



**St Helena
Government**

Public Access to SHG Information *Code of Practice*



1 September 2014
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PUBLIC ACCESS TO SHG INFORMATION

CODE OF PRACTICE

Background

SHG is committed to providing accurate and timely information to the public in accordance with the principles of open and transparent government. It achieves this in many ways through the routine provision and publishing of public information and by interaction with the media.

This paper addresses and refines the existing procedure already in place to deal with public requests for SHG information *where it is not already available by other means*. Any member of the public can already request information held by SHG, and such requests are normally directed to the relevant Directorate. **This Code of Practice refines that approach, and offers a central enquiry point.**

The code is not designed to replace the handling of routine requests - for example, requests from the media or public - where these can be dealt with simply and quickly by communication through telephone, e-mail or face to face. This code doesn't change that - it relates only to requests from the public for information held by SHG *where it is not already available by other means*.

The Code of Practice for Public Access to SHG Information is guided by the following principles:

- A corporate approach
- A culture of accessibility
- A presumption of disclosure
- Continuation of proactive regular dissemination of public information
- Effective record management

Information will be provided unless one or more of the Exceptions listed in this code applies.

St Helena Government also recognises that, like all governments and notwithstanding the presumption of disclosure if the balance is in favour of public interest, SHG will need to keep some information confidential and has a duty to protect the proper privacy of those it concerns. Whilst transparency and accountability are important, there are circumstances where confidentiality between the SHG and third parties will be respected.

Scope

This code of practice applies to all information held with proprietary rights by SHG, regardless of who produced or supplied the information and subject to the exceptions listed herein.

The code of practice acknowledges that SHG is a small organisation and has limited resources that need to be focused on service delivery. Where requests are voluminous or start to significantly impact on the ability of SHG to operate effectively, then SHG's overriding responsibility is for service delivery. This is dealt with in the exceptions.

The code does not require SHG to acquire information that it does not already possess, to provide information which is already published, to provide information which SHG does not consider to be reliable or to provide material that is covered by an exception.

As stated above, the *Code of Practice for Public Access to SHG Information* does not replace the handling of routine day to day requests to Government. These will continue to be dealt with simply and quickly through the normal channels.

Responsibilities

All SHG employees should ensure that any request they receive from the public for information made under *the Code of Practice for Public Access to SHG Information* is dealt with in compliance with this code of practice.

In future, all such requests for SHG information should be sent, in writing, directly to the Executive Manager Corporate Services, SHG, at the Castle, or by e-mail to: informationrequest@sainthelena.gov.sh. Requests should state that they are being made 'under the Code of Practice for Public Access to SHG Information.'

The Executive Manager Corporate Services will acknowledge receipt within 3 working days of receiving such a written request, and will co-ordinate the response with the appropriate SHG Directorate.

The Executive Manager Corporate Services will also record and collate data on the number and type of requests made under the Code of Practice.

Making and Dealing with Requests

Councillors will provide advice and assistance where needed to help people who wish to make requests under this procedure.

Written requests for information received by SHG via post, email or other means stating that they are made ‘under the Code of Practice for Public Access to SHG Information’ will be treated under this code in cases where the information is not already publicly available by other means. In cases where the information is already in the public domain, SHG will indicate where it can be found.

Applicants making requests must clearly identify themselves by providing their real name and an address for correspondence (email and/or postal). The request should be made in clear and simple language. The requester should consider how broad the request is and seek to limit the question to focus on the information actually wanted. This will help to limit the use of staff resources on researching and providing information that is not wanted.

SHG aims to respond to all requests within a period of 20 working days following receipt by the Executive Manager Corporate Services of a valid written request under the code.

This timescale can be extended for a maximum of another 20 working days, where compliance within 20 working days would unreasonably interfere with the activities of SHG, for example where the request requires consultation with a specific officer or with third parties. Such extensions will be the exception, and applicants will be kept fully informed.

If the request or the identity of the requester is unclear, we will seek clarification before proceeding. Any response times indicated under this code of practice run from the day when a clear request with a fully identifiable requester is received by the Executive Manager Corporate Services and, where a payment is due (for example for copies), within 20 days of the day such payment is made.

Information will normally be provided electronically and free of charge where possible. But where an applicant requests information in a particular form (for example, on paper, or where scanning is needed, or for inspection of the information at SHG offices etc), SHG will comply where it is reasonably practicable, taking into account the cost and resource implications, and charging where justified.

SHG reserves the right to levy a charge for information - for example in cases involving a great deal of copying. Charges under these circumstances will be calculated at a rate of 30p per sheet of A4 for photocopying. If there is to be a charge to provide the information, applicants will be informed as soon as possible to see if they wish to proceed and SHG will seek payment in advance. If the applicant wishes to proceed, payment must be received before commencement of the 20 working days timeframe.

