

CONTROLLING OFFICER'S REPLY**HAB300****(Question Serial No. 4872)**Head: (95) Leisure and Cultural Services DepartmentSubhead (No. & title): (-) Not SpecifiedProgramme: Not SpecifiedControlling Officer: Director of Leisure and Cultural Services (Vincent LIU)Director of Bureau: Secretary for Home AffairsQuestion:

Regarding Head (95) Leisure and Cultural Services Department's work in relation to the Code on Access to Information, will the Government advise this Committee on the following:

- 1) Concerning the requests for information under the Code on Access to Information received by the Leisure and Cultural Services Department (LCSD) from October 2018 to present for which only some of the required information was provided, please state in table form: (i) the content of the requests for which only some of the required information was provided; (ii) the reasons for providing some of the information only; (iii) whether the decision on withholding some of the information was made at the directorate (D1 or D2) level (according to paragraph 1.8.2 of the Guidelines on Interpretation and Application); (iv) whether the decision on withholding some of the information was made subject to a "harm or prejudice test", i.e. whether the public interest in disclosure of such information outweighs any harm or prejudice that could result from disclosure (according to paragraph 2.1.1 of the Guidelines on Interpretation and Application)? If yes, please provide the details of how the requests were eventually handled.

From October to December 2018

(i) Content of the requests for which only some of the required information was provided	(ii) Reasons for providing some of the information only	(iii) Whether the decision on withholding some of the information was made at the directorate (D1 or D2) level (according to paragraph 1.8.2 of the Guidelines on Interpretation and Application)	(iv) Whether the decision on withholding some of the information was made subject to a "harm or prejudice test", i.e. whether the public interest in disclosure of such information outweighs any harm or prejudice that could result from disclosure (according to paragraph 2.1.1 of the Guidelines on

			Interpretation and Application). If yes, please provide the details.

2019

(i) Content of the requests for which only some of the required information was provided	(ii) Reasons for providing some of the information only	(iii) Whether the decision on withholding some of the information was made at the directorate (D1 or D2) level (according to paragraph 1.8.2 of the Guidelines on Interpretation and Application)	(iv) Whether the decision on withholding some of the information was made subject to a “harm or prejudice test”, i.e. whether the public interest in disclosure of such information outweighs any harm or prejudice that could result from disclosure (according to paragraph 2.1.1 of the Guidelines on Interpretation and Application). If yes, please provide the details.

- 2) Concerning the requests for information under the Code on Access to Information received by the LCSD from October 2018 to present for which the required information was not provided, please state in table form: (i) the content of the requests refused; (ii) the reasons for refusal; (iii) whether the decision on withholding the information was made at the directorate (D1 or D2) level (according to paragraph 1.8.2 of the Guidelines on Interpretation and Application); (iv) whether the decision on withholding the information was made subject to a “harm or prejudice test”, i.e. whether the public interest in disclosure of such information outweighs any harm or prejudice that could result from disclosure (according to paragraph 2.1.1 of the Guidelines on Interpretation and Application)? If yes, please provide the details of how the requests were eventually handled.

From October to December 2018

(i) Content of the requests refused	(ii) Reasons for refusal	(iii) Whether the decision on withholding the information was made at the directorate (D1 or D2) level (according to paragraph 1.8.2 of the Guidelines on Interpretation and Application)	(iv) Whether the decision on withholding the information was made subject to a “harm or prejudice test”, i.e. whether the public interest in disclosure of such information outweighs any harm or prejudice that could result from disclosure (according to paragraph 2.1.1 of the Guidelines on Interpretation and Application)

			Interpretation and Application). If yes, please provide the details.

2019

(i) Content of the requests refused	(ii) Reasons for refusal	(iii) Whether the decision on withholding the information was made at the directorate (D1 or D2) level (according to paragraph 1.8.2 of the Guidelines on Interpretation and Application)	(iv) Whether the decision on withholding some of the information was made subject to a “harm or prejudice test”, i.e. whether the public interest in disclosure of such information outweighs any harm or prejudice that could result from disclosure (according to paragraph 2.1.1 of the Guidelines on Interpretation and Application). If yes, please provide the details.

