

Kodiċi ta' Prattika għal Awtoritajiet Pubbliċi

Att dwar il-Libertà tal-Infommazzjoni (Kap. 496)

1.0 Hatra ta' Uffiċjali FOI

- 1.1 Kull Awtorità Pubblika għandha tahtar Uffiċjal FOI u tal-anqas Uffiċjal FOI Alternattiv wiehed, li l-ismijiet u d-dettalji ta' kuntatt tagħhom għandu jkun komunikat lit-Taqsima ta' Kordinazzjoni FOI fi hdan il-Ministeru tal-Ġustizzja u l-Intern u mibgħuta wkoll lill-Kummissarju għall-Informazzjoni u l-Protezzjoni tad-Data, wara konsultazzjoni xierqa mas-Segretarju Permanenti tal-Ministeru konċernat. Fil-każ li l-Awtorità Pubblika tonqos milli tahtar Uffiċjal FOI dan l-irwol jiġi awtomatikament assenjat lill-Kap tal-Awtorità konċernat jew, fl-assenza tal-Kap tal-Awtorità, lill-Uffiċjali l-izjed anzjan fi hdan l-Awtorità konċernata.
- 1.2 L-Uffiċjal FOI, li jkun ser jirrapprezenta lill-Kap tal-Awtorità konċernata fi kwistjonijiet dwar il-Libertà tal-Informazzjoni, għandu jkun responsabbli għall-ipproċessar ta' talbiet għal dokumenti jew informazzjoni skont l-Att dwar il-Libertà tal-Informazzjoni, minn hawn 'il quddiem imsejjah 'l-Att'. Dan ikun jinkludi l-ilqugħ ta' talbiet, l-ipproċessar tagħhom, riferimenti lil Awtoritajiet Pubbliċi oħra (fejn dan hu neċessarju) u kull komunikazzjoni ma' applikanti kif ikun neċessarju skont l-Att. Fit-twettiq tal-funzjonijiet tagħhom, l-Uffiċjali FOI għandhom jimxu mat-termini tal-Att u ta' dan il-Kodiċi ta' Prattika. Uffiċjali FOI Alternattivi għandhom jgħinu lill-Uffiċjali FOI fit-twettiq ta' dawn id-dmirijiet, minbarra li jassumu d-dmirijiet u r-responsabbiltajiet tal-Uffiċjali FOI meta dan tal-aħħar ikun indispost.
- 1.3 Is-Segretarji Permanenti jistgħu jagħzlu li jahtar Uffiċjali FOI u Uffiċjali FOI Alternattivi uniċi biex jirrapprezentaw numru ta' Awtoritajiet Pubbliċi. Fil-każ li jkun hemm din l-għażla t-Taqsima ta' Kordinazzjoni FOI u l-Kummissarju għall-Informazzjoni u l-Protezzjoni tad-Data għandhom ikunu debitament informati mill-Uffiċjal FOI Prinċipali (kif mfisser fil-paragrafu 1.4 ta' dan il-Kodiċi).
- 1.4 L-Uffiċjal FOI responsabbli għas-Segretarjat Permanenti ta' Ministeru għandu jassumi l-irwol ta' Uffiċjal FOI Prinċipali għall-Ministeru konċernat, u l-Alternattiv tiegħu/tagħha għandu jassumi l-irwol ta' Uffiċjali FOI Prinċipali Alternattiv. Barra mid-dmirijiet tiegħu/tagħha bħala Uffiċjali FOI, l-Uffiċjal FOI Prinċipali ser:
 - jiżgura illi kull Awtorità Pubblika fi hdan il-Ministeru tiegħu/tagħha jkun kopert minn Uffiċjal FOI u Uffiċjal FOI Alternattiv;
 - jiżgura illi kull Awtorità Pubblika taht ir-responsabbiltà tal-Ministeru pertinenti jkollha fis-seħh Proċedura Interna għall-Ilmenti;
 - jikkomunika, b'mod regolari, listi aġġornati ta' Uffiċjali FOI u Uffiċjali FOI Alternattivi fi hdan il-Ministeru rispettiv tiegħu/tagħha lit-Taqsima ta' Kordinazzjoni FOI;
 - jissorvelja l-implimentazzjoni tal-impenji tal-Att dwar il-Libertà tal-Informazzjoni minn Awtoritajiet Pubbliċi li jaqgħu taht ir-responsabbiltà tal-Ministeru;
 - jirrapporta lit-Taqsima ta' Kordinazzjoni FOI il-proċeduri adottati minn Awtoritajiet Pubbliċi u kull tibdil relatat;

- jipprovdi lill-Kummissarju għall-*Informazzjoni u l-Protezzjoni tad-Data*, sal-15 ta' Frar ta' kull sena, ir-rapport imsemmi fil-paragrafu 1.6 ta' dan il-Kodiċi dwar kull Awtorità Pubblika li taqa' taht ir-responsabbiltà tal-Ministeru tiegħu/tagħha; u
- jipprovdi lit-Taqsima ta' Kordinazzjoni FOI u lill-Kummissarju għall-*Informazzjoni u l-Protezzjoni tad-Data* kull *informazzjoni addizzjonali* illi huma jistgħu jehtiegu.

1.5 L-Uffiċjali FOI u l-Uffiċjali FOI Alternattivi responsabbli minn Awtoritajiet Pubbliċi li mhumiex taht kontroll ministerjali¹, għandhom iwettqu dmirijiet simili għal dawk tal-Uffiċjali FOI Prinċipali ta' Ministeru, primarjament:

- jissorveljaw l-implimentazzjoni tal-impenji tal-Att dwar il-Libertà tal-*Informazzjoni* fi hdan l-Awtorità Pubblika tagħhom;
- jirrapportaw lit-Taqsima ta' Kordinazzjoni FOI il-proċeduri adottati mill-Awtorità Pubblika tagħhom u kull tibdil relatat;
- jipprovdu lill-Kummissarju għall-*Informazzjoni u l-Protezzjoni tad-Data* *informazzjoni* dwar il-hatra ta' Uffiċjali FOI u Uffiċjali FOI Alternattivi;
- jipprovdu lill-Kummissarju għall-*Informazzjoni u l-Protezzjoni tad-Data*, sal-15 ta' Frar ta' kull sena, ir-rapport msemmi fil-paragrafu 1.6 ta' dan il-Kodiċi għall-Awtorità Pubblika tagħhom; u
- jipprovdu lit-Taqsima ta' Kordinazzjoni FOI u lill-Kummissarju għall-*Informazzjoni u l-Protezzjoni tad-Data* kull *informazzjoni addizzjonali* illi huma jistgħu jehtiegu.

L-Uffiċjali FOI u l-Uffiċjali FOI Alternattivi responsabbli għal Awtoritajiet Pubbliċi li mhumiex taht kontroll ministerjali għandhom jiformaw parti mill-Forum għal-Libertà tal-*Informazzjoni* (kif mfissra fis-Sezzjoni 2.0 ta' dan il-Kodiċi).

1.6 Uffiċjali FOI għandhom ikunu mehtiega li jipprezentaw rapport lill-Uffiċjali FOI Prinċipali tagħhom li jkun fih l-*informazzjoni* mnizzla fl-artikolu 21(5) tal-Att, kif relatata għall-Awtorità Pubblika inkwistjoni.