SHG reserves the right to refuse requests where the time required to provide the information exceeds more than one full day of an officer’s time (as estimated by the Directorate involved). This is dealt with in the exceptions.

Where we estimate that complying with a request will take more than one day of an officer's time, we will decline and inform the applicant of the reason. When estimating the time taken to respond to requests, the following will be taken into consideration:

- Locating the information or documents containing the information
- Retrieving and extracting such information or documents
- Redacting information covered by an exception
- Drafting the response based on the information obtained.

Redaction is the separation of disclosable material from non-disclosable information by blocking out individual words, sentences or paragraphs, or by the removal of pages or sections prior to release of a document. A clear explanation of why the information is being withheld will be provided to the requester, including reference to the main exception applying.

Exceptions will be applied where appropriate (as set out below) to ensure that information not suitable for public release is protected. Where only part of the information in a record is covered by an exception, this will be excluded or redacted – and the rest of the information will be disclosed.

By making a request under *the Code of Practice for Public Access to SHG Information*, the requester automatically consents to SHG publishing on its website and at its discretion any substantive answers given. Requests and substantive answers so published will not carry the name of the requester unless that party specifically asks for their identity to be disclosed.

Appeals

Anyone who has made a request for information to SHG under the Code of Practice for Public Access to SHG Information is entitled to request an internal review if they are unhappy with the response to their request. Any internal review will be carried out by a senior officer not involved with the original request, who will consider whether or not the request was dealt with appropriately and in accordance with this code of practice.

Applicants wishing to ask for an internal review must do so within 20 working days of the date of receipt of SHG's full response to their request. SHG will in turn respond to requests for internal reviews within 20 working days of receipt of the request.

EXCEPTIONS

A request for information under this code of practice can be refused where:

- *The information requested is not actually held by SHG*
- *The information is already available in the public domain*

- *The handling of the request will substantially and negatively impact SHG service delivery*
- *The request would take a disproportionate amount of staff time to answer (more than one day's time for one officer)*
- *Information that would be disclosed would be likely to put the physical or mental health or safety of any individual, or group of individuals, at risk or at greater risk. For this exception to apply, the information that would be disclosed does not necessarily include naming an individual*
- *The information could be likely to allow individuals to be identified, where there is a legitimate and reasonable expectation that their identity should remain confidential*
- *The information was provided to SHG In Confidence*
- *Disclosure could harm public safety or public order*
- *Disclosure could or could be likely to jeopardise the Island's security, either from internal or external threats*
- *The information has been obtained in confidence from the United Kingdom, another State or international organisation and where to disclose it would, or would be likely to, prejudice relations with that State or international organisation*
- *Disclosure would be contrary to the laws of St Helena*
- *The information could or could be likely to prejudice someone's legitimate commercial interests or where disclosure could lead to improper gain or advantage or would prejudice the competitive position of a public or private body*
- *The information is already scheduled for publication within the next six months. This is to ensure that SHG has the freedom to determine its own publication timetables*
- *The information is privileged under Standing Orders in Legislative Council*
- *The information is official written advice to any ExCo member, confidentially given between parties, where disclosure would, or would be likely to, harm the frankness and candour of internal discussion, including opinion, advice, recommendation and deliberation not part of an Open ExCo agenda item*
- *Disclosure would, or would be likely to, prejudice the effective formulation or development of Government policy or by premature disclosure of developing*

policy, undermine the deliberative process in a public body by inhibiting the free and frank provision of advice or exchange of views, thus frustrating policy making

- *Disclosure would, or would be likely to, undermine the effectiveness of an auditing or testing procedure used by a public body, or breach the duty of trust and confidentiality between the auditor and the body subject to audit*

- *Disclosure would, or would be likely to, prejudice:*
 - *the administration of justice*
 - *the prevention or detection of crime*
 - *the apprehension or prosecution of offenders*
 - *the assessment by a public body of whether civil or criminal proceedings, or regulatory action pursuant to any enactment, would be justified*
 - *the assessment or collection of any tax or duty, or*
 - *the operation of immigration controls*

- *The request is vexatious. Under this code, a vexatious request is a frivolous or malicious one, deliberately intended to cause, without sufficient public interest grounds, distress, disruption or worry to any party. A vexatious request is also one where the underlying purpose of the request is judged to be not that of obtaining the information, but rather to obstruct or frustrate the work of a public authority*

- *The request repeats a previous request from the same or another applicant. In the latter case, the original answer will be given.*

In all cases, SHG reserves the right to withhold information as per these exceptions and for any other valid and stated public interest reason not so listed. Whenever a request for information is refused, SHG will provide a reason for the refusal.

However, the general principle is that information will be released unless the harm to the interest protected by the exception outweighs any public interest in disclosure. Public interest here equates to the fundamental rights and freedoms set out in the St Helena Constitution.

SHG

1 September 2014