

Code of practice on the dissemination of information

On 5th May 2006 the responsibilities of the Office of the Deputy Prime Minister (ODPM) transferred to the Department for Communities and Local Government.

Department for Communities and Local Government
Eland House
Bressenden Place
London SW1E 5DU
Telephone: 020 7944 4400
Website: www.communities.gov.uk

Documents downloaded from the www.communities.gov.uk website are *Crown Copyright* unless otherwise stated, in which case copyright is assigned to *Queens Printer and Controller of Her Majestys Stationery Office*.

Copyright in the typographical arrangement rests with the Crown.

This publication, excluding logos, may be reproduced free of charge in any format or medium for research, private study or for internal circulation within an organisation. This is subject to it being reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the publication specified.

Any other use of the contents of this publication would require a copyright licence. Please apply for a Click-Use Licence for core material at www.opsi.gov.uk/click-use/system/online/pLogin.asp or by writing to the Office of Public Sector Information, Information Policy Team, St Clements House, 2-16 Colegate, Norwich NR3 1BQ. Fax: 01603 723000 or e-mail: HMSOlicensing@cabinet-office.x.gsi.gov.uk.

This publication is only available online via the Communities and Local Government website: www.communities.gov.uk

Alternative formats under Disability Discrimination Act (DDA): if you require this publication in an alternative format please email alternativeformats@communities.gsi.gov.uk

Publication title: Code of practice on the dissemination of information

Date published: October 1999

Product code: 99 PD 0555

Price: Free

Summary

This code links the planning and implementation phases of major infrastructure developments. The purpose of the code is to ensure that people are given as much information as possible at all stages of a development. This includes the provision of a referee who can be approached by members of the public, if they believe that information, which should be forthcoming under the code, has not been provided.

All Government Departments in England and their Agencies follow the code. The code is also commended to local authorities and private sector developers who may be promoting major infrastructure developments.

Order

This publication is available free of charge from Communities and Local Government Publications, PO Box 236, Wetherby LS23 7NB. Tel: 0870 1226 236, fax: 0870 1226 237, textphone: 0870 1207 405, email: communities@twoten.com. Please quote the product code when ordering. Delivery will be 5 to 7 days from receipt of order. A maximum quantity restriction may apply.

Alternative formats under Disability Discrimination Act (DDA): if you require this publication in an alternative format (eg Braille or audio) please email alternativeformats@communities.gsi.gov.uk quoting the title and product code/ISBN of the publication, and your address and telephone number.

Note: The above publication was issued by our former department, the Office of the Deputy Prime Minister (ODPM). ODPM became Communities and Local Government **on 5 May 2006** - all references in the text to ODPM now refer to Communities and Local Government.

Contents

[Chapter1 Introduction: Why we need a Code of Practice](#)

[Preliminary](#)

[The nature of the problem](#)

[The Parties](#)

[Information](#)

[Chapter 2 The Code of Practice: The Elements of the Code](#)

[Owners of information](#)

[Those seeking information](#)

[Compliance](#)

[Project Stages](#)

[Chapter 3 The Code of Practice: The Requirements](#)

[Rights and Responsibilities: The Promoter](#)

[Rights and Responsibilities: The local planning authority](#)

[Rights and Responsibilities: Land owners](#)

[Rights and Responsibilities: Government departments and other Crown bodies](#)

[Rights and Responsibilities: The general public](#)

[Professional services and the media](#)

[Identifying specific items of information which should be made available](#)

[Annex I](#)

[Code of Practice on Access to Government Information](#)

[Part I](#)

[Purpose](#)

[Information the Government will Release](#)

[Responses to Requests for Information](#)

[Scope](#)

[Charges](#)

[Relationship to Statutory Access Rights](#)

[Public Records](#)

[Jurisdiction of Courts, Tribunals or Inquiries](#)

[Investigation of Complaints](#)

Part II

Reasons for Confidentiality

[Go to table of contents](#)

Chapter 1

Introduction: Why we need a Code of Practice

Preliminary

1.1 A code of practice relating specifically to information about major infrastructure projects must be seen as adding to, not replacing, the existing Code of Practice on Access to Government Information (COPAGI). The full text of the COPAGI is set out in Annex I to this Code. Nothing in this new Code reduces or removes any right to information established by the COPAGI. Similarly, this new Code complements statutory rights to information, which are in all cases pre-eminent.

The nature of the problem

1.2 Anything which interrupts the normal flow of daily life, or unsettles our expectations about the course of future events, or threatens to frustrate plans we may have made, is likely to cause uncertainty, anxiety or financial loss. The event which, to some, is both unwelcome and intrusive may not realistically be preventable. But very often the uncertainty and anxiety can and should be relieved.

1.3 A construction project will often be 'unwelcome and intrusive' to some. It may be a relatively small development (a new supermarket or the conversion of an old building to a new use), or it may be substantial (a trunk road, or an airport extension, or a new railway line). It need not be a new development: the reinstatement of a lapsed use (such as the reopening of a disused railway line) may have the same effect. Although all developments confer benefits upon many people - a new shop, for instance, should benefit customers, the shopkeeper and the local economy, as well as the owner of the land - there will almost inevitably be those for whom a particular development will be unwelcome. It is a function of the local planning system to attempt to balance conflicting interests: those of the promoter to develop the infrastructure for the public's benefit; and the interests of those who may be adversely effected by the proposed project. (For convenience, the body ultimately responsible for a development will, in the rest of this Code, be referred to as 'the promoter'.)

1.4 There will be many occasions when, after hearing the arguments of all parties, the determining authority will allow a scheme to go ahead. The determining authority will be democratically accountable for its decision. However, the promoter still has responsibilities, some of which are imposed by law. It will also often be the case that the promoter's interests will coincide with the requirements of common courtesy which provide that the promoter should seek to minimise the inconvenience to those affected by the proposal or the scheme.

1.5 One means towards this end is to keep people well informed. Rumours seem only to work in one direction - to exaggerate the negative. If accurate and timely information about a proposed development (or a development which is proceeding) is not available, human nature is such that people are more likely to fear the worst than hope for the best.