1.7 L-Uffiċjal FOI Prinċipali għandu javża lis-superjuri tiegħu/tagħha kull meta Uffiċjal FOI ma jirrapportax skont il-paragrafu 1.6 t'hawn fuq. Kazijiet fejn Awtoritajiet Pubbliċi jonqsu li jharsu xi disposizzjoni tal-Att jew ta' dan il-Kodiċi għandhom ukoll jiġu debitamenti rapportati.

¹ Irreferi għat-Taqsima II tat-Tieni Skeda tal-Att dwar l-Amministrazzjoni Pubblika (Kap. 497).

2.0 Twaqqif ta' *Network* tal-Uffiċjali FOI u Forum

2.1 It-Taqsima ta' Kordinazzjoni FOI fi hdan il-Ministeru tal-Ġustizzja u l-Intern, li għandha tkun amministrata mill-Assistent Direttur (Libertà tal-Infurmazzjoni) u mmexxija mid-Direttur, Implimentazzjoni tal-Programm, għandha tkun responsabbli li:

- Tissorvelja l-implimentazzjoni ta' obbligi dwar l-Libertà tal-Infurmazzjoni minn Awtoritajiet Pubbliċi (e.ż. pubblikazzjoni ta' infurmazzjoni skont l-artikolu 17 tal-Att u avviż dwar il-Proċedura Interna għall-Ilmenti);
- Tgħin lill-Uffiċjali FOI biex twassal it-talbiet għal dokumenti jew infurmazzjoni lill-Awtoritajiet Pubbliċi xierqa fejn dawn ikunu ġew indirizzati b'mod żbaljat minn applikanti;
- Tagħti pariri lill-Uffiċjali FOI fuq l-applikabbiltà jew le tal-eżenzjonijiet previsti fl-Att, jew fuq kull disposizzjoni ta' liġi dwar l-iżvelar ta' infurmazzjoni;
- Iżzomm registru ta' talbiet riċevuti u t-tweġibiet provduti lil applikanti, b'mod partikolari biex jinħarġu linji ta' gwida għal talbiet simili li jistgħu isiru fil-futur;
- Tagħti pariri fuq hwejjeġ ta' proċedura oħra relatati mal-libertà tal-infurmazzjoni.

2.2 *Network* tal-Uffiċjali FOI, magħmul mit-Taqsima ta' Kordinazzjoni FOI u kull Uffiċjal FOI tal-Awtorità Pubblika u kull Uffiċjal FOI Alternattiv, għandu jitwaqqaf, bil-għan li:

- a) jiffacilita l-proċeduri li permezz tagħhom talbiet għal dokumenti jew infurmazzjoni indirizzati lill-Awtorità żbaljata mill-applikanti jiġu diretti mill-ġdid lill-Awtorità responsabbli;
- b) jiffacilita l-organizzazzjoni ta' taħriġ għall-Uffiċjali konċernati;
- ċ) iwettaq kull attività jew laqgħa li jkollhom bżonn konsultazzjoni ma' jew komunikazzjoni ta' infurmazzjoni lill-Uffiċjali konċernati, sabiex ikun hemm qsim ta' għarfien u esperjenza relatata mal-implimentazzjoni ta' impenji tal-Libertà tal-Infurmazzjoni.

2.3 Dan in-*Network* għandu jkun immexxi mit-Taqsima ta' Kordinazzjoni FOI, li għandha torganizza laqgħat għal membri tan-*Network* kif neċessarju. Il-Kummissarju għall-Infurmazzjoni u l-Protezzjoni tad-*Data* jista' jiġi mitlub li jattendi laqgħat tan-*Network* mit-Taqsima ta' Kordinazzjoni FOI. Barra minn hekk, il-Kummissarju jista', fejn ikkunsidrat neċessarju, jitlob lit-Taqsima ta' Kordinazzjoni FOI biex tlaqqa' lin-*Network* sabiex tiġi indirizzata xi kwistjoni li teħtieġ li tiġi indirizzata lill-Uffiċċju tal-Kummissarju għall-Infurmazzjoni u l-Protezzjoni tad-*Data*.

2.4 L-Uffiċjali fuq in-*Network* għandhom jipprovdu infurmazzjoni kif neċessarju lill-Kap tan-*Network* u jikkomunikaw mal-Kummissarju għall-Infurmazzjoni u l-Protezzjoni tad-*Data* kif ikun meħtieġ.

- 2.5 Forum FOI, magħmul mit Taqsima ta' Kordinazzjoni FOI u kull Uffiċjal FOI Prinċipali u Uffiċjal FOI Prinċipali Alternattiv tal-Ministeru għandu jiġi mwaqqaf. Il-Forum għandu jiltaqa' fuq bażi regolari biex jiddiskuti affarijiet relatati mal-implimentazzjoni tal-Att, Regolamenti magħmula taħt l-Att kif ukoll id-disposizzjonijiet ta' dan il-Kodiċi, fost affarijiet oħra.
- 2.6 Bil-għan li d-*data* tkun żgur miżmuma b'mod standardizzat mill-Awtoritajiet Pubbliċi, biex b'hekk tiffaċilità l-iskambju ta' kazijiet bejn l-Awtoritajiet Pubbliċi kif ukoll t-twettiq tal-htigiet ta' rapportar, it-Taqsima ta' Kordinazzjoni FOI tista' tippreskrivi l-użu ta' sistema komuni bl-IT tax-xogħol minn Uffiċjali FOI.

3.0 Komunikazzjoni mal-Applikanti

- 3.1 Kull meta talba dwar il-Libertà tal-Informazzjoni tkun riċevuta b'mod elettroniku, l-Uffiċjal FOI għandu jippreżenta d-dokumenti jew informazzjoni msemmiha fis-Sezzjoni 10.0 ta' dan il-Kodiċi f'format elettroniku kull fejn possibli, sakemm l-applikant ma jitlobx b'mod espliċitu xort' oħra.
- 3.2 Kull meta talba dwar il-Libertà tal-Informazzjoni tkun riċevuta b'metodi ta' komunikazzjoni tradizzjonali, l-Uffiċjal FOI għandu jippreżenta d-dokumenti jew informazzjoni msemmiha fis-Sezzjoni 10.0 ta' dan il-Kodiċi billi juża l-istess metodi ta' komunikazzjoni fejn possibbli, sakemm l-applikant ma jitlobx b'mod espliċitu xort' oħra.
- 3.3 Rikonixximenti jistgħu jiġu mibgħuta f'format elettroniku meta l-applikant jikkomunika indirizz elettroniku lill-Awtorità Pubblika.