- 3) Any person who believes that a department has failed to comply with any provision of the Code on Access to Information may ask the department to review the situation. Please advise this Committee in each of the past 5 years, (i) the number of review cases received; (ii) the number of cases, among the review cases received in the year, in which further information was disclosed after review; (iii) whether the decisions on review were made at the directorate (D1 or D2) level.

Year in which review cases were received	(i) Number of review cases received	(ii) Number of cases, among the review cases received in the year, in which further information was disclosed after review	(iii) Whether the decisions on review were made at the directorate (D1 or D2) level
2015			
2016			
2017			
2018			
2019			

- 4) With reference to the target response times set out in paragraphs 1.16.1 to 1.19.1 of Guidelines on Interpretation and Application of the Code on Access to Information, please advise this Committee on the following information by year in table form (with text descriptions).

(a) Within 10 days from date of receipt of a written request:

	Number of requests for which the information requested was provided	Number of requests involving third party information for which the information requested could not be provided	Number of requests for which the information requested could not be provided since the requests had to be transferred to another department which held the information under request	Number of requests for information which were refused under the exemption provisions in Part 2 of the Code on Access to Information	Number of applications which the applicants indicated that they did not wish to proceed with and withdrew since they did not accept the charge
2020					
2019					
2018					
2017					
2016					

Within 10 to 21 days from date of receipt of a written request:

	Number of requests for which the information requested was provided	Number of requests involving third party information for which the information requested could not be provided	Number of requests for which the information requested could not be provided since the requests had to be transferred to another department which held the information under request	Number of requests for information which were refused under the exemption provisions in Part 2 of the Code on Access to Information	Number of applications which the applicants indicated that they did not wish to proceed with and withdrew since they did not accept the charge
2020					
2019					
2018					
2017					
2016					

Within 21 to 51 days from date of receipt of a written request:

	Number of requests for which the information requested was provided	Number of requests involving third party information for which the information requested could not be provided	Number of requests for which the information requested could not be provided since the requests had to be transferred to another department which held the information under request	Number of requests for information which were refused under the exemption provisions in Part 2 of the Code on Access to Information	Number of applications which the applicants indicated that they did not wish to proceed with and withdrew since they did not accept the charge
2020					
2019					
2018					
2017					
2016					

- (b) Cases in which information could not be provided within 21 days from date of receipt of a request in the past 5 years:

Date	Subject of information requested	Specific reason

- (c) Cases in which information could not be provided within 51 days from date of receipt of a request in the past 5 years:

Date	Subject of information requested	Specific reason

- 5) Please state in table form the number of those, among the cases in which requests for information were refused under the exemption provisions in Part 2 of the Code on Access to Information, on which the Privacy Commissioner for Personal Data was consulted when they were being handled in the past 5 years. For cases on which advice had been sought, was it fully accepted in the end? For cases where the advice of the Privacy Commissioner for Personal Data was not accepted or was only partially accepted, what are the reasons?

Date	Subject	Particular exemption provision in Part 2 of the Code on Access to	Whether the advice of the Privacy Commissioner for Personal	Reasons for refusing to accept or only partially accepting the

		Information under which requests for information were refused	Data was fully accepted	advice of the Privacy Commissioner for Personal Data

Asked by: Hon CHAN Tanya (LegCo internal reference no.: 440)

Reply:

With regard to the information requested, the reply is as follows:

1)

From October to December 2018

(i) Content of the requests for which only some of the required information was provided	(ii) Reasons for providing some of the information only	(iii) Whether the decision on withholding some of the information was made at the directorate (D1 or D2) level (according to paragraph 1.8.2 of the Guidelines on Interpretation and Application)	(iv) Whether the decision on withholding some of the information was made subject to a “harm or prejudice test”, i.e. whether the public interest in disclosure of such information outweighs any harm or prejudice that could result from disclosure (according to paragraph 2.1.1 of the Guidelines on Interpretation and Application). If yes, please provide the details.
Nil	Not applicable	Not applicable	Not applicable