1.6 This Code of Practice in Sections 2 and 3 therefore seeks to emphasise that the timely and effective dissemination of accurate information to all those who need or wish to know, at all stages in the life of a development project, is as important an element in that project as the

drawing up of the plans, or the digging of the first trench, or the ceremonial cutting of the ribbon. Furthermore, it stresses that unnecessary secrecy on the part of the promoter can cause unacceptable anxiety and concern on the part of local property owners. The aim therefore is that better information flows will reduce uncertainty, help relieve anxiety and thereby minimise the incidence of generalised blight.

1.7 But information can be a two-edged sword. The amount of 'information' generated during the course of a major infrastructure development is considerable. Much of it will have no relevance to the local property market or business profitability. Some information might well be of general interest, but its release may do so much damage to the commercial position of the promoter that compulsion to release it might compromise the promoter's ability - or willingness - to undertake the work. Yet another tranche of information, if divulged, might do disproportionate harm to one person or to a particular body of people. Another tranche still, being comprised of speculative or hypothetical propositions, might unnecessarily cause the very uncertainty which this Code is seeking to reduce. It is therefore a key task of this Code to identify the sort of information which makes up the final category: that which

- is widely relevant to those whose property interests may be adversely affected by the proposed development;
- by being made public, would not undermine the ability of the promoter to undertake a development;
- by being made public would reduce public uncertainty; but
- by being made public would not cause disproportionate disadvantage to a person or persons.

The Parties

1.8 In considering the publication of information relating to any development, there are three groups.

1.9 Those who possess information. This group may be subdivided into:

- those who *generate* information (eg a surveyor);
- those who *own* information (possibly the generator of the information, possibly the commissioner of the work which generated the information); and
- all who have *acquired* information which they neither generated nor own (possibly a local authority or a third party to whom the information has been communicated).

1.10 Of course, one person or body may generate some information, may own some information generated by another person or body, and possess some information generated and owned by a third party. But nothing can automatically be assumed about the accuracy of information held by a person or body other than the owner: even the generator of a particular

item of information may be unaware of other factors which may affect it. It is therefore appropriate that, if obligations to disclose information (or to refrain from doing so) are to be placed on anyone, they should be on the owner of that information.

1.11 Those who seek information. As explained above, this Code addresses only the problem of generalised blight and is therefore concerned solely with the effects of uncertainty operating on the property market. It is not concerned with access to information for any other purpose - whether or not there are statutory or other entitlements. This group is therefore made up of property owners and occupiers, and would-be property owners who seek information about proposals which may affect their economic interests.

1.12 Those who disseminate information. This Code is concerned with those who have legitimate cause to disseminate information: specifically, the promoter, local authorities and public agencies. The media are clearly very important players - maybe the most significant in terms of effectiveness. The media are sometimes criticised for inaccuracy, exaggeration or sensationalism in their reports. Promoters will know from experience that a tendency towards secrecy on their part will not assist the media in their task of factual reporting, any more than it will reassure local people that they have no cause for concern. However, promoters will need to decide for themselves, on a case by case basis, the appropriate response to what they may perceive to be inaccurate reporting.

1.13 There is yet another important and very influential group - those professionally involved in the local property market: estate agents and mortgage lenders. With their finger on the pulse of the local property market and their detailed knowledge of the make-up of the locality they are in a strong position to affect the way prospective purchasers perceive the area. This places upon them a moral responsibility not to amplify rumours and re-broadcast them as fact. But it also gives them a strong claim to be kept fully informed of development proposals in their area. No criticism can be levelled at a property professional - quite the opposite, in fact - who honestly reports that unrelieved anxiety and uncertainty surrounds property in a certain locality.

1.14 This Code recognises that it may not always be apparent who owns the information which is sought, particularly where that information relates to the possible consequences of a development. The responsibility for identifying the owner of any information which is being sought must lie with the seeker. However, promoters bound by this Code (and those who, although not bound, choose to adhere to its provisions) will always try to steer an enquirer to the appropriate source of information. It should also be recognised that, although public sector bodies, being bound by the COPAGI and this Code, will respond to all reasonable requests for information, there may be others not in the public sector who will, for one reason or another, not wish to abide by the terms of this new Code.

Information

1.15 'Information' is not a precise concept. Almost anything said or written (or even unsaid or unwritten) can be represented as information. The distinction is often made between 'hard' information and the rest (which may be, for instance, speculation, hypothesis or conjecture). To represent as hard information anything which is tentative is likely to cause the sort of uncertainty and anxiety which this Code seeks to dispel. By the same token, to release tentative information - even if labelled as such - does not, of itself, add to certainty, although it may be argued that it would lead to increased confidence amongst the general public if it is

perceived to demonstrate genuine openness on the part of a promoter.

Chapter 2

The Code of Practice: The Elements of the Code

Owners of information

2.1 This Code recognises that, to the extent that there is information available at any stage, it may be owned by any of the following:

- the promoter (or instigator) of the scheme;
- the developer (where this is not the promoter);
- the promoter's advisers;
- the promoter's contractors/sub-contractors;
- the promoter's financiers;
- a/the local land owner(s), who is or are not the promoter or developer;
- the local planning authority (who, as custodians of the local development plan, will have information on the wider issue of strategic development in the area); and
- one or more central government agencies, such as the Environment Agency, certain statutory undertakers and statutory consultees.

Those seeking information

2.2 This Code does not consider in any detail the information needs of the promoter, nor those of any official body which may have a statutory right to be consulted or demand information.

2.3 Those who may seek information at any stage during a major infrastructure development include:

2.3.1 members of the public, their advisors and their representatives, such as local councillors and Members of Parliament. (Given the focus of this Code, the term 'general public', in this context, is taken to mean members of the public with a financial interest in property, or those proposing to buy property in the area.);

2.3.2 local authorities (where these are not the local planning authorities); and

2.3.3 the press.

2.4 The promoter will be able to make a charge for the provision of information. There may, for example, be a standard charge for processing simple requests for information. Where a request is complex and would require extensive searches of records or processing or collation

of information, an additional charge, reflecting reasonable costs, may be notified. If the charging regime implemented by the proposed Freedom of Information Act is cheaper for members of the public, the promoter should reduce his charges to conform to the FOI regime.