4.0 Kjarifika ta' talbiet magħmula minn persuni eliġibbli

- 4.1 Kull meta applikant jippreżenta talba għal dokument jew informazzjoni bil-miktub li ma tkunx skont l-artikolu 6 tal-Att jew li ma tkunx ċara fid-dokument jew informazzjoni mitluba, l-Uffiċjal FOI għandu jgħin lill-applikant biex jiformula mill-ġdid it-talba skont l-imsemmi artikolu jew biex jiċċara t-talba, kif ikun il-każ.
- 4.2 Għajna lill-applikant tista' tiġi provduta bit-telefon jew bil-miktub, inkluż b'mezzi elettronici. L-uffiċjal FOI għandu jdaħħal nota fil-formola oriġinarjament mimlija u mibgħuta mill-applikant, li tindika illi kjarifika giet miksuba mill-applikant (e.ż. bit-telefon), kif ukoll dik l-informazzjoni meħtieġa mill-applikant. Kull nota bħal dik għandha tkun ffirmata u datata mill-Uffiċjal FOI. Qabel d-dhul ta' dik in-nota l-Uffiċjal FOI għandu jinforma lill-applikant, li jista' jingħata l-opportunità li minflok jippreżenta formola ġdida li għandha tiġi kkunsidrata bħala kjarifika tat-talba oriġinali. It-termini rilevanti preskritti bl-Att jibdeu japplikaw minn meta l-formola ta' applikazzjoni flimkien mal-kjarifika pertinenti tkun giet riċevuta mill-Awtorità Pubblika.
- 4.3 Alternattivament, jekk l-applikant jippreferi hekk u jkun pratikkabbli li jsir hekk, l-Uffiċjal FOI għandu jorganizza laqgħa mal-applikant.

4.4 Għajnuna lill-applikant tista' tinkludi:

- Gwida ta' kif issir talba skont l-artikolu 6 tal-Att; jew,
- Deskrizzjoni tat-tipi differenti ta' dokumenti li tista' tilhaq it-termini tat-talba.

4.5 Kull meta dik l-informazzjoni tiġi mitluba minn applikanti, Uffiċjali FOI m'għandomx ifittxu li jistabbilixxu l-għanijiet jew motivazzjoni tal-applikant. Il-fini ta' kull talba għal informazzjoni mill-Uffiċjali FOI għandu jkun biss li jidentifika d-dokument jew l-informazzjoni meħtieġa mill-applikant.

4.6 Kull meta jkunu qed jgħinu bit-talbiet l-Uffiċjali FOI m'għandhomx jeħtieġu l-applikanti li jkunu fil-pussess ta' informazzjoni amministrattiva bħal numri ta' *files* jew ismijiet.

4.7 Fil-każ li applikant, wara li jingħata l-għajnnu dovuta mill-Uffiċjal FOI, xorta ma jkunx jista' jikkjarifika t-termini tat-talba tiegħu, l-applikant għandu jkun infurmat formalment li l-Awtorità Pubblika ma tkunx f'pożizzjoni li tipproċedi bit-talba għax minkejja l-għajnnu provduta mill-imsemmija Awtorità biex tikkjarifika l-għan tat-talba, l-applikant ma jkunx jista' jipprovdi l-kjarifiki neċessarji. L-applikant ikun ukoll infurmat bil-proċedura interna għall-ilmenti tal-Awtorità Pubblika u d-dritt tiegħu/tagħha li tintalab investgazzjoni u revizzjoni mill-Kummissarju għall-Informazzjoni u l-Protezzjoni tad-Data skont l-artikolu 23 tal-Att.

5.0 Trasferiment ta' Talbiet bejn l-Awtoritajiet Pubbliċi

5.1 Kull meta Uffiċjal FOI jirċievi talba relatata ma' dokumenti jew informazzjoni ki tista' tkun miżmuma minn Awtorità Pubblika oħra hu/hi għandha tikkuntattja lill-Uffiċjal FOI ta' dik l-Awtorità. Jekk ikun konfermat li d-dokument jew l-informazzjoni inkwistjoni hij miżmuma mill-Awtorità, it-talba għandha tkun debitament trasferita.

5.2 Fil-każijiet fejn l-Uffiċjal FOI li jirċievi t-talba ikun konxju liema Awtorità Pubblika qed iżomm id-dokument jew informazzjoni mitluba, hu/hi għandha tiġbed l-attenzjoni tal-Awtorità Pubblika dwar it-talba. It-talba għandha tiġi miġjuba għall-attenzjoni tal-Awtorità Pubblika li qed iżzomm id-dokument jew informazzjoni kemm jista' jkun malajr u f'kull każ mhux aktar tard minn 5 ijiem tax-xogħol wara l-jum li fih tiġi riċevuta t-talba. It-terminu ta' għoxrin jum tax-xogħol biex jiġi avżat l-applikant jekk it-talba tiegħu/tagħha hux ser tintlaqa' jew le ma tkunx sospiża matul dak iż-żmien li t-talba tkun qed tiġi trasferita minn Awtorità Pubblika waħda għal oħra. Kull meta l-Uffiċjal ikun f'dubbju dwar liema Awtorità Pubblika tkun qed iżzomm id-dokument jew informazzjoni msemmija fit-talba, l-Uffiċjal jista' jgħib it-talba għall-attenzjoni tat-Taqsima ta' Kordinazzjoni FOI. L-Uffiċjal FOI għandu allura jittrasmetti it-talba lil persuna ta' kuntatt fi hdan it-Taqsima ta' Kordinazzjoni FOI kemm jista' jkun malajr u f'kull każ mhux aktar tard minn jumejn tax-xogħol wara l-jum li fih tiġi riċevuta t-talba. Il-persuna ta' kuntatt fi hdan it-Taqsima ta' Kordinazzjoni FOI għandha minnufih tittrasmetti t-talba lill-membri tan-Network FOI.

- 5.3 Kull meta aktar minn Awtorità Pubblika waħda tinforma illi qiegħda żżomm id-dokument jew informazzjoni inkwistjoni u l-Awtoritajiet Pubbliċi inkwistjoni kollha jkun taħt l-istess Ministeru, deċiżjoni dwar liema awtorità għandha tirrispondi tittiehed mill-Uffiċjal FOI Prinċipali. Kull meta l-Awtoritajiet Pubbliċi jkunu taħt Ministeri differenti, deċiżjoni dwar liema awtorità għandha tirrispondi t-talba tal-applikant tittiehed mit-Taqsima ta' Kordinazzjoni FOI.
- 5.4 Kull meta Uffiċjal FOI jirċievi talba minn Uffiċjal FOI ieħor jew permezz tat-Taqsima ta' Kordinazzjoni FOI, dwar jekk dokument jew informazzjoni partikolari hijiex miżmuma mill-Awtorità Pubblika tiegħu/ tagħha jew le, l-Uffiċjal FOI li jkun qed jirċievi għandu jindika lill-Uffiċjal li jkun qed jitlob, fi żmien massimu ta' 5 ijiem tax-xogħol, jekk l-informazzjoni jew dokument inkwistjoni hux miżmum mill-Awtorità tiegħu/tagħha. Jekk ikun jidher li l-Awtorità Pubblika tal-Uffiċjal FOI li jkun qed jirċievi mhux qed iżżomm id-dokument jew informazzjoni inkwistjoni, l-Uffiċjal li jkun qed jitlob għandu xorta jibqa' responsabbli biex jidentifika għand liema Awtorità Pubblika it-talba għandha tintbagħat.
- 5.5 L-applikant għandu jkun formalment avżat mill-Uffiċjal FOI li rċieva t-talba dwar it-trasferiment tat-talba, u li dik it-talba qiegħda tiġi segwita mill-Awtorità Pubblika li lilha giet trasferita t-talba. Dak l-avviż għandu jkun komunikat lill-applikant fiż-żmien ta' mhux aktar tard minn għaxart ijiem tax-xogħol minn meta tirċievi t-talba mingħand l-applikant.
- 5.6 Kull meta jirriżulta li l-ebda Awtorità Pubblika ma qiegħda żżomm id-dokument mitlub, l-Awtorità Pubblika li tirċievi t-talba għanda tinforma lill-applikant li mhux qed iżżomm id-dokument mitlub u illi m'għandiex raġunijiet biex temmen li d-dokument huwa miżmum minn Awtorità Pubblika oħra.

