

This guidance refers to the section 46 Code of Practice on records management. The section 46 code is under review and the guidance will therefore be amended in due course to reflect any changes resulting from the revised code.



Freedom of Information Good Practice Guidance Advice on using the procedural Codes of Practice

Information Commissioner's Office
Promoting public access to official information
and protecting your personal information

The Freedom of Information Act 2000 (FOIA) places a duty on the Information Commissioner to promote the following of good practice by public authorities and the observance, by them, of FOIA and codes of practice.

The procedural Codes of Practice issued under FOIA, the Access Code, and the Environmental Information Regulations (EIR), the EIR Code, provide guidance on how to deal with requests for information. The Codes should be used as handbooks which help practitioners with the day to day handling of requests.

As there may be some uncertainty over;

- the status of the Codes of Practice;
- the practical benefits of conforming to the Codes, and;
- the consequences of not conforming to the Codes;

this document aims to clarify these areas and to identify the beneficial effects of observing the Codes.

Status of the Codes of Practice

The Codes of Practice are derived from the legislation itself. Section 45 of FOIA requires and regulation 16 of EIR allows the production of procedural Codes of Practice.

Practical benefits of conforming with the Codes of Practice

The Access and EIR Codes of Practice offer practical day-to-day advice for dealing with requests for information. Adhering to the Codes of Practice will result in positive benefits for an authority, and in practical terms offers good customer service.

Benefits include:

- reduced likelihood of breaching the FOIA and/or the EIR;
- increased customer satisfaction;
- improved public perception of an organisation;
- quicker turn-around of FOI and EIR requests;

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- more streamlined procedures, and;
- a saving of staff time.

These benefits are interlinked and adhering to all aspects of the Codes of Practice will produce most benefit. The areas on which advice is given differs slightly between the two Codes of Practice; details of the topics covered in each are listed below.

FOIA Access Code of Practice

- | | |
|-------------------------|-----------------------------------|
| - Advice and assistance | - Consultation with third parties |
| - Fees ¹ | - Confidentiality obligations |
| - Transferring requests | - Complaints procedure |

EIR Code of Practice

- | | |
|-----------------------------------|--|
| - Training | - Public sector contracts |
| - Proactive dissemination | - Accepting information in confidence |
| - Advice and assistance | - Consultation with devolved administrations |
| - Timeliness | - Refusal of requests, and |
| - Charges and fees | - Review and complaints procedure. |
| - Transferring requests | |
| - Consultation with third parties | |

Records Management

As well as the two procedural Codes of Practice, under section 46 of FOIA there is a Code of Practice which provides guidance on records management. Although this Code of Practice applies only to public authorities covered by FOIA, we would recommend to bodies that fall within the definition of a public authority only for the purposes of EIR that they observe its requirements, particularly for documents that may become public records.

The Information Commissioner's Office has produced Frequently Asked Questions on Records Management. These can be found at www.ico.gov.uk. Alternatively, the National Archives provides detailed guidance on records management, which can be found at www.nationalarchives.gov.uk/recordsmanagement/advice

Consequences of not conforming to the Codes of Practice

The Codes of Practice form part of the framework which provides rights of access to information. If an organisation fails to conform to the requirements of any of the

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Codes of Practice (either procedural or in respect of records management), the Information Commissioner may issue a Practice Recommendation. This will include steps he thinks the organisation should follow in order to conform to the Code. The Information Commissioner will publish Practice Recommendations issued against public authorities and they may be named in a report to Parliament. In considering complaints under section 50, account can be taken of observance of the relevant Code in assessing whether a public authority has correctly discharged its statutory functions.

¹Fees are only dealt with briefly within the FOI section 45 Code of Practice, however further information is available in the FOI Fees Regulations (Statutory Instrument 2004 no. 3244) which can be found at www.ico.gov.uk