Compliance

2.5 If members of the public believe that they have not received the information provided for by this Code, they should be able to apply to an independent person who has the authority to investigate complaints. The promoter would be expected to allow the appointed person (or 'referee') access to all relevant documents. He would assess the validity of the complaint and send a report of his findings to the parties. Although not enforceable in the courts, promoters will not wish to be the subject of an adverse finding. Promoters will wish to generate public support for their scheme: bad publicity of this nature will be likely to reduce it.

2.6 The referee will be appointed, preferably during Stage One (see below), and paid for by the promoter. (The referee's fee, while beyond the reach of most members of the public, would only form a small proportion of the cost of a major infrastructure project.) The referee should be nominated by a recognised dispute resolution organisation such as one of the Adjudicator Nominating Bodies for construction contracts. (Lists available from Sarah Radford, Registrar, CIC Register of Adjudicators, 26 Store Street, London WC1E 7BT: telephone 0171 637 8692, fax 0171 580 6140, email sradford@cic.org.uk or DETR Construction Industry Sponsorship Division, Eland House, Bressenden Place, London SW1E 5DU: telephone 0171 890 5529, email cis@communities.gsi.gov.uk). This should provide the public with the necessary assurances of the referee's independence.

2.7 The terms of reference and powers of the referee should be that he should:

- act in his/her personal capacity and declare any interests in the scheme;
- reach a decision within 28 days of referral, or such longer period as may be agreed;
- send a report of his findings to both parties.

In order to do this, he should:

- act, and be seen to act, impartially;
- be afforded access to any records or documents held by the promoter.

Project Stages

2.8 This Code considers the information which is generated in each stage of a project. These stages will vary in their details between types of development. Major linear transport schemes - roads and railways - are likely to have different design and planning processes than single-site developments. However, all development processes are likely to be approximately divisible into five or six identifiable stages, which are described below. It will be apparent that the scope for 'uncertainty' about a development to cause generalised blight is not evenly distributed

between the stages. Moreover, at certain stages there should be no difficulty for members of the public in gaining information because the law already gives them rights to it. This Code therefore focuses on encouraging the dissemination of appropriate information at those stages where there are currently few or no statutory rights.

2.9 Stage One: Preliminary

2.9.1 This covers the very early, formative stages in a project. First indications of future development could emerge from:

- a Government programme;
- Regional Planning Guidance (which provides the framework for strategic planning);
- a proposal in a Structure Plan/Unitary Development Plan/Local Plan;
- a strategy document drawn up by the prospective promoter;
 - a specific announcement about a project.

2.9.2 The biggest project and the smallest will each start with a general idea: maybe the perception that a need is currently unmet, or that there exists the potential for economic development. It is quite probable that, long before the land is surveyed, some discussion will take place - perhaps to test whether there really is a need which it would be economical to satisfy, or to identify land which may need to be purchased for the development. At this stage the promoter will also need to consider how the project will be financed. In some instances the promoter will instigate and encourage debate; in others, the realities of commercial dealing may lead the promoter to prefer discretion and confidentiality.

2.9.3 It is right that those who own land should be free, within the constraints imposed by law, to develop that land to its best advantage. It is also right that they should not be unduly fettered, or their commercial position undermined, by a requirement to make public every thought, every discussion and every exchange of correspondence. This also applies to promoters of schemes, such as roads or railways, who do not yet own the land they are intending to develop. To recognise this point is not to disadvantage those who may be affected by a possible future development. In giving shape to an idea, a large number of possibilities will be considered. Some of these may, after a relatively brief examination, prove to be wholly impractical or undesirable; others may be both desirable and practical - but unaffordable; and others may be floated simply to provide a comparator for an alternative. If every twist and turn along the way were to be made public it would have at least three undesirable effects:

- it would multiply uncertainty and anxiety, rather than reduce them - possibly leading to distortions in property values;
- it would inhibit the full consideration of all possible options; and
- it would inhibit entrepreneurial activity.

2.9.4 On the other hand, the vaguer the proposal, the less confident a person can be that a proposal will not turn out to his or her disadvantage. Fears and rumours, unless authoritatively and promptly dispelled, may escalate to become both exaggerated and deep-seated. It is usually to the advantage of both sides - information owner and information seeker - that fear and rumour are countered as early as possible and to the greatest extent possible, although matters of timing and comprehensiveness will always depend on the circumstances of each case.

2.9.5 It is quite possible that a proposal for a major infrastructure development will see the creation of pressure groups which will campaign against it. This, and reporting in the media, may lead to difficulties in separating fact, rumour, speculation and misinformation. Although none of this is avoidable, it should alert all parties to the possibility that rational decision making may be clouded by unhelpful and inaccurate reports by others.

2.9.6 Probably the most important characteristic of this stage is that it couples the greatest likelihood of uncertainty with the least possibility for countering it with real, hard, useful information. Such information simply may not exist in any meaningful form.

2.10 Stage Two: Option Assessment

2.10.1 By this stage the initial idea will have emerged from the preliminary, 'concept' stage, acquiring some general form, scale, timetable and public awareness. It will generally also have an identifiable promoter/developer/operator. The promoter will now start to develop options and review alternatives. There may also be informal consultations with third parties, including the local planning authority. Initial designs will be available and a scoping document for a formal Environmental Assessment may be produced. Work done at this stage will generally be in anticipation of the formal approval processes for the project.

2.10.2 Very often, the success of the proposed development is dependent to a greater or lesser extent upon the support and goodwill of the general public. In such instances, the promoter may have to accept that confidentiality will have to be sacrificed, either at Stage Two or possibly even earlier.

2.10.3 Promoters should realise that, at this stage, the general public will only be able to consider the relative merits of the possible options, and the likely effects upon their own circumstances, if all the relevant information is readily available to them.

2.11 Stage Three: Formal Procedures/Approvals

2.11.1 From this Stage onwards the balance begins to tilt away from *discretionary* dissemination of information on the part of the promoter to a *statutory right* to information on the part of the general public (in its widest sense).

2.11.2 The project will now be submitted to the relevant authorities for formal approval. The procedures for approval will vary according to the project, but could include planning permission or approval under the Transport and Works Act 1992 or the Highways Act 1980.