6.0 Konsultazzjoni ma' Partijiet Terzi

- 6.1 Kull meta tkun magħmula talba għal dokument li jkun miżmum mill-Awtorità Pubblika tal-Uffiċjal FOI li jkun qed jirċievi t-talba, iżda għandha x'taqsam ma' terzi, u dak d-dokument ma jkunx jidher li jaqa' bhala waħda mill-eżenzjonijiet tal-Att, l-Uffiċjal FOI għandu jinforma lit-terzi inkwistjoni fuq l-iżvelar possibbli tad-dokument. Din il-konsultazzjoni għandha tkun limitata għall-opinjoni tal-partijiet terzi jekk d-dokument inkwistjoni jaqax bhala waħda mill-eżenzjonijiet maħsuba bl-Att jew le, jew dwar xi restrizzjoni għall-iżvelar maħsuba b'xi liġi oħra. L-Awtorità Pubblika, li għandha r-responsabbiltà unika dwar it-talba magħmula mill-applikant, mhix meħtieġa li tkun marbuta li tħares ir-rakkomandazzjonijiet tal-partijiet terzi jekk hi tikkunsidra li, skont il-liġi applikabbli, l-applikant għandu d-dritt għall-aċċess tad-dokument inkwistjoni. L-Awtorità Pubblika għanda tikkomunika lill-partijiet terzi konċernati d-deċiżjoni aħharija tagħha dwar jekk l-iżvelar jew le, filwaqt li preferibbilment tagħti r-raġunijiet għala ħadet deċiżjoni speċifika, b'mod partikolari meta dan huwa kuntrarju għal xi opinjoni jew rakkomandazzjoni kif imiss minn dawk il-partijiet terzi.

- 6.2 Fil-każ li l-partijiet terzi inkwistjoni jkunu rappreżentati minn għaqda, il-konsultazzjoni tista' ssir mal-għaqda. Meta n-numru ta' partijiet inkwistjoni ikun aktar minn għaxar persuni jew istituzzjonijiet, u ma jkunx rappreżentati minn għaqda, l-Uffiċjal FOI jista' jikkonsulta kampjun rappreżentattiv li jilhaq jew ikun qrib l-20%.
- 6.3 Il-persuni inkwistjoni għandhom jingħataw għaxart ijiem tax-xogħol biex jissottomettu l-opinjoni tagħhom dwar jekk l-imsemmija eżenzjonijiet japplikawx jew le. Jekk l-ebda risposta ma tingħatha fi żmien għaxart ijiem l-Uffiċjal FOI għandu jikkunsidra illi l-persuni inkwistjoni qed jagħtu l-kunsens taċitu tagħhom għall-iżvelar tad-dokument. L-Uffiċjal FOI, wara konsultazzjoni xierqa mal-Kap tad-Dipartiment, jista' jipprova għal estensjoni ta' mhux aktar minn hamest ijiem tax-xogħol oħra wara l-perjodu ta' konsultazzjoni, ukoll jekk l-avviż tad-deċiżjoni tal-Awtorità Pubblika ma jkunx ser jiġi komunikat lill-applikant fiż-żmien l-għoxrin jum maħsuba mill-artikolu 10 tal-Att. L-applikant ikun debitament informat bl-estensjoni ta' terminu ta' għoxrin jum, ir-raġunijiet dwaru, il-proċedura interna għall-ilmenti tal-Awtorità Pubblika u d-dritt li jindirizza ilment lill-Kummissarju għall-Infommazzjoni u l-Protezzjoni tad-Data skont l-artikolu 23 tal-Att.
- 6.4 Waqt il-konsultazzjonijiet l-Uffiċjal FOI jista' wkoll jikkonsulta il-partijiet terzi kkonċernati dwar jekk l-applikant għandux jingħata materjal jew parir ta' spjegazzjoni ulterjuri flimkien mad-dokument inkwistjoni. Dak il-parir jista' jinkludi riferenzi għal restrizzjonijiet dwar drittijiet tal-awtur.
- 6.5 Meta jkun qed jipproċessa talba dwar dokumenti miżmuma mill-Awtorità Pubblika li tkun qed tirċievi t-talba, preparati jew le li jinvolvu Awtorità jew Awtoritajiet Pubbliċi oħra, imma l-ebda partijiet terzi, l-Uffiċjal FOI għandu jikkonsulta mal-Uffiċjal FOI tal-Awtorità jew Awtoritajiet inkwistjoni. Ir-risposta mingħand dawn l-Awtoritajiet dwar l-opinjoni tagħhom fuq jekk id-dokument għandux ikun żvelat għandha tiġi ppreżentata fi żmien massimu ta' għaxart ijiem tax-xogħol. Jekk ma tingħatha l-ebda risposta tul dak il-perjodu l-Uffiċjal FOI għandu jikkunsidra li l-Awtorità jew l-Awtoritajiet inkwistjoni qed jagħtu l-kunsens taċitu tagħhom għall-iżvelar tad-dokument.
- 6.6 Fil-każijiet li jinvolvu nuqqas ta' qbil bejn l-Awtorità Pubblika li tkun qed tirċievi talba għal dokument u terza parti, inkluż Awtorità Pubblika oħra, ir-responsabbiltà għall-għoti tar-risposta dejjem tibqa' għand l-Awtorità li tkun rċeviet t-talba.

7.0 Inkluzjoni ta' klawnsoli ta' żvelar ta' informazzjoni f'Kuntratti li jidhlu fihom Awtoritajiet Pubbliċi

- 7.1 Il-Kapijiet ta' Awtoritajiet Pubbliċi għandhom jikkonsidraw l-obbligi tagħhom skont l-Att meta jidhlu f'kuntratti ma' kumpanniji privati. Il-kuntratturi għandhom jiġu magħmula konxji li kuntratti, jew estratti minnhom, jistgħu jiġu żvelati taht l-Att sakemm dawn ma jaqgħux taht l-eżenzjonijiet tal-Att jew ta' xi liġi oħra li tirregola l-iżvelar.
- 7.2 Kuntratti jista' jkollhom disposizzjonijiet dwar dawk il-klawsoli li l-iżvelar tagħhom jeħtieġ konultazzjoni minn qabel mal-kuntrattur inkwistjoni, bhala terza parti, skont il-

proċedura stabbilita fis-Sezzjoni 6.0 ta' dan il-Kodiċi, mingħajr hsara għall-obbligi tal-Awtorità Pubblika kif mniżżla fl-Att:

Izda kull kuntratt eżistenti jew fil-futur illi ma jkunx fih dik il-klawsola jkun sugġett għal żvelar, mingħajr hsara għal xi eżenzjoni rilevanti.

