

Code on Access to Information – Part 2

INFORMATION WHICH MAY BE REFUSED

- 2.1 A department may refuse to disclose information, or may refuse to confirm or deny the existence of information, in the categories and for the reasons set out below, which will normally be referred to if a request is refused.
- 2.2 References in this Part to “harm” and “prejudice” include both actual harm and prejudice and the risk or reasonable expectation of harm and prejudice. In such cases the department will consider whether the public interest in disclosure of the information outweighs any harm or prejudice that could result.

DEFENCE AND SECURITY

- 2.3 (a) Information whose disclosure would harm or prejudice Hong Kong’s defence.
- (b) Information whose disclosure would harm or prejudice Hong Kong’s security.

EXTERNAL AFFAIRS

- 2.4 (a) Information whose disclosure would harm or prejudice the conduct of external affairs, or relations with other governments or with international organisations.
- (b) Information received in confidence from and conveyed in confidence to other governments, courts in other jurisdictions, and international organisations.

NATIONALITY, IMMIGRATION AND CONSULAR MATTERS

- 2.5 (a) Information relating to immigration or nationality cases.
- (b) Information whose disclosure would harm or prejudice the administration of nationality, registration of persons, immigration or consular matters, or the performance of consular functions as an agent for other governments.

LAW ENFORCEMENT, LEGAL PROCEEDINGS AND PUBLIC SAFETY

- 2.6 (a) Information whose disclosure would harm or prejudice the administration of justice, including the conduct of any trial and the enforcement or administration of the law.
- (b) Information whose disclosure would harm or prejudice the conduct or impartial adjudication of legal proceedings or any proceedings conducted or likely to be conducted by a tribunal or inquiry, whether or not such inquiry is public or the disclosure of the information has been or may be considered in

any such proceedings.

- (c) Information which relates to proceedings which have been completed, terminated or stayed, or which relates to investigations which resulted in or may have resulted in proceedings, whether any such proceedings are criminal or civil.
- (d) Information which would be privileged from production in legal proceedings on the ground of legal professional privilege.
- (e) Information whose disclosure would harm or prejudice the prevention, investigation and detection of crime and offences, the apprehension or prosecution of offenders, or the security of any detention facility or prison.
- (f) Information whose disclosure would harm or prejudice the preservation of the peace, public safety or order, or the preservation of property.
- (g) Information whose disclosure might endanger the life or physical safety of any person (whether or not such person is in Hong Kong), or identify the source of information or assistance given in confidence for security purposes, or for the enforcement or administration of the law.

DAMAGE TO THE ENVIRONMENT

- 2.7 Information whose disclosure would increase the likelihood of damage to the environment or to rare or endangered species and their habitats.

MANAGEMENT OF THE ECONOMY

- 2.8 Information whose disclosure would harm or prejudice the conduct of monetary policy, the maintenance of stability in financial markets, or the ability of the Government to manage the economy.

MANAGEMENT AND OPERATION OF THE PUBLIC SERVICE

- 2.9 (a) Information whose disclosure would harm or prejudice negotiations, commercial or contractual activities, or the awarding of discretionary grants and ex-gratia payments by a department.
- (b) Information whose disclosure would harm or prejudice the competitive or financial position or the property interests of the Government.
- (c) Information whose disclosure would harm or prejudice the proper and efficient conduct of the operations of a department.
- (d) Information which could only be made available by unreasonable diversion of a department's resources.

INTERNAL DISCUSSION AND ADVICE

- 2.10 (a) Papers prepared for, and records of meetings and deliberations of the Executive Council.
- (b) Information whose disclosure would inhibit the frankness and candour of discussion within the Government, and advice given to the Government. Such information may include -
- (i) records of discussion at any internal government meeting, or at any meeting of a government advisory body;
 - (ii) opinions, advice, recommendations, consultations and deliberations by government officials or advisers to the Government.

PUBLIC EMPLOYMENT AND PUBLIC APPOINTMENTS

- 2.11 Information which would harm or prejudice the management of the public service.

IMPROPER GAIN OR ADVANTAGE

- 2.12 Information whose disclosure could lead to improper gain or advantage.

RESEARCH, STATISTICS AND ANALYSIS

- 2.13 (a) Information relating to incomplete analysis, research or statistics, where disclosure could be misleading or deprive the department or any other person of priority of publication or commercial value.
- (b) Information held only for preparing statistics or carrying out research, and which relates to individuals, companies or products which will not be identified in reports of that research, or in published statistics.

THIRD PARTY INFORMATION

- 2.14 (a) Information held for, or provided by, a third party under an explicit or implicit understanding that it would not be further disclosed. However such information may be disclosed with the third party's consent, or if the public interest in disclosure outweighs any harm or prejudice that would result.
- (b) Information provided in confidence by a third party if disclosure to the subject of the information would harm his or any other individual's physical or mental health, or should only be made to him by an appropriate third party.

PRIVACY OF THE INDIVIDUAL

- 2.15 Information about any person (including a deceased person) other than to the subject

of the information, or other appropriate person, unless -

- (a) such disclosure is consistent with the purposes for which the information was collected, or
- (b) the subject of the information, or other appropriate person, has given consent to its disclosure, or
- (c) disclosure is authorised by law, or
- (d) the public interest in disclosure outweighs any harm or prejudice that would result.

BUSINESS AFFAIRS

2.16 Information including commercial, financial, scientific or technical confidences, trade secrets or intellectual property whose disclosure would harm the competitive or financial position of any person.

PREMATURE REQUESTS

2.17 Information which will soon be published, or whose disclosure would be premature in relation to a planned announcement or publication.

LEGAL RESTRICTIONS

2.18 Information whose disclosure would constitute -

- (a) a contravention of any law which applies in Hong Kong, or
- (b) a breach of any obligation arising under common law or under any international agreement which applies to Hong Kong.