2.11.3 This stage will also include public consultation and public inquiries or similar examination of the proposal. All of these procedures carry with them a variety of procedural requirements which will include the provision of information to the public at certain times and in certain forms. What may vary are the number of different formal stages which the project goes through. For example:

- an outline planning application followed later by a detailed application;
- related procedures but following the granting of planning permission, eg compulsory purchase orders, road and footpath closure or diversion orders, the procedures of regulatory bodies (eg the Environment Agency);
- application to the Secretary of State for an order authorising the works and land acquisition, followed by a public inquiry to consider objections and then a decision by the Secretary of State;
- a public consultation on a road scheme followed by the publication of draft orders leading to a public inquiry and then a decision by the Secretary of State.

2.11.4 It is quite possible that these various procedures may be followed, in sequence, more than once in a sort of 'loop', taking some time to bring the project to the stage of being formally approved and therefore 'committed'.

2.12 Stage Four: Detailed Design/Pre-Construction

2.12.1 The nature of this stage - or even whether it exists at all - will depend on the project. Detailed design (to the level of detail that members of the public are likely to be concerned with) may have occurred as part of Stage Three. It may follow approval in principle (eg outline planning permission) and be the trigger for a second round of formal approval (eg detailed planning permission) in which case the project would once again pass through the Stage Three loop. The relevance of this stage may depend on the timing of construction of the project which may become extended due, perhaps, to the need to arrange the necessary finance. On balance, the extent to which 'uncertainty' at this stage is likely to cause or contribute to generalised blight is probably very small - certainly smaller and less significant than Stages One to Three and Five.

2.13 Stage Five: Construction

2.13.1 This covers the physical engineering and building work involved in the project. With detailed information on design, form and impact already available, the key areas of uncertainty are now likely to surround the actual engineering and building work. By their nature, infrastructure developments will almost inevitably involve the operation of heavy excavation and grading machines, lorries, rollers and other noisy machinery. The scope for disruption to peaceful living in the locality is obvious. So such points as the timing of construction, methods

of working, the impact of the construction activities and the detail of mitigation measures, either for the construction period itself or for the final scheme in operation, will be very important to local people.

2.13.2 There are well-established approaches for keeping the public informed, which include leaflets, advance notice, contractor's liaison, telephone hotlines and complaints procedures, which should be familiar to promoters of major projects.

2.14 Stage Six: Operation

2.14.1 Construction work will be complete. The scheme will be in use or operation. Monitoring of impacts will be possible, and this may identify differences from the forecasts or predictions made in the planning and approval process. But, crucially, there will be no significance for generalised blight - the uncertainty will have been replaced by certainty. If measurable physical effects arising from the operation or use of the new or altered works causes property depreciation (or 'injurious affection'), existing laws (Part I of the Land Compensation Act 1973) provide the means for securing compensation. The right to compensation for those who may qualify should be publicised.

Chapter 3

The Code of Practice: The Requirements

Rights and Responsibilities: The Promoter

3.1 At all stages the promoter must:

3.1.1 adhere to all statutory obligations, and obligations imposed by the COPAGI, covering the release of information;

3.1.2 carefully balance requests for information with a consideration of any distress or financial disadvantage which the release of that information might cause to an individual or a group of people;

3.1.3 make clear the status of published information: Is it fact or prediction? Is it a forecast? How was the information derived?;

3.1.4 consider any adverse effect which might be caused to the local property market by the release of information.

3.2 At stage three the promoter must:

3.2.1 submit copies of the application and accompanying plans, drawings and other documents (including draft orders where applicable) to the local planning authority or the Secretary of State, place newspaper and other notices stating where the documents may be inspected free of charge and making suitable arrangements for such public inspection, and that copying of documents will be allowed at a reasonable charge;

3.2.2 make clear the limits of deviation for transport projects;

3.2.3 give notice of the application to the owner or tenant of the land to which the application relates; and

3.2.4 submit an environmental statement where required and make it available (either free or at a reasonable charge) to the public.

3.3 At stage three (or possibly at **stage two**, if appropriate) the promoter **should**:

3.3.1 set up one or more exhibitions or information sources outlining the development where appropriate.

3.4 At all stages the promoter **should**:

3.4.1 Appoint a 'referee' who would investigate complaints of failure to provide information;

3.4.2 presume that any information requested should be made available to those with property interests which are likely to be directly affected unless, having regard to all the circumstances, harm from its publication would outweigh the benefits;

3.4.3 recognise that the expected benefits flowing from the proposed development may be accompanied, in part, by disadvantages to some individuals or sections of the community. The promoter's publicity should be balanced and refer to the means of redress mentioned below;

3.4.4 where statutory remedies may be (or may later become) available to people affected by the development, provide information on the general nature of those remedies, but advise in writing that independent advice should be obtained;

3.4.5 recognise that rumour about the proposed development may cause anxiety and stress to local people and may adversely effect the local property market;

3.4.6 recognise that public anticipation may be worse than the likely outcome;

3.4.7 recognise that rumour is an inescapable component of social interaction and that, unless enlightened (and constantly re-enlightened) by accurate information the rumour itself - no matter how inaccurate - may cause unnecessary damage;

3.4.8 recognise that public statements which describe proposals in a broad-brush way may cause concern across a much wider geographical area than the eventual development will affect;

3.4.9 recognise that a policy of openness about a proposed development is likely to cause less anxiety on the part of those affected than is a perception on the part of the public that the promoter 'has something to hide';

3.4.10 wherever possible, provide their best estimate of the timing of the various

stages through which the project will pass, although caution should be exercised because if reality is significantly different, problems can be magnified;

3.4.11 where an environmental statement is required, make available on request copies of the non-technical summary to all those with property interests which are likely to be affected, either free or at a reasonable charge;

3.4.12 be even-handed in publishing information about alternatives to a favoured option; and

3.4.13 establish at the earliest opportunity (and make known the existence of) a single contact point to whom enquiries may be addressed. This should be a designated representative, who may be contacted during office hours, can speak with authority and is well-informed.

3.5 At all stages the promoter has a right:

3.5.1 to make plans for any development not specifically prohibited by law.

3.5.2 to conduct his affairs with commercial prudence and due confidentiality;

3.5.3 to negotiate privately with land owners;

3.5.4 to decide on the appropriate medium for disseminating information;

3.5.5 to withhold information which is exempt from the general obligation of openness under Regulation 4 of The Environmental Information Regulations 1992 [1](#); and

3.5.6 to withhold information, the release of which would act to his commercial disadvantage.