8.0 Ilmenti dwar it-trattament tat-talbiet għal dokumenti jew informazzjoni

- 8.1 Minkejja li l-applikanti huma intitolati li jindirizzaw ilmenti jew li ifittxu ir-reviżjoni ta' xi deċiżjoni minn Awtorità Pubblika billi jirrikorru għand il-Kummissarju għall-Infurmazzjoni u l-Protezzjoni tad-*Data*, kull Awtorità Pubblika għandha fl-ewwel lok toffri lill-applikanti l-possibilitajiet għall-ilmenti, u li jfittxu revizjoni mill-Awtorità Pubblika nnifisha billi tiġi adottata Proċedura Interna għall-Ilmenti.
- 8.2 Għalhekk, kull Awtorità Pubblika għandha twaqqaf proċedura li biha l-applikanti jistgħu ifittxu revizjoni ta' kull deċiżjoni mehuda, jew li jilmentaw dwar id-dewmien fir-rigward tar-rilaxx tad-dokumentazzjoni. Din il-proċedura għandha tissemma' u tiġi debitament spjegata fit-tweġibiet formali kollha sottomessi minn kull Awtorità Pubblika fir-rigward tal-Att, u għandha, b'mod partikolari, tiddaħħal f'kull Formola ta' Tweġiba flimkien mal-infurmazzjoni marbuta mad-dritt tal-applikant li jagħmel ilment jew ifittex revizjoni mingħand il-Kummissarju għall-Infurmazzjoni u l-Protezzjoni tad-*Data*.
- 8.3 Il-Proċedura Interna għall-Ilmenti m'għandhiex tkun ta' piż għall-applikant. Partikolarment, m'għandhiex:
- a) tiegħu aktar minn għaxart ijiem tax-xogħol, minn meta jasal l-ilment, sabiex l-applikant jiġi notifikat bid-deċiżjoni tal-Awtorità Pubblika. Jekk għandu jingħata aċċess għal xi dokument jew informazzjoni, dan għandu jkun skont il-paragrafu 10.3 ta' dan il-Kodiċi;
 - b) titlob għall-ġoti ta' informazzjoni mill-applikant li mhuwiex maħsub bl-Att;
 - c) iġġib hlasijiet żejda għall-applikant, minbarra dawk preskritti bl-Att u bir-Regolamenti dwar Hlasijiet imposti mill-Awtoritajiet Pubbliċi għall-Aċċess għal Dokumenti.
- 8.4 Barra minn dan, il-proċedura għandha tagħti s-setgħa lill-applikant sabiex:
- a) jippreżenta ilment bil-miktub (inkluż b'mezzi elettronici);
 - b) jagħti raġunijiet għan-nuqqas ta' qbil tiegħu jew tagħha mad-deċiżjoni tal-Awtorità Pubblika li ma tagħtix l-infurmazzjoni mitluba; u,
 - c) jirrapporta n-nuqqas li jintlahqu ż-żminjiet ta' skadenza stipulati fl-Att, kif ukoll in-nuqqas li jintbagħtu l-avviżi.
- 8.5 Il-proċedura interna għall-ilmenti għandha tipprovdi għall-indirizzar tal-ilmenti rilevanti maħsuba bl-Att, bħal aċċess għad-dokument jew informazzjoni li jiġi miċhud, jew li d-dokument jew informazzjoni ma jingħatawx fil-format preferut. Ukoll, kull meta jintalbu

ħlasijiet skont ir-Regolamenti dwar Ħlasijiet imposti mill-Awtoritajiet Pubbliċi għall-Aċċess għal Dokumenti, il-proċedura interna għall-ilmenti għandha tipprovdi għal:

- a) rapportaġġ ta' nuqqas ta' qbil mill-applikant dwar l-implimentazzjoni tal-imsemmija Regolamenti mill-Awtorità inkwistjoni;
- b) il-possibilità għall-applikant li jagħti raġunijiet għaliex hu/hija iqis li d-dritt m'għandux jintalab fir-rigward tat-talba tiegħu/tagħha skont l-artikolu 9(5)(b) tal-Att; iżda mingħajr ħsara għad-diskrezzjoni tal-Awtorità Pubblika f'dan ir-rigward kif stipulat fl-Att.

- 8.6 Kull Awtorità Pubblika għandha tikkomunika l-proċedura rispettiva tagħha, konformi mal-*istandards* minimi fuq imsemmija, permezz tal-Uffiċjal FOI tagħha, lill-Uffiċjal FOI Prinċipali tal-Ministeru li għandu, min-naha tiegħu, jgħaddiha lill-Kummissarju għall-Informazzjoni u l-Protezzjoni tad-*Data* u lit-Taqsima ta' Kordinazzjoni FOI qabel id-dhul fis-seħħ tal-Att.
- 8.7 Il-Kummissarju għall-Informazzjoni u l-Protezzjoni tad-*Data* jista' jagħmel rakkomandazzjonijiet marbuta mal-proċedura adottata minn kull Awtorità Pubblika. Meta l-Kummissarju għall-Informazzjoni u l-Protezzjoni tad-*Data* iqis li l-proċedura interna għall-ilmenti adottata minn Awtorità Pubblika hija wisq komplikata, u li l-Awtorità Pubblika inkwistjoni għalhekk tkun għadha mhux konformi ma' dan il-Kodiċi, il-Kummissarju jista' jagħmel rakkomandazzjoni ta' prattika in segwitu għall-artikolu 22 tal-Att, fejn jiġu speċifikati l-passi li għandhom jittiehdu sabiex ikun hemm il-konformità.
- 8.8 Kull meta id-deċiżjoni tal-Awtorità Pubblika fil-kuntest tal-proċedura interna għall-ilmenti ma tkunx favur l-applikant, l-applikant għandu jiġi mfakkar bid-dritt tiegħu/tagħha li jagħmel ilment jew ifittex reviżjoni tad-deċiżjoni mill-Kummissarju għall-Informazzjoni u l-Protezzjoni tad-*Data* skont l-artikolu 23 tal-Att.
- 8.9 Kull meta applikant javża lil Awtorità Pubblika permezz tal-Proċedura Interna għall-Ilmenti li huwa/hija gie pprovdut b'dokument differenti minn dak li kien intalab, l-Awtorità Pubblika għandha tagħmel valutazzjoni dwar jekk l-applikant fil-fatt kienx ta informazzjoni biżżejjed lill-Uffiċjal FOI sabiex seta' jidentifika id-dokument mitlub. F'każ li l-Awtorità Pubblika tqis li ma kienx inġhata informazzjoni biżżejjed, l-applikant jiġi mgħarraf b'daqshekk. F'każ li l-Awtorità Pubblika tqis li kienet inġhata informazzjoni biżżejjed, l-Awtorità Pubblika għandha tgħarraf lill-applikant li t-talba tiegħu/tagħha giet ikkunsidrata mill-ġdid, u tinforma lill-applikant jekk id-dokument għandux jingħata jew jiġi miżmum fit-termini tal-eżenzjonijiet rispettivi tal-Att dwar il-Libertà tal-Informazzjoni.
- 8.10 L-Uffiċjal li jivvaluta t-talbiet magħmula fit-termini tal-Proċedura Interna għall-Ilmenti għandu, safejn huwa possibbli, ikun differenti mill-Uffiċjal FOI jew l-Uffiċjal FOI Alternattiv, u jista' jkun il-Kap tal-Awtorità Pubblika inkwistjoni.

