

CONTROLLING OFFICER'S REPLY**THB(T)241****(Question Serial No. 4887)**Head: (60) Highways DepartmentSubhead (No. & title): (-) Not SpecifiedProgramme: (-) Not SpecifiedControlling Officer: Director of Highways (Jimmy P M CHAN)Director of Bureau: Secretary for Transport and HousingQuestion:

Regarding the 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 Highways Department (HyD) from October 2018 to present for which only some of the required information has been provided, please state in table form: (i) the content of the requests for which only some of the required information has been 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.

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 HyD from October 2018 to present for which the required information has not been 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.

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.

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 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 five 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 for 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 for 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 for 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 five 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 five 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 five 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 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

Asked by: Hon CHAN Tanya (LegCo internal reference no.: 457)

Reply:

(1) From October 2018 to September 2019, there were three requests made pursuant to the Code on Access to Information received by HyD. The requests concerned information on road projects, tender documents and tender specifications. Only some of the information requested was provided lest it would prejudice legal proceedings, the department's business activities, etc. These considerations are stipulated in the Code on Access to Information as reasons for which information may be refused. The decision was made at the directorate

level and based on the consideration that public interest in disclosure did not outweigh the harm or prejudice that could result.

(2) From October 2018 to September 2019, there were four requests made pursuant to the Code on Access to Information received by HyD, for which the requested information was not provided. The requests concerned authorisation letters and drawings for road works, past incident and maintenance records, tender documents and tender specifications. The requested information was not provided lest it would prejudice legal proceedings, the department's business activities, etc. These considerations are stipulated in the Code on Access to Information as reasons for which information may be refused. The decision was made at the directorate level and based on the consideration that public interest in disclosure did not outweigh the harm or prejudice that could result.

(3) From 2015 to September 2019, HyD received nine review cases. Further information was disclosed in four cases after review. The decisions on reviews were made at the directorate level.

(4)

(a) From 2016 to September 2019, there were a total of 146 requests for information. The requests which were handled within 10 days, within 10 to 21 days and within 21 to 51 days were 91, 48 and 7 respectively.

Among the 91 requests handled within 10 days, the requested information was provided in 78 cases. In ten cases, the information could not be provided since the requests had to be transferred to another department. In three cases, the information was refused under the exemption provisions in the Code on Access to Information.

Among the 48 requests handled within 10 to 21 days, the requested information was provided in 41 cases. In six cases, the information was refused under the exemption provisions in the Code on Access to Information. In one case, the information could not be provided since the request involved third party information.

Among the 7 requests handled within 21 to 51 days, the requested information was provided in five cases. In two cases, the information was refused under the exemption provisions in the Code on Access to Information.

(b) For cases which information was not provided within 21 days, additional time was required to prepare the information as those cases touched on various road works and other operational details of HyD. In some cases, it would also take time to seek legal advice before replying.

(c) There was no case which information was not provided within 51 days from date of receipt of a request in the above period.

(5) There was no case which the Privacy Commissioner for Personal Data was consulted in the past five years.

- End -