Rights and Responsibilities: The local planning authority

3.6 At all stages in the history of a development (irrespective of the powers being used), the local planning authority **must** (unless to do so conflicts with the provisions of The Environmental Information Regulations 1992, or any other enactment):

3.6.1 when approached by the promoter, respect the confidentiality of any information submitted to it informally or 'in confidence';

3.6.2 provide anyone who asks - including the promoter and members of the general public - with information about the local authority's planning and development policies; and

3.6.3 provide, on request, information about the planning process, including

- the likely timetable of events, exercising due caution;

- the means by which people may comment on, or object to, any proposals;
- whether comments from the public reflect the legitimate planning considerations which can be taken into account in deciding a planning application; and
 - what elements of the proposal the general public may reasonably hope to influence.

3.7 At stage three the local planning authority **must** [2](#):

3.7.1 place on the Planning Register a copy of the application, accompanying plans and drawings, and information on the need for an environmental statement;

3.7.2 publicise the application in the local media;

3.7.3 consult statutory consultees, parish and community councils and other planning authorities, as appropriate;

3.7.4 take into account representations made in response to publication of notice of the application;

3.7.5 notify decisions on planning applications to the applicant and the owners and agricultural tenants who have made representations on an application affecting their land; and

3.7.6 enter in the Planning Register details of applications finally determined.

3.8 At all stages the local planning authority **should**:

3.8.1 take steps to ensure that it is in a position to respond to requests to disclose such information as may have been agreed with the promoter, or to provide details of the contact point established by the promoter (paragraph 3.4.13 above); and

3.8.2 supply to members of the public copies of material on the Planning Register, or permit them to make copies (either free or at a reasonable charge).

3.9 At all stages the local planning authority **has a right**:

3.9.1 to such information as may be identified by statute or which is reasonably required to enable it to discharge one or more of its statutory functions.

Rights and Responsibilities: Land owners

3.10 A land owner who is in negotiation with a promoter for the sale of an interest in land has a right to conduct his affairs in total privacy. The only obligations falling upon such a land owner are those imposed by law.

Rights and Responsibilities: Government departments and other Crown bodies

3.11 At all stages Government departments and other Crown bodies must:

3.11.1 adhere to the provisions of the Code of Practice on Access to Government Information and any other provision imposed by central government; and

3.11.2 act in full accordance with the principles of good administration, and especially the provisions of the Citizens' Charter.

Rights and Responsibilities: The general public

3.12 At all stages members of the general public and companies whose personal or commercial economic interests may be directly affected by a proposed development, **should:**

3.12.1 recognise that, unless constrained by law, land owners have a legal right to develop their own land, or make proposals for the development of land in the ownership of others;

3.12.2 declare an interest in the scheme at the earliest opportunity;

3.12.3 recognise that promoters have a right to conduct their affairs in a manner which enables them to achieve their lawful objectives and to exercise such statutory powers and fulfil such duties that they may have;

3.12.4 recognise that, in the early stages of the history of a development proposal, the promoter may have little hard information to disseminate;

3.12.5 recognise that, in the early stages, the promoter will have to narrow down a wide range of possibilities before deciding upon a relatively small number of options for detailed evaluation. Public dissemination of any discussion of these many possibilities may generate uncertainty over a wide area rather than curtail it;

3.12.6 recognise that frank and honest assessment by the promoter of all possible options is essential if the best solution is eventually to be arrived at. Any hesitation on the part of the promoter to discuss possible options on the grounds that such discussion may attract criticism would act against sound decision-making;

3.12.7 recognise the balancing role of the local planning authority between the legitimate interests of the promoter and those of local residents, businesses and other occupiers;

3.12.8 recognise that their own actions may affect the perceptions of those who might be contemplating buying property in the local market;

3.12.9 recognise that, if the project were to proceed, the formal planning processes which would follow give them certain statutory rights to make representations before planning permission can be given; and

3.12.10 recognise that requests for information which are vexatious, unreasonable or are too general (thus being too costly to answer) may be refused. Members of the public who believe that a refusal is unreasonable may apply to the referee.

3.13 Irrespective of any individual proposal for development in their area, members of the public **have the right:**

3.13.1 to contribute to the process by which a development plan for their area (which shows proposed uses of land during the life of the plan) is devised and adopted.

At Stage One members of the public **have the right:**

3.13.2 to expect the proposed promoter to establish at the earliest opportunity, and subsequently maintain, a contact point within the organisation which will respond to enquiries speedily and with courtesy;

At all stages members of the public **have the right:**

3.13.3 to expect the promoter to observe a general policy of candour and openness in respect of proposed developments which may affect the quality of life in the area generally, and the value of local properties particularly; and

3.13.4 to expect the promoter to answer questions about development proposals, except in those circumstances where to do so would infringe the promoter's rights to conduct his affairs in an efficient, reasonable and prudent way, or where disproportionate harm would be caused to other people