2019

(i) Content of the requests for which only some of the required information was provided	(ii) Reasons for providing some of the information only	(iii) Whether the decision on withholding some of the information was made at the directorate (D1 or D2) level (according to paragraph 1.8.2 of the Guidelines on Interpretation and Application)	(iv) Whether the decision on withholding some of the information was made subject to a “harm or prejudice test”, i.e. whether the public interest in disclosure of such information outweighs any harm or prejudice that could result from disclosure (according to paragraph 2.1.1 of the Guidelines on Interpretation and Application). If yes, please provide the details.
Guidelines for lifeguards	<i>See Note 1</i>	Yes	Yes The Department considered

			that the provision of relevant information already met the public interest related to lifeguards' duties arising from the incident. Disclosure of irrelevant information might lead to misunderstanding about the content of other parts of the guidelines, and thus affect the operation of swimming pool complexes.
Information on refurbishment of exhibition halls in the Hong Kong Science Museum	<i>See Note 2</i>	Yes	Yes No significant public interest was involved, and the public interest in disclosure did not outweigh the harm or prejudice that could result from disclosure.

2)

From October to December 2018

(i) Content of the requests refused	(ii) Reasons for refusal	(iii) Whether the decision on withholding the information was made at the directorate (D1 or D2) level (according to paragraph 1.8.2 of the Guidelines on Interpretation and Application)	(iv) Whether the decision on withholding the information was made subject to a "harm or prejudice test", i.e. whether the public interest in disclosure of such information outweighs any harm or prejudice that could result from disclosure (according to paragraph 2.1.1 of the Guidelines on Interpretation and Application). If yes, please provide the details.
Information on usage of Government-subsidised camps by non-governmental organisations	<i>See Note 3</i>	Yes	Yes The public interest in disclosure did not outweigh the harm or prejudice that could result from disclosure.
Information on transfer of staff	<i>See Note 4</i>	Yes	Yes The information was related to personnel matters, and no public interest was involved.
Information on staff	<i>See Note 4</i>	Yes	Yes

posting			Having carefully reviewed the information, the Department considered that resources required for collating information in relation to any period of time would significantly outweigh the public interest involved.
Names of service contractors' employees	<i>See Notes 3 and 5 (all of paragraph 2.15)</i>	Yes	Yes Without explicit consent from the employees concerned on their own initiative, the public interest involved in the disclosure did not outweigh privacy protection for individuals or the harm or prejudice that could result from disclosure.

2019

(i) Content of the requests refused	(ii) Reasons for refusal	(iii) Whether the decision on withholding the information was made at the directorate (D1 or D2) level (according to paragraph 1.8.2 of the Guidelines on Interpretation and Application)	(iv) Whether the decision on withholding some of the information was made subject to a "harm or prejudice test", i.e. whether the public interest in disclosure of such information outweighs any harm or prejudice that could result from disclosure (according to paragraph 2.1.1 of the Guidelines on Interpretation and Application). If yes, please provide the details.
Names of service contractors' employees	<i>See Notes 3 and 5 (all of paragraph 2.15)</i>	Yes	Yes Service contractors explicitly objected to the disclosure of information in which no significant public interest was involved.
Information on plans deposited in the Land Registry	<i>See Notes 1, 6 and 7</i>	Yes	Yes As the information was updated on a daily basis, disclosure of outdated information would mislead the public and cause harm or prejudice to public interest.

Report of a fatal drowning incident in a swimming pool	<i>See Note 8</i>	Yes	Yes Disclosure of information did not involve significant public interest, and might prejudice the Department in legal proceedings if being claimed for compensation.
Information on marks scored by tenderers and prices offered by them in tenders for property management and security services	<i>See Note 9</i>	Yes	Yes As the information involved the business sector only, the Department considered that no significant public interest was involved.
Information on “closed stack” and a judicial review case	<i>See Note 10</i>	Yes	Yes Disclosure of information might harm or prejudice the judicial review proceedings in progress or an impartial verdict to be caused. The Department had duly taken into consideration that the harm or prejudice that could result from disclosure would outweigh the public interest involved.
Information on marks scored by tenderers and prices offered by them in cleansing service tenders	<i>See Note 9</i>	Yes	Yes As the information involved the business sector only, the Department considered that no significant public interest was involved.
Information on case officers	<i>See Note 5 (all of paragraph 2.15)</i>	Yes	Yes Personal data was involved and withholding the information did not affect public interest.
Information on departmental vehicles	<i>See Notes 1, 11 and 12</i>	Yes	Yes The Department considered that there was no obvious public interest necessitating the disclosure of information.
Information on monthly committed wages in cleansing and	<i>See Note 9</i>	Yes	Yes As the information involved the business sector only, the Department considered that no significant public interest

