



# Freedom of Information Act 2000

## 2000 CHAPTER 36

### PART III

#### GENERAL FUNCTIONS OF SECRETARY OF STATE, LORD CHANCELLOR AND INFORMATION COMMISSIONER

#### **45 Issue of code of practice by Secretary of State**

- (1) The Secretary of State shall issue, and may from time to time revise, a code of practice providing guidance to public authorities as to the practice which it would, in his opinion, be desirable for them to follow in connection with the discharge of the authorities' functions under Part I.
- (2) The code of practice must, in particular, include provision relating to—
  - (a) the provision of advice and assistance by public authorities to persons who propose to make, or have made, requests for information to them,
  - (b) the transfer of requests by one public authority to another public authority by which the information requested is or may be held,
  - (c) consultation with persons to whom the information requested relates or persons whose interests are likely to be affected by the disclosure of information,
  - (d) the inclusion in contracts entered into by public authorities of terms relating to the disclosure of information, and
  - (e) the provision by public authorities of procedures for dealing with complaints about the handling by them of requests for information.
- (3) The code may make different provision for different public authorities.
- (4) Before issuing or revising any code under this section, the Secretary of State shall consult the Commissioner.
- (5) The Secretary of State shall lay before each House of Parliament any code or revised code made under this section.

#### **46 Issue of code of practice by Lord Chancellor**

- (1) The Lord Chancellor shall issue, and may from time to time revise, a code of practice providing guidance to relevant authorities as to the practice which it would, in his opinion, be desirable for them to follow in connection with the keeping, management and destruction of their records.
- (2) For the purpose of facilitating the performance by the Public Record Office, the Public Record Office of Northern Ireland and other public authorities of their functions under this Act in relation to records which are public records for the purposes of the Public Records Act 1958 or the Public Records Act (Northern Ireland) 1923, the code may also include guidance as to—
  - (a) the practice to be adopted in relation to the transfer of records under section 3(4) of the Public Records Act 1958 or section 3 of the Public Records Act (Northern Ireland) 1923, and
  - (b) the practice of reviewing records before they are transferred under those provisions.
- (3) In exercising his functions under this section, the Lord Chancellor shall have regard to the public interest in allowing public access to information held by relevant authorities.
- (4) The code may make different provision for different relevant authorities.
- (5) Before issuing or revising any code under this section the Lord Chancellor shall consult—
  - (a) the Secretary of State,
  - (b) the Commissioner, and
  - (c) in relation to Northern Ireland, the appropriate Northern Ireland Minister.
- (6) The Lord Chancellor shall lay before each House of Parliament any code or revised code made under this section.
- (7) In this section “relevant authority” means—
  - (a) any public authority, and
  - (b) any office or body which is not a public authority but whose administrative and departmental records are public records for the purposes of the Public Records Act 1958 or the Public Records Act (Northern Ireland) 1923.

#### **47 General functions of Commissioner**

- (1) It shall be the duty of the Commissioner to promote the following of good practice by public authorities and, in particular, so to perform his functions under this Act as to promote the observance by public authorities of—
  - (a) the requirements of this Act, and
  - (b) the provisions of the codes of practice under sections 45 and 46.
- (2) The Commissioner shall arrange for the dissemination in such form and manner as he considers appropriate of such information as it may appear to him expedient to give to the public—
  - (a) about the operation of this Act,
  - (b) about good practice, and
  - (c) about other matters within the scope of his functions under this Act,and may give advice to any person as to any of those matters.

- (3) The Commissioner may, with the consent of any public authority, assess whether that authority is following good practice.
- (4) The Commissioner may charge such sums as he may with the consent of the Secretary of State determine for any services provided by the Commissioner under this section.
- (5) The Commissioner shall from time to time as he considers appropriate—
  - (a) consult the Keeper of Public Records about the promotion by the Commissioner of the observance by public authorities of the provisions of the code of practice under section 46 in relation to records which are public records for the purposes of the Public Records Act 1958, and
  - (b) consult the Deputy Keeper of the Records of Northern Ireland about the promotion by the Commissioner of the observance by public authorities of those provisions in relation to records which are public records for the purposes of the Public Records Act (Northern Ireland) 1923.
- (6) In this section “good practice”, in relation to a public authority, means such practice in the discharge of its functions under this Act as appears to the Commissioner to be desirable, and includes (but is not limited to) compliance with the requirements of this Act and the provisions of the codes of practice under sections 45 and 46.

#### **48 Recommendations as to good practice**

- (1) If it appears to the Commissioner that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with that proposed in the codes of practice under sections 45 and 46, he may give to the authority a recommendation (in this section referred to as a “practice recommendation”) specifying the steps which ought in his opinion to be taken for promoting such conformity.
- (2) A practice recommendation must be given in writing and must refer to the particular provisions of the code of practice with which, in the Commissioner’s opinion, the public authority’s practice does not conform.
- (3) Before giving to a public authority other than the Public Record Office a practice recommendation which relates to conformity with the code of practice under section 46 in respect of records which are public records for the purposes of the Public Records Act 1958, the Commissioner shall consult the Keeper of Public Records.
- (4) Before giving to a public authority other than the Public Record Office of Northern Ireland a practice recommendation which relates to conformity with the code of practice under section 46 in respect of records which are public records for the purposes of the Public Records Act (Northern Ireland) 1923, the Commissioner shall consult the Deputy Keeper of the Records of Northern Ireland.

#### **49 Reports to be laid before Parliament**

- (1) The Commissioner shall lay annually before each House of Parliament a general report on the exercise of his functions under this Act.
- (2) The Commissioner may from time to time lay before each House of Parliament such other reports with respect to those functions as he thinks fit.