Professional services and the media

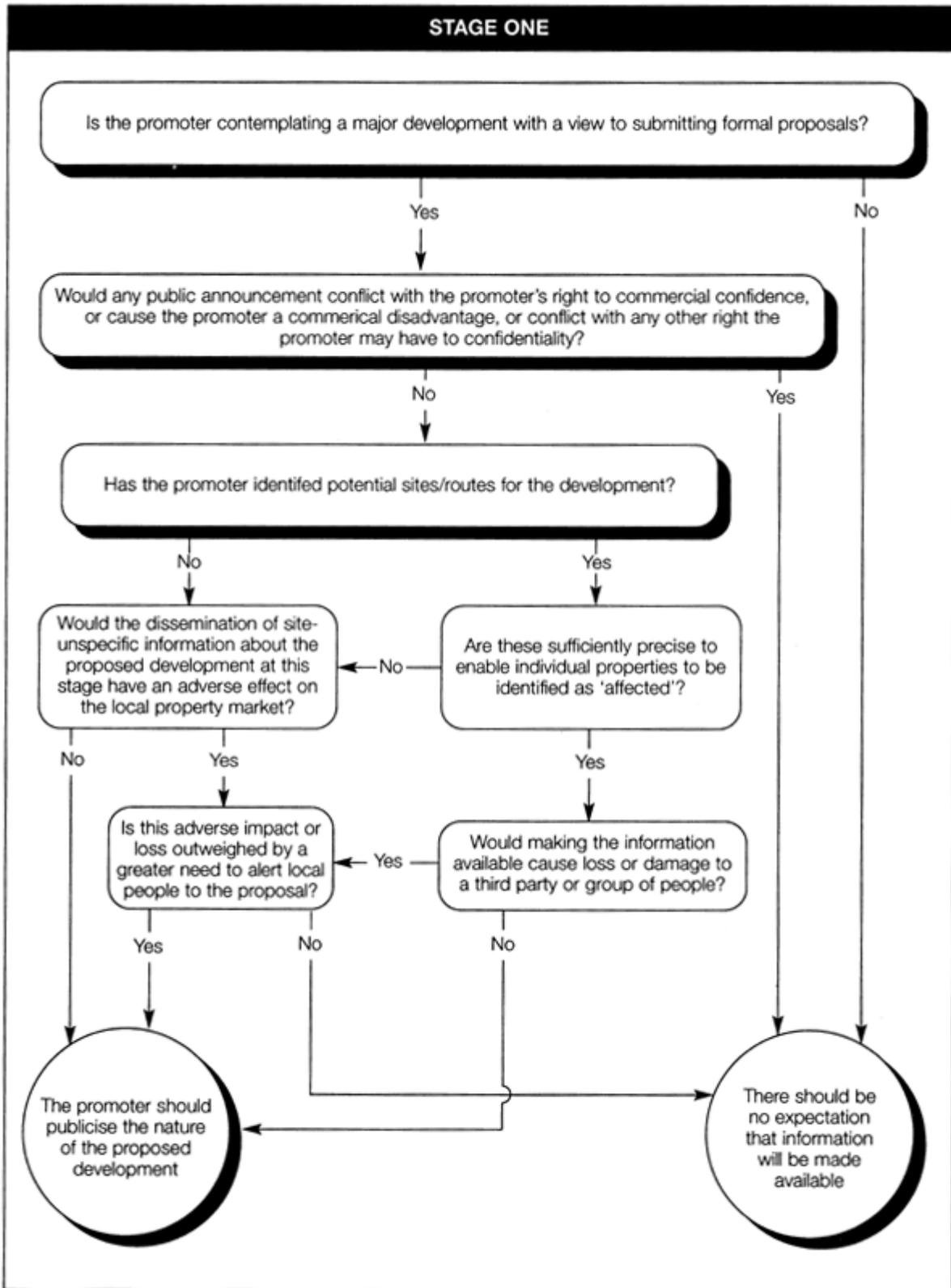
3.14 This Code cannot apply to professional services, such as estate agents, banks and building societies, surveyors and solicitors and the media as they have no formal role in the planning process. Their actions can, however, influence the extent and severity of blight: a great deal of harm can be done to property prices and the public's peace of mind if stories about proposed developments are not accurate.

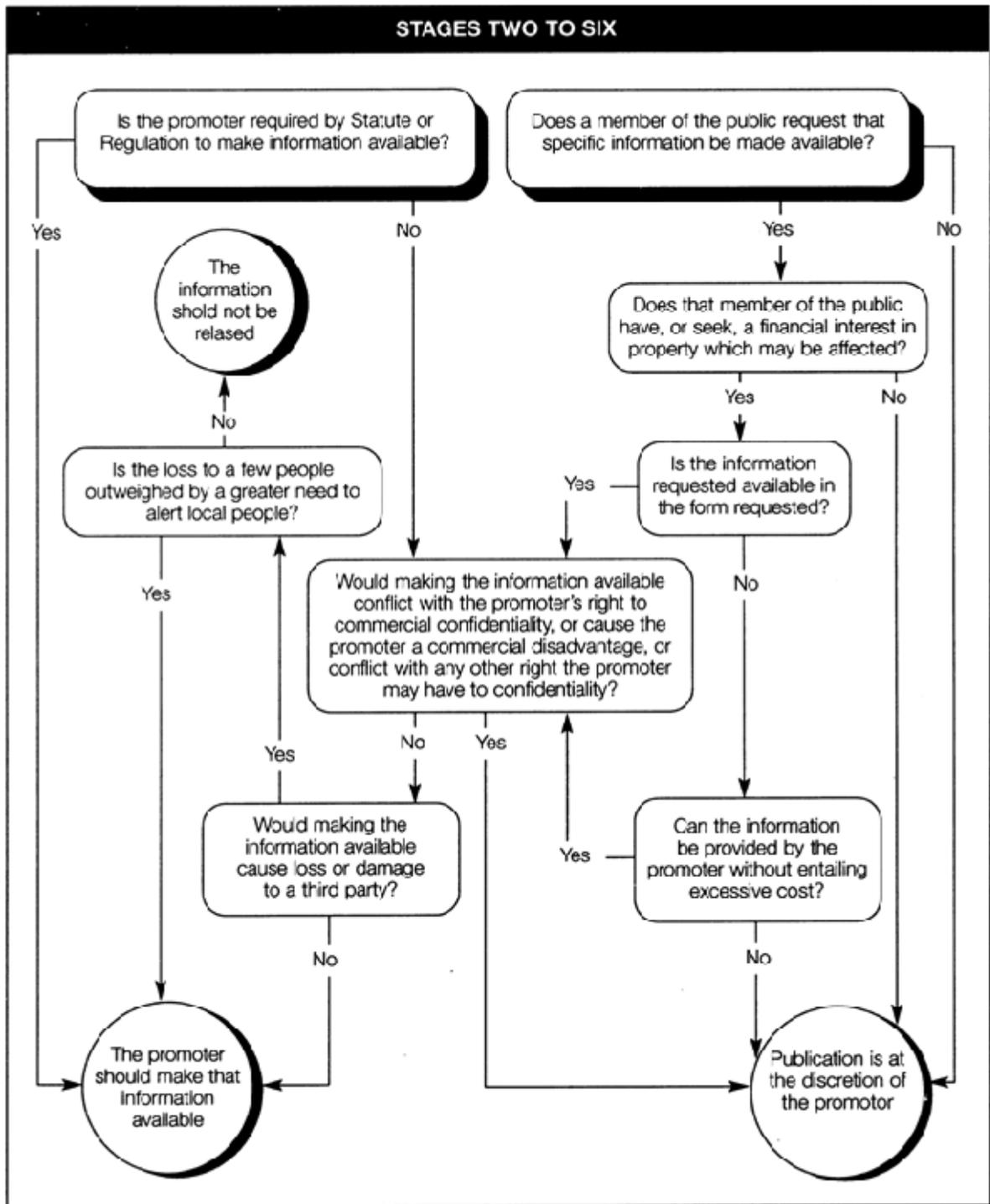
3.15 Estate agents, for example, can distort the market if they either exaggerate or play down the likelihood of a scheme taking place in a particular location in order to maximise the price of their clients' property (or even to achieve a sale at all). Legal constraints, however, make it an offence to make misleading statements about a property.

