

**Hong Kong Examinations and Assessment Authority**  
**Code on Access to Information**  
**Introduction**

The Hong Kong Examinations and Assessment Authority (“the Authority”) is a statutory body responsible for planning, conducting, developing and administering public examinations and assessments in Hong Kong. It also assists in administering international and professional examinations.

This Code defines the scope of information that may be provided to members of the public, sets out how the information may be made available either routinely or in response to a request, and lays down procedures governing its release.

The Code authorises and requires employees of the Authority, routinely or on request, to provide information unless there are specific reasons for not doing so. These reasons are set out in Part 2 and will normally be referred to if a request for information is refused.

Requests for information will be handled as promptly and helpfully as possible. If necessary, members of the public may be approached to clarify their requests. Procedures will be kept as simple as practicable.

The Code also sets out procedures for review or complaint if a member of the public considers that the provisions of the Code have not been properly applied.

The Authority shall be responsible for the interpretation of the Code.

***Part 1***  
**Provision of Information**

**Information to be published or made available routinely**

1.1 The Authority will publish, or make available for inspection at its offices and/or on its website, the following information:

- (a) details of the organization of the Authority and its services;
- (b) service pledges of the Authority and the extent to which they have been

met;

- (c) a list of information published or made available to the public (free of charge);
- (d) a list of information published or made available to the public (at a cost);
- (e) the procedures and any charges for access to information.

### **Information to be provided on request**

- 1.2 The Authority will also, on request, provide additional information relating to its activities and other matters falling within its area of responsibility, except that requests for information in the areas listed in Part 2 may be refused.

### **Legal obligations and restrictions**

- 1.3 The Code is administrative in nature and does not affect statutory rights of access to information. Equally the Code does not affect legal restrictions on access to information whether these are statutory prohibitions (including but not limited to the provisions in the Personal Data (Privacy) Ordinance and the Hong Kong Examinations and Assessment Authority Ordinance), or obligations arising under any applicable law, contractual arrangement or international agreement which applies to Hong Kong or the Authority.

## **Procedures**

### **Access to Information Officer**

- 1.4 The Authority has designated an Access to Information Officer who will be responsible for ensuring the requests for access to information under the Code are properly dealt with in accordance with the specified procedures.

### **Requests for information**

- 1.5 Requests for information or records may be made in writing by completing the Authority's prescribed [application form](#).

- 1.6 The [application form](#) can be downloaded from the webpage of the Authority. The application forms are also obtainable from the Authority's offices at Southorn Centre, Wan Chai and San Po Kong. The completed application form should be addressed to:

Access to Information Officer  
Hong Kong Examinations and Assessment Authority  
7th Floor,  
Sunlight Tower,  
248 Queen's Road East,  
Wan Chai,  
Hong Kong

- 1.7 The completed application form can also be sent to the Authority's e-mail address: [info@hkeaa.edu.hk](mailto:info@hkeaa.edu.hk)
- 1.8 For enquiries, please call (852) 3628 8808 during office hours.
- 1.9 For information related to personal data, please refer to the "[Application Guide on Data Access Requests](#)" for details.

### **Responses to requests for information**

- 1.10 Responses to requests for information will be given as quickly as possible.
- 1.11 Where a request cannot adequately be met by provision of a standard leaflet, form, etc., the information may be given in one of the following forms:
- (a) a copy of the relevant record or part thereof;
  - (b) a transcript of the relevant record or part thereof;
  - (c) affording a reasonable opportunity to inspect, hear or view the relevant record or part thereof; or
  - (d) a summary or description of the relevant record or part thereof.

So far as possible, information will be provided in the form in which it exists. Where disclosure of certain information in a record is to be refused, access will normally be provided to the remaining part of the record.

1.12 The Code does not oblige the Authority to:-

- (a) acquire information not in its own possession;
- (b) create or compile a record or information which does not exist;
- (c) provide on request information which is already published, whether free or at a charge; or
- (d) provide information available through an existing charged service.

Where possible, the applicant for information will be directed to the appropriate source of the information.

### **Target response times**

1.13 Where possible, information will be made available within 10 working days of receipt of a completed application form and the requisite payment (if any). If that is not possible, the applicant will be so advised by an interim reply within 10 working days of receipt of the request. The target response time will then be 21 working days from receipt of the request.

1.14 If a request is to be refused, the applicant will be so informed within the timeframe set out in paragraph 1.13 above.

1.15 Response may be deferred beyond 21 working days due to exceptional or other reasonable circumstances, which should normally be explained to the applicant. Any deferral should not normally exceed a further 30 working days.

1.16 These targets may be extended if necessary to accommodate the third party procedures set out in paragraphs 1.17 and 1.18, or where the applicant fails to pay any charges levied in accordance with paragraph 1.20 or fails to provide sufficient details for identifying the information.

## **Third Party Information**

### **Procedures and timeframe**

1.17 Where information requested is held for, or was provided by, a third party under an explicit or implicit understanding that it would not be further disclosed, but the Authority considers that such information is disclosable under the Code, the Authority may if reasonably practicable so approach the third party to check whether the latter is willing to consent to, or make representations against, disclosure. The third party will be asked to respond within 30 working days or such reasonable longer period as he may be granted on request.

1.18 On receipt of consent in writing from the third party, the information may be disclosed.

### **Charges**

1.19 Processing requests for information may require additional resources and the Authority therefore may require payment for this service. The information will be released after the requisite payment has been made.

1.20 Other than publications which are available free of charge, or at cost specified, photocopying charge (black and white photocopy on A3 or A4 size paper with or without enlarging) of HK\$1.0 per side will normally be levied. The charge may be subject to revision by the Authority from time to time.

