests of the Falkland Islands</p> |
| 5 | Enforcement Activities, etc | <p>Information is exempt information if disclosure would prejudice:</p> <ul style="list-style-type: none"> • the prevention or detection of crime • the apprehension or prosecution of |

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| | | <p>offenders</p> <ul style="list-style-type: none"> • the administration of justice • the maintenance of security and good order in the prison • the operation of immigration controls • other action to enforce legislation or other legal requirements |
| 7 | Information about Individuals | <p>Information is exempt information if it is information about an individual who is:</p> <ul style="list-style-type: none"> • an employee of FIG or a public body, • an applicant for employment with FIG or a public body • a prospective employee of FIG or a public body • an occupier or former occupier of accommodation provided or funded by FIG or a public body • an applicant for accommodation provided or funded by FIG or a public body • a potential or prospective occupier of accommodation to be provided by or funded by FIG or a public body • (or has been) receiving a service from FIG or a public body • an applicant for a service provided by FIG or a public body • a potential receiver of a service from FIG or a public body • an applicant for financial assistance provided by FIG or a public body • (or has been) receiving financial assistance from FIG or a public body • a potential receiver of financial assistance from FIG or a public body <p>The information is exempt where it relates to the individual in relation to the above capacities</p> |
| 8 | Information about Children | Information about adoption, care fostering, supervision, or education of an individual child |
| 9 | Information about others' financial and business affairs | Information about the financial or business affairs (or contemplated financial or business affairs) of a particular person unless it is information that is required to be registered under the Companies Act, Banking Ordinance, Co-operative Societies Ordinance and Offshore Minerals Ordinance |
| 10 | Information | <ul style="list-style-type: none"> • information about the amount of |

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| | about relevant contracts and negotiations | <p>expenditure that FIG or a public body proposes to incur under a contract</p> <ul style="list-style-type: none"> • information about relevant negotiations for a contract (or the proposed conduct of negotiations) • information about financial provision included in the estimates of revenue and expenditure or the budget of a public body in relation to: <ul style="list-style-type: none"> ○ contracts ○ costs of legal proceedings <p>Information is only exempt to the extent that it would give an advantage to a person entering into or seeking to enter into a contract or where it would prejudice the negotiations</p> <p>The reference to ‘contract’ is to a contract concerning property or to supply or obtain goods or services</p> |
| 11 | Information about labour relations | <p>Information about consultations or negotiations (or contemplated consultations or negotiations) with FIG’s or a public body’s labour relations</p> <p>This information is only exempt to the extent that disclosure would prejudice FIG or the public body in those consultations or negotiations</p> |
| 12 | Information about legal advice | <p>Information about legal advice received and action to be taken on that advice and information about a request for legal advice</p> |
| 13 | Information about contemplated action | <p>Information that relates to a decision that the Governor, FIG a public body or a committee is proposing to take to:</p> <ul style="list-style-type: none"> • impose requirements on a person by giving that person a notice under an Ordinance or other legislation • make an order or direction under an Ordinance or other legislation <p>The information is only exempt if disclosure might give the person affected by the notice, order or direction the opportunity to defeat the purpose of the notice, order or direction</p> |
| 14 | Information about the identity of a protected | <p>Information about the identity of a person giving (or who has given) information tending to show that there has been or about to be:</p> <ul style="list-style-type: none"> • a criminal offence |

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| | informant | <ul style="list-style-type: none"> • a breach of statutory duty • a breach of planning control • a nuisance <p>And the information could be used to identify that person</p> |
| 15 | Draft papers for Executive Council and information about them | <p>Drafts of papers for approval for submission to Exco and information about those papers.</p> <p>However the Chairperson of an open committee and the person responsible for submitting the paper to Exco may agree a particular draft paper and information about it is not exempt</p> |
| 16 | Internal Audit reports | <p>Reports, draft reports and information used in the preparation of such reports produced for the purpose of carrying out internal auditing of FIG or a public body</p> |
| 17 | Budgetary information | <p>Information relating to the preparation or consideration of the budget of FIG or a public body</p> |

Appendix 2 Guidance in categorising requests as vexatious

As a general rule, you should not take into account the identity or intentions of a requester when considering whether to respond to an information request. You cannot refuse to provide information simply because it does not seem to be of much value. However, a minority of information requests can threaten to undermine the credibility of the Code of Practice on information release and divert resources away from more deserving requests and other public business.

You can refuse to provide information when a request is categorised as vexatious. When assessing whether a request is vexatious, you should take into account the context and history of the individual requesting information and the organisation's previous contact relating to the matter. The decision to refuse to provide information often follows a long series of requests and correspondence.

The key question to ask yourself is whether providing the information is likely to cause a disproportionate or unjustifiable level of distress, disruption or irritation.

You should be prepared to find a request vexatious in legitimate circumstances, but you should exercise care when refusing someone's rights in this way. Some indicators are listed below however, the fact that a request has one or more of the characteristics listed above does not necessarily mean it that it is vexatious. Some factors will be easier to evidence and support than others. It is also important that factors are considered on the circumstances of each individual case; the strength of the factors will vary in importance depending on the case.

Indicators (not listed in any order of importance)

Abusive or aggressive language

The tone or language of the individual's correspondence goes beyond the level of criticism that FIG or its employees should reasonably expect to receive.

Burden on FIG or the taxpayer

The effort required to meet the information request will be so grossly oppressive in terms of the strain on time and resources, that FIG cannot reasonably be expected to comply, no matter how legitimate the subject matter or valid the intentions of the requester.

Personal grudges

For whatever reason, the individual making the request is targeting their correspondence towards a particular employee or office holder against whom they have some personal enmity.

Unreasonable persistence

The individual making the request is attempting to reopen an issue which has already been comprehensively addressed by FIG, or otherwise subjected to some form of independent scrutiny.

Unfounded accusations

The individual requesting information makes completely unsubstantiated accusations against FIG or specific employees.

Intransigence

The individual requesting information takes an unreasonably entrenched position, rejecting attempts to assist and advise out of hand and shows no willingness to engage with FIG.

Frequent or overlapping complaints

The individual requesting information submits frequent correspondence about the same issue or sends in new requests before FIG has had an opportunity to address their earlier ones.

Deliberate intention to cause annoyance

The individual requesting information has explicitly stated that it is their intention to cause disruption to FIG, or is a member of a campaign group whose stated aim is to disrupt FIG.

Scattergun approach

The information request appears to be part of a completely random approach, lacks any clear focus.

Disproportionate effort

The matter being pursued by the information request is relatively trivial and FIG would have to expend a disproportionate amount of resources in order to meet their request.

Frivolous requests

The subject matter is inane or extremely trivial and the individual requesting information appears to lack any serious purpose. The request is made for the sole purpose of amusement.