9.0 Żamma ta' dokumenti u registri mill-Awtoritajiet Pubbliċi

- 9.1 Dokumenti merfugħa f'Sistema ta' Regjistru kontenenti karti u dokumenti merfugħa b'mezzi elettroniki għandhom ikunu faċilment u, jekk possibbli, direttament aċċessibbli, għall-Uffiċjal FOI u għall-Uffiċjal FOI Alternattiv tal-Awtorità Pubblika inkwistjoni.
- 9.2 Safejn ma japplikawx konsiderazzjonijiet u eżenzjonijiet dwar Protezzjoni tad-Data maħsuba bl-Att, id-dokumenti msemmija fl-artikolu 19(1) tal-Att għandhom, kull meta huwa possibbli, jittellgħu fuq is-sit elektroniku tal-Awtorità Pubblika jew sit ieħor elektroniku relatat skont kif meħtieġ:
- 9.3 Il-Kummissarju għall-Informazzjoni u l-Protezzjoni tad-Data u t-Tribunal dwar l-Informazzjoni u l-Protezzjoni tad-Data għandhom jikkomunikaw lit-Taqsima ta' Kordinazzjoni FOI l-informazzjoni marbuta mad-deċiżjonijiet dwar każijiet fuq il-Libertà tal-Informazzjoni. Kull fejn huwa meħtieġ, it-Taqsima ta' Kordinazzjoni FOI għandha għib dawk id-deċiżjonijiet għall-attenzjoni tan-*Network* tal-Uffiċjali FOI.
- 9.4 L-Awtoritajiet Pubbliċi għandhom ukoll iżommu registri tat-talbiet magħmula lilhom għal dokumenti jew informazzjoni u tar-risposti mogħtija skont kif jingħad fl-Att. L-Awtoritajiet Pubbliċi għandhom ukoll iżommu registru tad-deċiżjonijiet tal-Kummissarju għall-Informazzjoni u l-Protezzjoni tad-Data u tat-Tribunal dwar l-Informazzjoni u l-Protezzjoni tad-Data li huma rilevanti fil-qasam tagħhom ta' interess.
- 9.5 Il-Kummissarju għall-Informazzjoni u l-Protezzjoni tad-Data għandu wkoll jagħmel rakkomandazzjonijiet skont kif ikun meħtieġ lill-Awtoritajiet Pubbliċi dwar iż-żamma ta' dokumenti u registri sitt xhur wara s-sottomissjoni tal-ewwel rapport annwali (skont l-artikolu 21(5) tal-Att) lill-Ministru dwar it-thaddim tal-Att. Ir-rakkomandazzjonijiet għandhom jingiebu wkoll għall-attenzjoni tat-Taqsima ta' Kordinazzjoni FOI. Alternattivament il-Kummissarju għall-Informazzjoni u l-Protezzjoni tad-Data jista' jikkomunika mal-Awtoritajiet Pubbliċi permezz tat-Taqsima ta' Kordinazzjoni FOI.

10.0 Sottomissjoni ta' dokumenti jew informazzjoni lill-applikanti

- 10.1 L-Awtoritajiet Pubbliċi għandhom jirrispondu għat-talbiet ta' dokumenti mill-applikanti skont id-disposizzjonijiet tal-Att, billi jagħtu dokument eżistenti jew estratt tiegħu lill-applikant, mingħajr hsara għall-eżenzjonijiet relatati. Risposti għat-talbiet għal informazzjoni skont l-artikolu 20 tal-Att għandhom jitthejjew konformement mal-format speċifikat fl-artikolu msemmi, mingħajr hsara għall-eżenzjonijiet relatati.
- 10.2 Kull meta Awtorità Pubblika tikkomunika deċiżjoni lil applikant li l-aċċess għal dokument jew informazzjoni ser jingħata skont l-artikolu 10 jew 11 tal-Att, waqt li fl-istess hin l-applikant jiġi mgharraf bid-drittijiet applikabbli għat-talba, l-Awtorità Pubblika għandha tagħmel disponibbli id-dokument jew informazzjoni lill-applikant fi żmien għaxart ijiem tax-xogħol minn meta jkun sar l-hlas rispettiv.

- 10.3 Kull meta Awtorità Pubblika tikkomunika deċiżjoni lil applikant li ser jingħata aċċess għal dokument jew informazzjoni skont l-artikolu 10 jew 11 tal-Att, u fl-istess waqt l-applikant jiġi mgħarraf li mhu ser jintalab l-ebda dritt, l-Awtorità Pubblika għandha tagħmel disponibbli lill-applikant id-dokument jew informazzjoni fi żmien massimu ta' għaxart ijiem tax-xogħol min-notifika tal-imsemmija deċiżjoni.
- 10.4 Kull meta Awtorità Pubblika tiddeċiedi li tagħti aċċess għal dokument jew informazzjoni fil-kuntest tal-Proċedura Interna dwar Ilmenti, id-dokument jew informazzjoni għandhom ikunu disponibbli lill-applikant fi żmien massimu ta' għaxart ijiem tax-xogħol min-notifika tal-imsemmija deċiżjoni, kull meta ma jintalab l-ebda dritt. Meta għandu jithallas dritt id-dokument jew informazzjoni għandhom ikunu disponibbli fi żmien massimu ta' għaxart ijiem tax-xogħol minn meta jsir il-ħlas rispettiv.
- 10.5 Awtorità Pubblika tista' tqis abbandunata mill-applikant talba għal aċċess għal dokument jew informazzjoni, kull meta l-applikant jonqos milli jagħmel il-ħlas dovut fi żmien għoxrin jum tax-xogħol minn meta l-Awtorità Pubblika tkun ikkomunikat id-deċiżjoni tagħha lill-applikant.

Iżda, it-talba ma titqiesx li giet abbandunata kull meta l-applikant ikun indirizza ilment.

11.0 Kif jiġu trattati Talbiet Vessatorji

- 11.1 Billi l-Awtoritajiet Pubbliċi jibqgħu marbuta li jipprovdu id-dokumenti jew informazzjoni mitluba mill-applikanti skont id-disposizzjonijiet tal-Att, għandu jiġi żgurat li talbiet vessatorji ma jithallewx ifixxklu it-thaddim kif imiss tal-Att jew l-effikaċja tal-Awtoritajiet Pubbliċi fit-twettiq tiegħu.
- 11.2 Deċiżjoni dwar jekk talba hijiex vessatorja tfisser li wiehed jirrikorri għall-kuntest u storja tagħha. Bħala l-ewwel pass, għandu jiġi deċiż jekk talba x'aktarx tikkawżax konfużjoni, tfixkil jew irritazzjoni mhux ġustifikati lill-persunal (eż. użu ta' lingwaġġ ostili jew abuziv; fissażjoni mhux raġonevoli fuq membru individwali tal-persunal; taħwid ta' akkużi u ilmenti; talbiet ripetuti bi kliem vag li ma jiġux kjarifikati mill-applikant).
- 11.3 Fit-tieni lok, għandu jiġi kkunsidrat jekk:
- a) it-talba tidhirx ossessiva; u/jew,
 - b) jekk tintlaqa' t-talba titfax piż konsiderevoli fuq l-Awtorità Pubblika, b'mod li jkun hemm tfixkil fil-funzjonijiet tagħha (inkluż l-ipproċessar ta' talbiet oħra skont l-Att).
- 11.4 F'dan ir-rigward, Awtorità Pubblika tista' tirrifjuta li taċċedi għal talbiet ripetuti mill-istess persuna għall-istess informazzjoni, partikolarment meta talbiet bħal dawk isiru f'perjodi qosra meta l-informazzjoni inkwistjoni ma setgħetx inbidlet f'xi mod sostanzjali. Notifikazzjoni ta' rifjut għandha tintbagħat lill-applikant, b'raġuni dettaljata

għar-rifjut kull fejn dan huwa possibbli, eż. 'It-talba giet miċhuda peress li risposta għall-istess talba diġà ingħatat xahar ilu biss mid-Dipartiment.'

