

CODE OF PRACTICE ON ACCESS TO SCOTTISH EXECUTIVE INFORMATION REPORT ON THE CALENDAR YEAR 2002

INTRODUCTION

1. The Code of Practice on Access to Scottish Executive Information came into force on 1 July 1999. The Code applies to the Scottish Executive and to those other Scottish public authorities formerly within the jurisdiction of the Scottish Commissioner (a list of the public authorities covered by the scope of the Code is set out in the Annex to this report). The Code informs and underpins the Scottish Ministers' policy of extending access to official information. This report provides statistical information (Part 1) and other details (Part 2) of information released during the calendar year 2002.

Number of requests

2. Part I of this report details the number of formal requests for information received under the Code during 2002. The total number of such requests is not significant in number and it is not possible to derive any statistical conclusions from such a number. The small total of formal requests however has to be looked at within the context of the vast amount of information that is either released in response to other requests or proactively published. In Part II examples are given of the information which is published proactively. This again is only a small snap shot of the amount of information that is routinely published e.g on the Scottish Executive's website. It should also be borne in mind that access by an individual to their own personal information processed by the Scottish Executive and other Scottish public authorities is available separately under the Data Protection Act 1998.

Appeal arrangements under Code

3. Complaints that information has not been provided or that the public authority has levied an unreasonable charge have first to be made to the public authority concerned. If the applicant remains dissatisfied a complaint may be made to the Scottish Public Services Ombudsman who will investigate at her discretion in accordance with the procedures provided in the Scottish Public Services Ombudsman Act 2002. During the calendar year 2002 no appeals under the Code were received by the Scottish Public Services Ombudsman or by the Scottish Parliamentary Commissioner for Administration (who was responsible for considering appeals until 22 October 2002)

4. From 1 October 2003 the responsibility for considering complaints under this Code will pass to the Scottish Information Commissioner.

PART 1

Details of Formal Code Requests Received

The Code applies to, and informs the handling of all requests for information – whether or not applicants specifically state that their request is under the Code. It would however, be impracticable, for the purpose of monitoring the Code of Practice, to include all requests for any form of information. For monitoring purposes therefore only those requests which are defined as formal are included in this report. A request for information is defined as formal if (a) it specifically mentions the Code, or (b) a charge is made for the provision of the information, or (c) it is refused under one or more of the Code exemptions.

➤ Number of formal requests	253
➤ Information provided	250
➤ Information withheld	3 (in 2 cases information was subsequently released)
➤ Charges made	239
➤ Requests dealt with within 20 working days	252

Sources of Requests

➤ Individuals	98
➤ Media	1
➤ Charities	1
➤ Business	147
➤ MSPs	6

Appeals against non-disclosure of information

Under the Code applicants can appeal against the way that the public authority has handled their request for information. In the first instance the applicant should ask the public authority to review its decision. If the applicant is dissatisfied with the response from the public authority they can through a Member of the Scottish Parliament ask the Scottish Commissioner to investigate their complaint.

➤ Internal Reviews	1
➤ Outcome of Internal Review	Information partly released
➤ Cases investigated by Scottish Commissioner	0

Formal Code requests – Information provided

Rent Assessment Panel for Scotland – Copy of Rent Assessment Committee decisions (charge made).

Scottish Land Court – Details of individual Court cases covering crofting and agricultural disputes and /or associated legal questions. Copies of Court orders or other document such as plans or maps (charges made for the provision of this information).

Fisheries Research Services: Statistics of fish landings and associated fishing effort provided to businesses (charges made).

Scottish Executive: Information on policy or progress with initiatives dealing with managing radioactive waste safely.

Scottish Executive: Papers relating to radioactive waste disposal on Benbecula in 1986.

Scottish National Heritage: List of community organisations being consulted as part of a customer attitude survey. Information was initially refused (paragraph 11 of Part II of Code – Information relating to incomplete analysis, research or statistics) but later disclosed following completion of the survey.

Royal Commission on the Ancient and Historical Monuments of Scotland: Copy of the Annual Report of the Commission.

Information withheld under the Code

Scottish Executive: A request for a structural survey report on the A9 road (Golspie) was refused on the grounds that its disclosure would harm the frankness and candour of internal discussion including internal opinion and advice (Paragraph 2 of Part II of the Code). Following a request for a review of the decision by the applicant an edited version of the report was provided to the applicant.

Scottish Natural Heritage: Request made for a list of owners and occupiers of Sites of Special Scientific Interest being consulted as part of a customer attitude survey. Request refused as information was not held by Scottish Natural Heritage but by independent consultants carrying out the survey. Release of information by consultants would also have constituted a breach of the code of practice of the Market Research Society (the researchers professional body).

PART II

Information published by Public Authorities

The Code of Practice on Access to Scottish Executive Information commits public authorities to proactively publish information, as well as to release information in response to specific requests. This part of the report provides some examples of the proactive release of information or other open government developments. As mentioned in the introduction to this report this is only a very small sample of the type of information that is published and that can be found on the websites of the Scottish Executive and other public authorities covered by the scope of this Code.