Identifying specific items of information which should be made available

3.16 It is not feasible to itemise, in a single Code, information which should be available in respect of every conceivable major infrastructure development. Instead, a flow chart showing how decisions about what information should be released during Stage One is set out [here](#). A flow chart showing how decisions about what information should be released during Stage Two and all subsequent Stages is set out [here](#).

STAGE ONE





1 The Environmental Information Regulations 1992 implement Council Directive 90/313/EEC on the freedom of access to information on the environment (OJ No L158, 23.6.90, p.56.) The Regulations are published by TSO.

2 This list of obligations falling upon the local planning authority is not complete: the authority has other statutory obligations which are not directly relevant to the issue of information dissemination.

Go to table of contents

Annex I

Code of Practice on Access to Government Information

Part I

Purpose

1. This Code of Practice supports the Government's policy under the Citizens' Charter of extending access to official information, and responding to reasonable requests for information. The approach to release of information should in all cases be based on the assumption that information should be released except where disclosure would not be in the public interest, as specified in Part II of this Code.

2. The aims of the Code are:

- to improve policy-making and the democratic process by extending access to the facts and analyses which provide the basis for the consideration of proposed policy;
- to protect the interests of individuals and companies by ensuring that reasons are given for administrative decisions, except where there is statutory authority or established convention to the contrary; and
- to support and extend the principles of public service established under the Citizens' Charter.

These aims are balanced by the need:

- to maintain high standards of care in ensuring the privacy of personal and commercially confidential information; and
- to preserve confidentiality where disclosure would not be in the public interest or would breach personal privacy or the confidences of a third party, in accordance with statutory requirements and Part II of the Code.

Information the Government will Release

3. Subject to the exemptions in Part II, the Code commits departments and public bodies under the jurisdiction of the Parliamentary Commissioner for Administration (the Ombudsman).¹

- i. to publish the facts and analysis of the facts which the Government considers relevant and important in framing major policy proposals and decisions; such information will normally be made available when policies and decisions are announced;

to publish or otherwise make available, as soon as practicable after the Code becomes operational, explanatory material on departments' dealings with the public (including such rules, procedures, internal guidance to officials, and similar administrative manuals as will assist better understanding of departmental action in dealing with the public) except where publication could prejudice any matter which should properly be kept confidential under Part II of the Code;

ii. to give reasons for administrative decisions to those affected;²

iii. to publish in accordance with the Citizens' Charter: full information about how public services are run, how much they cost, who is in charge, and what complaints and redress procedures are available; full and, where possible, comparable information about what services are being provided, what targets are set, what standards of service are expected and the results achieved;

iv. to release, in response to specific requests, information relating to their policies, actions and decisions and other matters related to their areas of responsibility.

4. There is no commitment that pre-existing documents, as distinct from information, will be made available in response to requests. The Code does not require departments to acquire information they do not possess, to provide information which is already published, or to provide information which is provided as part of an existing charged service other than through that service.

Responses to Requests for Information

5. Information will be provided as soon as practicable. The target for response to simple requests for information is 20 working days from the date of receipt. This target may need to be extended when significant search or collation of material is required. Where information cannot be provided under the terms of the Code, an explanation will normally be given.

Scope

6. The Code applies to those Government departments and other bodies within the jurisdiction of the Ombudsman (as listed in Schedule 2 to the Parliamentary Commissioner Act 1967)³. The Code applies to agencies within departments and to functions carried out on behalf of a department or public body by contractors. The Security and Intelligence Services are not within the scope of the Code, nor is information obtained from or relating to them.

Charges

7. Departments, agencies and public bodies will make their own arrangements for charging. Details of charges are available from departments on request. Schemes may include a standard charge for processing simple requests for information. Where a request is complex and would require extensive searches of records or processing or collation of information, an additional charge, reflecting reasonable costs may be notified.

Relationship to Statutory Access Rights

8. This Code is non-statutory and cannot override provisions contained in statutory rights of access to information or records (nor can it override statutory prohibitions on disclosure). Where the information could be sought under an existing statutory right, the terms of the right of access takes precedence over the Code. There are already certain access rights to health, medical and educational records, to personal files held by local authority housing and social services departments, and to personal data held on computer. There is also a right of access to environmental information. It is not envisaged that the Ombudsman will become involved in supervising these statutory rights.

The White Paper on Open Government (Cm 2290) proposed two new statutory rights to information:

- an access right to personal records, proposed in Chapter 5;
- an access right to health and safety information, proposed in Chapter 6.
- Where a statutory right is proposed but has yet to be implemented, access to relevant information may be sought under the Code, but the Code should not be regarded as a means of access to original documents or personal files.

Public Records

9. The Code is not intended to override statutory provisions on access to public records, whether over or under thirty years old. Under s12(3) of the Parliamentary Commissioner Act 1967, the Ombudsman is not required to question the merits of a decision if it is taken without maladministration by a Government department or other body in the exercise of a discretion vested in it. Decisions on public records made in England and Wales by the Lord Chancellor, or in Scotland and Northern Ireland by the Secretary of State, are such discretionary decisions.

Jurisdiction of Courts, Tribunals or Inquiries

10. The Code only applies to Government-held information. It does not apply to or affect information held by courts or contained in court documents. ("Court" includes tribunals, inquiries and the Northern Ireland Enforcement of Judgements Office). The present practice covering disclosure of information before courts, tribunals and inquiries will continue to apply.