- 11.5 Kull meta jinħareġ rifjut, l-applikant għandu jiġi infurmat bil-proċedura interna għall-ilmenti tal-Awtorità Pubblika u bid-dritt tiegħu li jfittex investigazzjoni u reviżjoni mill-Kummissarju għall-Infommazzjoni u l-Protezzjoni tad-Data skont l-artikolu 23 tal-Att.

12.0 Amministrazzjoni tal-Ħlasijiet

- 12.1 Meta jintalbu ħlasijiet għall-ipproċessar skont ir-Regolamenti dwar Ħlasijiet imposti mill-Awtoritajiet Pubbliċi għall-Aċċess għal Dokumenti, il-hin użat għal tfittxija ta' dokument jew informazzjoni li jirriżulta li kienu mqegħda ħazin jew inkella ma setgħux b'xi mod ieħor jiġu faċilment lokalizzati minhabba negligenza jew xi nuqqas ieħor fil-funzjoni m'għandux jitqies fil-kalkolu tad-dritt għall-ipproċessar.

13.0 Applikazzjoni tal-artikolu 14(f) - Talbiet li iwasslu biex ir-riżorsi ta' Awtorità Pubblika jkunu indirizzati b'mod sostanzjali u mhux raġonevoli lil hinn mill-operazzjonijiet l-oħra

- 13.1 Billi l-Awtoritajiet Pubbliċi huma marbuta li jipprovdu dokumenti jew informazzjoni lill-applikanti, bla ħsara għall-eżenzjonijiet rispettivi, għandha tinghata konsiderazzjoni xierqa lill-konsegwenzi tat-talbiet magħmula skont l-Att għall-operat tal-Awtorità Pubblika.
- 13.2 L-Awtoritajiet Pubbliċi jistgħu iqiesu li talba twassal għall-indirizzar b'mod sostanzjali u mhux raġonevoli lil hinn minn funzjonijiet oħra jekk l-ispiza shiġha għall-Awtorità Pubblika tilhaq jew taqbeż l- €100.00, ikkalkolata b'riferenza għar-rati li ġejjin:
- i) €5.00 għal kull siegħa ta' pproċessar bl-idejn;
 - ii) Ir-rati applikabbli għall-ħlasijiet b'zieda fl-Iskedi 2 u 3 tar- Regolamenti dwar Ħlasijiet imposti mill-Awtoritajiet Pubbliċi għall-Aċċess għal Dokumenti.
- 13.3 Kull meta l-Awtoritajiet Pubbliċi jieħdu f'konsiderazzjoni l-applikazzjoni tal-artikolu 14(f) għandhom jagħtu lill-applikanti l-opportunità li jagħmlu t-talba mod ieħor b'tali mod li tkun tista' tiġi indirizzata aħjar mill-Awtorità Pubblika. Għandu jinħareġ rifjut skont l-artikolu 14(f) meta l-applikant inkwistjoni jirrifjuta jew inkella ma jkunx f'pożizzjoni li jagħmel it-talba b'mod ieħor.
- 13.4 L-Awtoritajiet Pubbliċi mhumiex miżmuma milli jilqgħu talba għal informazzjoni f'kazijiet speċifiċi meta, għalkemm jinqabeż il-limitu ta' spiza msemmi fil-paragrafu 13.2 ta' dan il-Kodiċi, iqiesu xieraq li jagħmlu hekk.

14.0 Applikazzjoni tal-artikolu 35(2) tal-Att – Raġunijiet oħra ghala ma tinghatax informazzjoni uffiċjali

- 14.1 L-artikolu 35(2) tal-Att jagħti s-setgħa lill-Awtoritajiet Pubbliċi li ma jaghtux dokumenti li jaqgħu fi hdan l-għan tat-Taqsima VI tal-Att kull meta 'interess pubbliku li jinqeda bin-nuqqas ta' żvelar m'għandux piż aktar mill-interess pubbliku li jinqeda jekk id-dokument ikun żvelat.'
- 14.2 Fid-deċiżjoni ta' jekk l-interess pubbliku jinqedix l-aħjar billi ma jiġi żvelat xejn l-Awtoritajiet Pubbliċi għandhom għalhekk jivvalutaw jekk xi waħda mis-sitwazzjonijiet li ġejjin tapplikax fir-rigward tal-artikoli rispettivi tat-Taqsima VI tal-Att.

Artikolu 36 - Working documents Interni

- 14.3 Fil-konsiderazzjoni dwar jekk japplikax l-artikolu 35(2) fir-rigward ta' *Working Documents* Interni l-interess pubbliku li ma jiġi żvelat xejn jidhlu fih is-sitwazzjonijiet li ġejjin:
- a) Li jiġi żvelat id-dokument jagħti lok għal alarm jew tħassib mhux misthoqq; jew
 - b) Li jiġi żvelat id-dokument jista' jagħti lok għal malintizi jew fehmiet żbaljati fir-rigward tal-politika jew l-intenzjonijiet tal-Gvern; jew
 - c) Id-dokument, jekk żvelat, jista' jirriżulta fit-tifrix ta' informazzjoni li ma tkunx fattwalment preċiża jew tkun qadima; jew
 - d) Id-dokument ikun għaddej f'ħidma li x'aktarx ikollu tibdil konsiderevoli qabel ma jiġi finalizzat; jew
 - e) Li jiġi żvelat id-dokument jinkixfu taħdidiet interni, deliberazzjonijiet, skambju ta' fehmiet, proposti, pariri jew rakkomandazzjonijiet min-naħa tal-uffiċjali jew min għandu kariga politika fir-rigward tal-politika tal-Gvern.
- 14.4 Jista' jiġri li l-interess pubbliku fl-iżvelar ikollu iżjed piż minn dawn il-konsiderazzjonijiet, partikolarment fir-rigward ta' kwistjonijiet li jkunu ta' interess pubbliku wiesgħa, iżda jista' jitqies li dan jiġri f'sitwazzjonijiet mhux tas-soltu u f'ċirkostanzi normali id-dokumenti m'għandhomx għalfejn jiġu żvelati meta japplikaw il-konsiderazzjonijiet ta' hawn fuq.
- 14.5 Wiehed għandu jzomm f'moħħu li l-konsiderazzjonijiet fil-paragrafu 14.3 ma japplikawx fil-każ ta' dokumenti li jkollhom informazzjoni purament fattwali. Għalhekk daww id-dokumenti huma soġġetti li jiġu żvelati.
- 14.6 L-istess japplika għar-rapporti jew studji mhejjija minn esperti xjentifiċi jew tekniċi li ikollhom x'jaqsmu mal-applikazzjoni tal-hila xjentifika jew teknika, ukoll jekk daww id-dokumenti jkun fihom pariri dwar aspetti xjentifiċi jew tekniċi. Daww id-dokumenti huma wkoll soġġetti li jiġu żvelati. Parir xjentifiku jew tekniku li jkun soġġett li jiġi żvelat jista'

jiġi differenzjat minn parir ta' politika taht il-paragrafu 14.3 e) permezz tal-aspetti li ġejjin:

