

WEST KOWLOON CULTURAL DISTRICT AUTHORITY

Code on Access to Information

INTRODUCTION

The West Kowloon Cultural District Authority (WKCD) is a statutory body set up to develop the West Kowloon Cultural District (WKCD) into an integrated arts and cultural district. Recognising the need for the community to be well informed about WKCD and its work, WKCD adopts an administrative Code on Access to Information (the Code) which defines the scope of information to be provided, sets out how the information will be made available (either routinely or in response to a request), and lays down the procedures governing the release of information.

2. WKCD will as far as practicable make available information to the public unless there are specific reasons for not doing so. These reasons are set out in Part 2 of the Code 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 in accordance with the Code.

Part 1

PROVISION OF INFORMATION

Information to be published or made available routinely

3. WKCD will routinely publish or make available for inspection at its office and/or its website (www.wkcd.hk) the following information:

- information on its organization, projects and activities;
- publications, including its annual reports, booklets, press releases;
- The procedures and any charges for access to information not routinely published.

Information to be provided on request

4. WKCD will also, on request, provide additional information on matters falling within its area of responsibility, except those falling into the areas listed in Part 2 of the Code.

LEGAL OBLIGATIONS AND RESTRICTIONS

5. The Code 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, or obligations arising under common law or international agreements which apply to Hong Kong.

6. In particular, the release of information under the Code will be in accordance with the obligations and restrictions set out in the West Kowloon Cultural District Authority Ordinance (Cap 601).

PROCEDURES

Access to Information Officer

7. WKCDA has designated an Access to Information Officer who is responsible for ensuring that requests for access to information are properly dealt with in accordance with specific procedures.

Request for information

8. Requests for information or records may be made either by completing the application form, which can be obtained from WKCDA Office (Tel: 2200 0000, Fax: 2895 1225) or downloaded from WKCDA website, or by writing to the Authority at the address below detailing the request for information in your letter. All requests should be addressed to the Access to Information Officer at

West Kowloon Cultural District Authority
29/F, Tower 6, The Gateway
9 Canton Road, Tsim Sha Tsui
Kowloon
Hong Kong

or email aio@wkcd.a.hk, fax: 2895 1225

Responses to requests for information

9. Responses to requests for information will be given as quickly as possible.

10. Information will normally 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.

11. The Code does not oblige WKCDA to

- acquire information not in its possession;
- create a record which does not exist;
- provide on request information which is already published, either free or at a charge.

Target response times

12. Where possible, information will be made available within fourteen days of receipt of a written request. If that is not possible, the applicant will be so advised by an interim

reply within fourteen days of receipt of the request. The target response time will be twenty-one days from receipt of the request.

13. Response may be deferred beyond twenty-one days only in exceptional circumstances, which should be explained to the applicant. Any deferral should not normally exceed a further thirty days.

14. These targets may be extended if necessary to accommodate the third party procedures set out in paragraphs 16 to 18, or where the applicant fails to pay any charges levied in accordance with paragraph 19 or fails to provide sufficient details to enable the Authority to identify the information.

15. If a request is to be refused, the applicant will be so informed within the timeframe set out in paragraph 12 above.

THIRD PARTY INFORMATION

Procedures and timeframe

16. 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, and where such information is disclosable under the Code, WKCD A will so advise the third party and invite the latter to consent to, or make representations against, disclosure. The third party will be asked to respond within thirty days or such reasonable longer period as he may be granted on request.

17. On receipt of consent from the third party, the information may be disclosed.

18. If the third party makes representations against disclosure, or fails to respond within the stipulated time, WKCD A will not disclose the information requested in honour of its explicit or implicit undertaking to the third party.

CHARGES

19. WKCD A may levy charges for the provision of information in order to cover the costs for the resources used. Information will not be released until after the requisite payment has been received.

20. Where practicable, applicants will be informed in advance of an estimate of the charges for the requested information.

REVIEW

21. Any person who believes that WKCD A has failed to comply with any provision

of the Code may ask WKCDA to review the situation. The target response times set out in paragraphs 12 to 18 above also apply to requests for review.

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

Part 2

INFORMATION WHICH MAY BE REFUSED

23. WKCDA will consider whether the public interest in disclosure of the information outweighs any harm or prejudice (including both actual harm and prejudice and the risk or reasonable expectation of harm and prejudice) that could result.

24. WKCDA 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.

25. WKCDA may refuse to disclose information received in confidence from and conveyed in confidence to governments, courts in other jurisdictions, and international organizations.

Security of WKCDA properties and premises

26. Information the disclosure of which would harm or prejudice the security of WKCDA's properties and premises.

Development, Management and Operation of WKCDA

27. Information the disclosure of which would harm or prejudice the proper and efficient conduct of the development, management and operation of WKCDA.

28. Information which could only be made available by unreasonable or substantial diversion of WKCDA's resources, or in a particular form which is not currently available.

29. Information the disclosure of which would prejudice the proper project management of the WKCD project, and negotiations or the award of contracts or grants relating to WKCDA activities.

Internal discussion and advice

30. Information the disclosure of which would inhibit the frankness and candour of discussion within WKCDA, and advice given to WKCDA or over which there exists legal professional privilege. Such information may include:

- a. records of discussion at any internal meeting;

- b. opinions, advice, recommendations, consultations and deliberations by WKCDA staff or advisers/consultants of WKCDA;
- c. legal advice to WKCDA.

Improper gain or advantage

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

Research, statistics and analysis

32. Information relating to incomplete analysis, research or statistics, where disclosure could be misleading or deprive WKCDA or any other person of priority of publication or commercial value.

33. 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

34. Information held for, or provided by, a third party under an explicit or implicit understanding that it would not be further disclosed unless with the third party's consent in writing.

Privacy of the individual

35. Information about any person (including a deceased person) other than to the subject of the information, or other appropriate person, unless:
- a. the subject of the information, or other appropriate person, has given consent to its disclosure; or
 - b. disclosure is authorised by law; or
 - c. such disclosure is consistent with the purposes for which the information was collected.

Business affairs

36. Any commercially sensitive information including without limitation information about commercial, financial, scientific or technical, negotiations, settlements, compromises, confidences, trade secrets or intellectual property and any information the disclosure of which would harm or prejudice the competitiveness of WKCDA or any person, or WKCDA's relations with any parties.

Premature requests

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

Legal restrictions

38. Information the disclosure of which would harm or prejudice the administration of justice including the conduct of any legal proceedings or trial and the enforcement or administration of the law.

39. Information the disclosure of which would constitute a breach of any law which applies in Hong Kong, any obligation arising under common law or under any international agreement which applies to Hong Kong.

40. Information about any ongoing litigation, arbitration, mediation, adjudication or negotiation undertaken to resolve any commercial or other dispute or difference and any information concerning the successful resolution of any commercial or other dispute which is the subject of confidentiality agreements or undertakings.