Investigation of Complaints

11. Complaints that information which should have been provided under the Code has not been provided, or that unreasonable charges have been demanded, should be made first to the department or body concerned. If the applicant remains dissatisfied, complaints may be made through a Member of Parliament to the Ombudsman. Complaints will be investigated at the Ombudsman's discretion in accordance with the procedures provided in the 1967 Act⁴.

Part II

Reasons for Confidentiality

The following categories of information are exempt from the commitments to provide information in this Code. In those categories which refer to harm or prejudice, the presumption remains that information should be disclosed unless the harm likely to arise from disclosure would outweigh the public interest in making the information available.

References to harm or prejudice include both actual harm or prejudice and risk or reasonable expectation of harm or prejudice. In such cases it should be considered whether any harm or prejudice arising from disclosure is outweighed by the public interest in making information available.

The exemptions will not be interpreted in a way which causes injustice to individuals.

1. Defence, Security and International Relations

- a. Information whose disclosure would harm national security or defence.
- b. Information whose disclosure would harm the conduct of international relations or affairs.
- c. Information received in confidence from foreign governments, foreign courts or international organisations.

2. Internal Discussion and Advice

Information whose disclosure would harm the frankness and candour of internal discussion, including:

- proceedings of Cabinet and Cabinet committees;
- internal opinion, advice, recommendation, consultation and deliberation;
- projections and assumptions relating to internal policy analysis;
- analysis of alternative policy options and information relating to rejected policy options;
- confidential communications between departments, public bodies and regulatory bodies.

3. Communications with the Royal Household

Information relating to confidential communications between Ministers and Her Majesty the Queen or other Members of the Royal Household, or relating to confidential proceedings of the Privy Council.

4. Law Enforcement and Legal Proceedings

Information whose disclosure could prejudice the administration of justice (including fair trial), legal proceedings or the proceedings of any tribunal, public inquiry or other formal investigations (whether actual or likely) or whose disclosure is, has been, or is likely to be addressed in the context of such proceedings.

Information whose disclosure could prejudice the enforcement or proper administration of the

law, including the prevention, investigation or detection of crime, or the apprehension or prosecution of offenders.

Information relating to legal proceedings or the proceedings of any tribunal, public inquiry or other formal investigation which have been completed or terminated, or relating to investigations which have or might have resulted in proceedings.

Information covered by legal professional privilege.

Information whose disclosure would harm public safety or public order, or would prejudice the security of any building or penal institution.

Information whose disclosure could endanger the life or physical safety of any person, or identify the source of information or assistance given in confidence for law enforcement or security purposes.

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

5. Immigration and Nationality

Information relating to immigration, nationality, consular and entry clearance cases. However, information will be provided, though not through access to personal records, where there is no risk that disclosure would prejudice the effective administration of immigration controls or other statutory provisions.

6. Effective Management of the Economy and Collection of Tax

a. Information whose disclosure would harm the ability of the Government to manage the economy, prejudice the conduct of official market operations, or could lead to improper gain or advantage.

b. Information whose disclosure would prejudice the assessment or collection of tax, duties or National Insurance contributions, or assist tax avoidance or evasion.

7. Effective Management and Operations of the Public Service

a. Information whose disclosure could lead to improper gain or advantage or would prejudice:

- the competitive position of a department or other public body or authority;
- negotiations or the effective conduct of personnel management, or commercial or contractual activities;
- the awarding of discretionary grants.

b. Information whose disclosure would harm the proper and efficient conduct of the operations of a department or other public body or authority, including NHS organisations, or of any

regulatory body.

8. Public Employment, Public Appointments and Honours

Personnel records (relating to public appointments as well as employees of public authorities) including those relating to recruitment, promotion and security vetting.

Information, opinions and assessments given in confidence in relation to public employment and public appointments made by Ministers of the Crown, by the Crown on the advice of Ministers or by statutory office holders.

Information, opinions and assessments given in relation to recommendations for honours.

9. Voluminous or Vexatious Requests

Requests for information which are vexatious or manifestly unreasonable or are formulated in too general a manner, or which (because of the amount of information to be processed or the need to retrieve information from files not in current use) would require unreasonable diversion of resources.

10. Publication and Prematurity in Relation to Publication

Information which is or will soon be published, or whose disclosure, where the material relates to a planned or potential announcement or publication, could cause harm (for example, of a physical or financial nature).

11. Research, Statistics and Analysis

a. Information relating to incomplete analysis, research or statistics, where disclosure could be misleading or deprive the holder of priority of publication or commercial value.

b. Information held only for preparing statistics or carrying out research, or for surveillance for health and safety purposes (including food safety), and which relates to individuals, companies or products which will not be identified in reports of that research or surveillance, or in published statistics.

12. Privacy of an Individual

Unwarranted disclosure to a third party of personal information about any person (including a deceased person) or any other disclosure which would constitute or could facilitate an unwarranted invasion of privacy.

13. Third Party's Commercial Confidences

Information including commercial confidences, trade secrets or intellectual property whose unwarranted disclosure would harm the competitive position of a third party.

14. Information Given in Confidence

a. Information held in consequence of having been supplied in confidence by a person who:

- gave the information under a statutory guarantee that its confidentiality would be protected; or
- was not under any legal obligation, whether actual or implied, to supply it, and has not consented to its disclosure.

b. Information whose disclosure without the consent of the supplier would prejudice the future supply of such information.

c. Medical information provided in confidence if disclosure to the subject would harm their physical or mental health, or should only be made by a medical practitioner.

15. Statutory and Other Restrictions

Information whose disclosure is prohibited by or under any enactment, regulation, European Community law or international agreement.

Information whose release would constitute a breach of Parliamentary Privilege.

1 In Northern Ireland, The Parliamentary Commissioner for Administration and the Commissioner for Complaints.

2 There will be a few areas where well-established convention or legal authority limits the commitment to give reasons, for example certain decisions on merger and monopoly cases or on whether to take enforcement action.

3 In Northern Ireland the Code applies to public bodies under the jurisdiction of the Northern Ireland Parliamentary Commissioner for Administration and the Commissioner for Complaints, with the exception of local government and health and personal social services bodies, for which separate arrangements are being developed as in Great Britain. Some Northern Ireland departments and bodies are expressly subject to the jurisdiction of the Parliamentary Commissioner under the 1967 Act.

4 Separate arrangements will apply in Northern Ireland.