Facts and Analysis with Major Policy Announcements

Scottish Executive

- Documents supporting the Budget (No 4) Bill including the Annual Expenditure Report (Summary and Detail); Spending Review 2002 Outcome and Draft Budget Summary; Draft budget detailed report (all published between April to October 2002).
- Document supporting the Budget revisions for the Budget (No 3) Bill: Autumn Budget Revisions.
- Technical notes from the outcome of the Spending Review 2002.
- Publication of response by Deputy First Minister to the report of the Scottish Charity Law Review Commission (16 December 2002).
- Consultation on the draft Land Reform (Scotland) Bill: Analysis of consultation responses sent to respondents.
- Locational guidelines for fish farming issued with analysis of consultation responses and a science report detailing the construction of nutrient loading categories.
- Report on compliance with “Code of Practice to avoid and minimise the impact of Infectious Salmon Anaemia” (published December 2002).
- Third Social Justice Annual Report.
- Publication of “Connecting Scotland: Our broadband future – Making it happen” (published December 2002).
- Consultation papers on proposals for tendering the Clyde and Hebrides lifeline ferry services published in June 2002. The consultation paper sought views on the principles that would be adopted in the tendering exercise; attached was a draft Invitation to Tender for the ferry services which allowed consultees to see how the principles would be taken forward in detail.

Scottish Funding Councils for Further and Higher Education

- Publication of annual grant letter providing details of the funding arrangements for each institution for the academic year.

General Register Office for Scotland

- Annual Review of Demographic Trends (the Registrar General's annual statistical report).
- Population Projections, Scotland (2001 Census based).

Scottish Natural Heritage

- Policy statement on on-shore windfarm developments setting out SNH's policy position on new wind farms.
- Policy statement on wildness in Scotland's countryside setting out the qualities and threats to wildland and where it can be found in Scotland.

Scottish Environmental Protection Agency

- Publication of Waste Data Digest.

Publication of Internal Guidelines or Guidance documents

Scottish Executive

- Guidelines for Public Sector Pay Policy.
- Guidance to Local Authorities on application to the Strategic Waste Fund – published on Scottish Executive's website.

Scottish Environmental Protection Agency

- Guidance on regulatory, charging and policy schemes available on SEPA's website.

Scottish Legal Aid Board

- Guidance on property recovered or preserved under civil legal aid; exceptional cases determinations in summary criminal aid; sanction for employment of counsel in civil and criminal cases and reasonableness in civil legal aid cases.

Other Open Government Developments during 2002

General

- The Freedom of Information (Scotland) Act 2002 was passed by the Scottish Parliament on 24 April 2002 and received Royal Assent on 28 May 2002. When brought into force the rights of access in the Freedom of Information (Scotland) Act 2002 will replace the provisions of this Code.

General Register Office for Scotland

- 1901 Census Records (digital images) released after 100 year closure.
- Launch in September 2002 of the “scotlandspeople” website (pay per view genealogy service).
- Scottish family history research service.

Scottish Natural Heritage

- Public open event to mark the launch of Glen Affric NR.
- Public open event at which members of the public could question the Chief Executive and Board members of Scottish Natural Heritage. Area Boards of SNH also hold open events either before or after each of their meetings.

Scottish Environmental Protection Agency

- NetRegs project aimed at providing guidance on environmental legislation to small and medium -sized businesses (SME'S) launched on website. Site is being continuously expanded to include more industry sectors.

**SCOTTISH EXECUTIVE
Freedom of Information Unit
May 2003**

List of Public Authorities covered by the Code of Practice on Access to Scottish Executive Information

SCOTTISH EXECUTIVE

Scottish Executive Development Department
Scottish Executive Education Department
Scottish Executive Enterprise and Lifelong Learning Department
Scottish Executive Environment and Rural Affairs Department
Scottish Executive Finance and Central Services Department
Scottish Executive Health Department
Scottish Executive Justice Department
Scottish Executive Legal and Parliamentary Services Department
Corporate Services

Communities Scotland
Fisheries Research Service
General Register Office for Scotland
Historic Scotland
HM Inspectorate of Education
National Archives of Scotland
Registers of Scotland
Scottish Agricultural Science Agency
Scottish Court Service
Scottish Fisheries Protection Agency
Scottish Office Pensions Agency
Scottish Prison Service
Student Awards Agency for Scotland
The Office of The Accountant in Bankruptcy

OTHER SCOTTISH PUBLIC AUTHORITIES

Accounts Commission for Scotland
Crofters Commission
Deer Commission for Scotland
General Teaching Council for Scotland
Lands Tribunal for Scotland
Learning and Teaching Scotland
Local Government Boundary Commission for Scotland
National Galleries of Scotland
National Library of Scotland
National Museums of Scotland
Parole Board for Scotland
Rent Assessment Committees for Scotland
Royal Botanic Garden, Edinburgh
Royal Commission on the Ancient and Historical Monuments of Scotland
Scottish Agricultural Wages Board
Scottish Arts Council

Scottish Children's Reporter Administration
Scottish Environment Protection Agency
Scottish Further Education Funding Council
Scottish Higher Education Funding Council
Scottish Land Court
Scottish Legal Aid Board
Scottish Medical Practices Committee
Scottish Natural Heritage
Scottish Qualifications Authority
Scottish Screen
Scottish Sports Council
Scottish Tourist Board
Water Industry Commissioner for Scotland