supporting services contracts and ranking of successful tenderers			was involved.
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3)

Year in which review cases were received	(i) Number of review cases received	(ii) Number of cases, among the review cases received in the year, in which further information was disclosed after review	(iii) Whether the decisions on review were made at the directorate (D1 or D2) level
2015	0	0	Not applicable
2016	1	1	Yes
2017	4	1	Yes
2018	3	1	Yes
2019	1	0	Yes

4)

(a) Within 10 days from date of receipt of a written request:

	Number of requests for which the information requested was provided	Number of requests involving third party information for which the information requested could not be provided	Number of requests for which the information requested could not be provided since the requests had to be transferred to another department which held the information under request	Number of requests for information which were refused under the exemption provisions in Part 2 of the Code on Access to Information	Number of applications which the applicants indicated that they did not wish to proceed with and withdrew since they did not accept the charge
2020 (as at 11 March)	9	0	0	0	0
2019	82	0	0	3	0
2018	102	0	2	2	0
2017	69	0	2	6	0
2016	48	0	4	0	0

Within 10 to 21 days from date of receipt of a written request:

	Number of requests for which the information requested was provided	Number of requests involving third party information for which the information requested could not be provided	Number of requests for which the information requested could not be provided since the requests had to be transferred to another department which held the information under request	Number of requests for information which were refused under the exemption provisions in Part 2 of the Code on Access to Information	Number of applications which the applicants indicated that they did not wish to proceed with and withdrew since they did not accept the charge
2020 (as at 11 March)	5	1	0	1	0
2019	38	1	0	6	0
2018	27	1	0	6	0
2017	14	2	0	6	0
2016	23	1	0	5	0

Within 21 to 51 days from date of receipt of a written request:

	Number of requests for which the information requested was provided	Number of requests involving third party information for which the information requested could not be provided	Number of requests for which the information requested could not be provided since the requests had to be transferred to another department which held the information under request	Number of requests for information which were refused under the exemption provisions in Part 2 of the Code on Access to Information	Number of applications which the applicants indicated that they did not wish to proceed with and withdrew since they did not accept the charge
2020 (as at 11 March)	0	0	0	0	0
2019	3	0	0	2	0
2018	5	4	0	7	0

2017	2	0	0	3	0
2016	2	1	0	0	0

(b) Cases in which information could not be provided within 21 days from date of receipt of a request in the past 5 years:

Date (Date of receipt of request)	Subject of information requested	Specific reason
19 April 2016	Audio record of the Antiquities Advisory Board	Time was needed to obtain consent from third parties.
12 May 2016	A tree survey report	The information was provided to another department by a third party.
24 March 2017	Written submissions on the former State Theatre	Longer time was taken to process the considerable number of written submissions received.
11 April 2017	Names of successful hirers (companies/individuals) of bathing sheds on Approach Beach	Legal advice was sought.
11 April 2017	Information on Tai Wo Hau Sports Centre	Legal advice was sought.
3 January 2018	Review results of an opening-up report submitted by a contractor	Legal advice was sought.
19 January 2018	Information on an advisory letter issued by the Department to a contractor	Legal advice was sought.
1 March 2018	Information on performing arts venues managed by the Department	Time was needed to process the voluminous and complicated data.
14 March 2018	Information on updating of tree reports	Legal advice was sought.
19 April 2018	Information on the seeking of advice from the Department of Justice by the Department	Legal advice was sought.
11 May 2018	An independent investigation report submitted by the Hong Kong Amateur Swimming Association	Legal advice was sought.
14 May 2018	Review of an application made by the applicant earlier on	Legal advice was sought.
19 July 2018	A copy of minutes of meeting of Usher Leaders (Hong Kong Coliseum)	Legal advice was sought.
29 August 2018	Information on public library books	Legal advice was sought.
5 June 2018	Information on Fa Yuen Street Public Library	Legal advice was sought.
5 June 2019	Report of a fatal drowning incident in a swimming pool	Legal advice was sought.