### **Review**

1.21 Any person who believes that the Authority has failed to comply with any provision of the Code in processing his or her application may ask the Authority to review the application. The request for review will be considered by the Secretary General and Directors of the Authority. The target response times set out in paragraphs 1.13 to 1.16 above also apply to requests for review.

1.22 Any person who believes that the Authority has failed to properly apply any provision of the Code may also complain to The Ombudsman.

## *Part 2*

### **Information which may be refused**

- 2.1 The Authority 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, taking into account factors such as the potentially sensitive nature of examinations and assessment administered by the Authority and the secrecy provision under the Hong Kong Examinations and Assessment Authority Ordinance. In such cases the Authority will consider whether the public interest in disclosure of the information outweighs any harm or prejudice that could result.

### **Security and safety of the Authority's staff, properties and premises**

- 2.3 Information the disclosure of which could harm or prejudice the security or safety of the Authority's staff, properties and premises.

### **Secrecy, integrity, reliability and conduct of examinations and assessments administered by the Authority**

- 2.4 Information the disclosure of which could harm or prejudice the secrecy, integrity, reliability or conduct of examinations or assessments administered by the Authority, including but not limited to information the disclosure of which could be misleading or harm or prejudice the proper conduct of examinations or assessments.

### **External relations**

- 2.5 Information received in confidence from or conveyed in confidence to government entities or departments, courts, regulatory or enforcement authorities, professional or educational entities or institutions, or any other bodies, persons or organizations, whether local or overseas.

## **Law enforcement, legal proceedings, public safety and security**

- 2.6 (a) Information the disclosure of which could harm or prejudice the administration of justice, including the conduct of any trial and the enforcement or administration of the law.
- (b) Information the disclosure of which could 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 the disclosure of which could harm or prejudice the prevention, investigation and detection of crime and offences, or the apprehension or prosecution of offenders.
- (f) Information the disclosure of which could harm or prejudice the preservation of the peace, public safety or order, the preservation of property or the security of Hong Kong.
- (g) Information the disclosure of which 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 the enforcement or administration of the law.

## **Management and operation of the Authority**

- 2.7 (a) Information the disclosure of which could harm or prejudice the negotiations, commercial or contractual activities of the Authority, including (but not limited to) information related to tenders, discretionary

grants or ex-gratia payments by the Authority.

- (b) Information the disclosure of which could harm or prejudice the competitive or financial position or the property interests of the Authority.
- (c) Information the disclosure of which could harm or prejudice the proper and efficient conduct of the operations of the Authority.
- (d) Information which could only be made available by unreasonable diversion of the Authority's resources.

### **Internal discussion and advice**

- 2.8 (a) Papers for and records of meetings and deliberations of the Authority's Council, its Secretariat, management, standing committees, sub-committees, working groups and panels and correspondence with members of the Council, its Secretariat, management, standing committees, sub-committees, working groups and panels.
- (b) Information the disclosure of which may inhibit the frankness and candour of discussion within the Authority, and advice given to or by the Authority. Such information would include (but not limited to):
- (i) drafts of papers or other documents circulated within the Authority for discussion;
  - (ii) papers, records, reports, correspondence, notes, opinions, advice, recommendations, consultations and deliberations by staff of, or advisers to, the Authority;
  - (iii) papers, reports, opinions, advice and recommendations provided in confidence from a third party to the Authority or to a third party by the Authority;
  - (iv) papers for and records of discussion at any internal meeting of the Authority.

- (c) Records, papers, documents and information mentioned in paragraph 2.8 (a) and (b) above shall include records and information in whatever form, including without limitation, computer records and email exchanges.

### **Information relating to complaints or enquiries**

2.9 Information which relates to complaints lodged with, or enquiries made of, the Authority, the disclosure of which would harm or prejudice or otherwise adversely affect the handling, investigation and/ or remedying of such matters by the Authority.

### **Staff employment and public appointments**

2.10 Information the disclosure of which could harm or prejudice the employment or management of the Authority's staff, advisers, contractors or service providers, or the appointment to the Council, the Secretariat or any of its standing committees, sub-committees, working groups and panels.

### **Improper gain or advantage**

2.11 Information the disclosure of which could lead to improper gain or advantage.

### **Research, statistics and analysis**

2.12 (a) Information relating to incomplete or other analysis, research, reports, working papers, data or statistics, including but not limited to information or data relating to examination scores, marks, marking, grading and the assessment process, where disclosure could be misleading, deprive the Authority or any other person of priority of publication or affect its commercial or strategic value or its proper assessment or interpretation.

(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**

- 2.13 (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 in writing.
- (b) Information provided in confidence by a third party if disclosure to the subject of information could 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**

2.14 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 required or authorized by law.

### **Business affairs**

2.15 Information including commercial, financial, scientific or technical confidences, trade secrets or intellectual property the disclosure of which could harm the competitive or financial position of the Authority or any other persons.

### **Premature requests**

2.16 Information which will soon be published, or the disclosure of which would be premature in relation to a planned announcement or publication of the same or similar information.

## **Legal restrictions**

2.17 Information the disclosure of which may constitute: -

- (a) a contravention of any law which applies in Hong Kong or in any other jurisdiction; or
- (b) a breach of any obligation arising under any applicable law, contractual arrangement or international agreement which applies to Hong Kong or the Authority; or
- (c) a contravention of the Hong Kong Examinations and Assessment Authority Ordinance, including but not limited to Section 15 “Secrecy”.

July 2018