17 June 2019	Information on the rent of public libraries	Time was needed to confirm with relevant government departments.
9 August 2019	Information on “closed stack” and a judicial review case	Legal advice was sought.

(c) Cases in which information could not be provided within 51 days from date of receipt of a request in the past 5 years:

Date (Date of receipt of request)	Subject of information requested	Specific reason
28 November 2016	An incident in a library	Legal advice was sought.

5)

Date (Date of receipt of request)	Subject	Particular exemption provision in Part 2 of the Code on Access to Information under which requests for information were refused	Whether the advice of the Privacy Commissioner for Personal Data was fully accepted	Reasons for refusing to accept or only partially accepting the advice of the Privacy Commissioner for Personal Data
23 January 2019	Security service at Fa Yuen Street Municipal Services Building	<i>See Notes 3 and 5 (paragraph 2.15(b))</i>	Yes	Not applicable
11 April 2017	Names of successful hirers (companies/ individuals) of bathing sheds on Approach Beach	<i>See Note 5 (paragraphs 2.15(a) and (b))</i>	Yes	Not applicable

Notes

- Note 1: Under paragraph 2.9(c) of the Code on Access to Information, “information the disclosure of which would harm or prejudice the proper and efficient conduct of the operations of a department” may be refused.
- Note 2: Under paragraph 2.10(b) of the Code of Access to Information, “information the disclosure of which would inhibit the frankness and candour of discussion within the Government, and advice given to the Government” may be refused.
- Note 3: Under paragraph 2.14(a) of the Code on Access to Information, third party information without the third party’s consent to disclose may be refused.
- Note 4: Under paragraph 2.9(d) of the Code on Access to Information, “information which could only be made available by unreasonable diversion of a department’s resources” may be refused.

- Note 5: Under paragraph 2.15 of the Code on Access to Information, information about any person other than to the subject of the information, or other appropriate person may be refused, unless
- (a) such disclosure is consistent with the purposes for which the information was collected, or
 - (b) the subject of the information, or other appropriate person, has given consent to its disclosure, or
 - (c) disclosure is authorised by law, or
 - (d) the public interest in disclosure outweighs any harm or prejudice that would result.
- Note 6: Under paragraph 2.13(a) of the Code on Access to Information, “information relating to incomplete analysis, research or statistics, where disclosure could be misleading or deprive the department or any other person of priority of publication or commercial value” may be refused.
- Note 7: Under paragraph 2.17 of the Code on Access to Information, “information which will soon be published, or the disclosure of which would be premature in relation to a planned announcement or publication” may be refused.
- Note 8: Under paragraph 2.6(c) of the Code on Access to Information, “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” may be refused.
- Note 9: Under paragraph 2.16 of the Code on Access to Information, “information including commercial, financial, scientific or technical confidences, trade secrets or intellectual property the disclosure of which would harm the competitive or financial position of any person” may be refused.
- Note 10: Under paragraph 2.6(b) of the Code on Access to Information, “information the disclosure of which would harm or prejudice the conduct or impartial adjudication of legal proceedings or any proceedings conducted or likely to be conducted by a tribunal or inquiry, whether or not such inquiry is public or the disclosure of the information has been or may be considered in any such proceedings” may be refused.
- Note 11: Under paragraph 2.6(e) of the Code on Access to Information, “information the disclosure of which would harm or prejudice the prevention, investigation and detection of crime and offences, the apprehension or prosecution of offenders, or the security of any detention facility or prison” may be refused.
- Note 12: Under paragraph 2.6(f) of the Code of Access to Information, “information the disclosure of which would harm or prejudice the preservation of the peace, public safety or order, or the preservation of property” may be refused.