- a) ikollha x'taqsam l-applikazzjoni ta' hila speċjalizzata u ma tittihiedx qies ta' konsiderazzjonijiet iżjed wiesgħa ta' politika;
- b) ikun raġonevolment mistenni li stharrig mill-ġdid tal-istess kwistjoni minn individwu ieħor simili kwalifikat iwassal għal konklużjonijiet simili;
- ċ) jidhlu għalih persunal taht il-livell tat-tmexxija ta' fuq (parir imħejji minn *managers* anzjani għandu dejjem jitqies parir ta' politika li jaqa' taht il-paragrafu 14.3 e) imsemmi hawn fuq, u għalhekk mhux normalment soġġett li jiġi żvelat).

artikolu 37- Dokumenti li jolqtu l-interessi finanzjarji jew ta' proprjeta' ta' Awtoritajiet Pubbliċi

- 14.7 Kull dokument li jikxef prattiċi ħziena amministrattivi jew oħrajn fi hdan l-Awtorità Pubblika m'għandux jitqies li iġib konsegwenza sostanzjali fuq l-interessi finanzjarji jew proprjetarji tal-Gvern jew ta' Awtorità Pubblika oħra, safejn ma jkollu ebda informazzjoni li tikkawża hekk, f'liema każ ma tinghatax biss dik l-informazzjoni.

Artikolu 38 - Dokumenti dwar ċerti operazzjonijiet ta' Awtoritajiet Pubbliċi

- 14.8 Kull dokument li jiżvela tagħrif li jista' b'xi mod jgħin jew xort'oħra jolqot kandidati waqt it-testijiet jew eżamijiet m'għandux jinghata skont it-termini tal-artikolu 38(a) u (b) tal-Att. Kull dokument li jista' jagħmel ħsara lill-andament jew ir-riżultat tal-verifiki ukoll m'għandux jinghata taht l-istess artikolu.

- 14.9 Sabiex jitqies jekk l-interess pubbliku f'li ma jiġi żvelat xejn għandux aktar piż minn dak f'li jiġi żvelat fir-rigward tal-artikolu 38(ċ) u (d), għandu jiġi valutat jekk:

- a) humiex applikabbli s-sitwazzjonijiet imsemmija fir-rigward tal-artikolu 36 ; jew
- b) xi terza parti hiex sejra tibbenefika ingustament bl-iżvelar tad-dokument; jew,
- ċ) jekk l-iżvelar tad-dokument ifixkilx l-infurzar effettiv ta' xi liġi applikabbli mill-Awtorità Pubblika inkwistjoni.

15.0 Applikazzjoni tal-artikolu 39(2) tal-Att – Appelli minn Avviżi ta' Informazzjoni u Avviżi ta' Infurzar mahruġa mill-Kummissarju għall- Informazzjoni u l-Protezzjoni tad-Data

- 15.1 L-Awtoritajiet Pubbliċi għandhom jindirizzaw l-appelli lit-Tribunal skont kif jinghad fl-artikolu 39(2) tal-Att fi żmien għaxart ijiem tax-xogħol mill-hruġ tal-Avviż relattiv mill-Kummissarju.

Code of Practice for Public Authorities

Freedom of Information Act (Cap. 496)

1.0 Nomination of FOI Officers

- 1.1 Each Public Authority shall nominate an FOI Officer and at least one Alternate FOI Officer, whose names and contact details shall be communicated to the FOI Coordinating Unit within the Ministry for Justice and Home Affairs and copied to the Information and Data Protection Commissioner, following due consultation with the Permanent Secretary of the Ministry concerned. In the event that a Public Authority fails to appoint an FOI Officer this role shall automatically be assumed by the Head of the Authority concerned or, in the absence of the Head of the Authority, by the most senior Official within the Authority concerned.
- 1.2 The FOI Officer, who will represent the Head of the Public Authority concerned in matters relating to Freedom of Information, shall be responsible for the processing of requests for documents or information in line with the Freedom of Information Act, hereinafter referred to as 'the Act'. This will include the receipt of requests, their processing, referral to other Public Authorities (where this is necessary) and any communications with applicants as necessary in terms of the Act. In the course of their duties, FOI Officers shall abide by the terms of the Act and this Code of Practice. Alternate FOI Officers shall assist FOI Officers in the fulfillment of these duties, further to assuming all the duties and responsibilities pertaining to the FOI Officer when the latter is unavailable.
- 1.3 Permanent Secretaries may opt to nominate single FOI Officers and Alternate FOI Officers to represent a number of Public Authorities. In the event this option is availed of the FOI Coordinating Unit and the Information and Data Protection Commissioner shall be duly informed by the Principal FOI Officer (as defined in paragraph 1.4 of this Code).
- 1.4 The FOI Officer responsible for a Ministry's Permanent Secretariat shall assume the role of Principal FOI Officer for the Ministry concerned, whereas his/her Alternate shall assume the role of Alternate Principal FOI Officer. Further to his/her duties as an FOI Officer, the Principal FOI Officer will:
 - ensure that every Public Authority within his/her Ministry is covered by an FOI Officer and an Alternate FOI Officer;
 - ensure that each Public Authority under the responsibility of the pertinent Ministry has an Internal Complaints Procedure in place;
 - communicate, on a regular basis, updated lists of FOI Officers and Alternate FOI Officers within his/her respective Ministry to the FOI Coordinating Unit;
 - monitor the implementation of Freedom of Information commitments by Public Authorities falling under the Ministry's responsibility;
 - report to the FOI Coordinating Unit procedures adopted by Public Authorities and any related changes.
 - provide to the Information and Data Protection Commissioner, by the 15th February of every year, the report referred to in paragraph 1.6 of this Code for every Public Authority falling under his/her Ministry's responsibility; and

- provide the FOI Coordinating Unit and the Information and Data Protection Commissioner with any additional information that they may require.

1.5 The FOI Officers and the Alternate FOI Officers responsible for Public Authorities that are not subject to ministerial control ², shall perform duties similar to the Ministry Principal FOI Officers, namely:

- monitor the implementation of Freedom of Information commitments within their Public Authority;
- report to the FOI Coordinating Unit procedures adopted by their Public Authority and any related changes;
- provide to the Information and Data Protection Commissioner information relating to the nomination of FOI Officers and Alternate FOI Officers;
- provide to the Information and Data Protection Commissioner, by the 15th February of every year, the report referred to in paragraph 1.6 of this Code for their Public Authority; and
- provide the FOI Coordinating Unit and the Information and Data Protection Commissioner with any additional information that they may require.

The FOI Officers and Alternate FOI Officers responsible for Public Authorities that are not subject to ministerial control shall form part of the Freedom of Information Forum (as defined by Section 2.0 of this Code).

1.6 FOI Officers shall be required to submit a report to their respective Principal FOI Officers containing the information listed in article 21(5) of the Act, as related to the Public Authority in question.

1.7 The Principal FOI Officer shall notify his/her superiors whenever an FOI Officer is not reporting in accordance with paragraph 1.6 above. Instances where Public Authorities fail to comply with any provision of the Act or of this Code shall also be duly reported.

2.0 Establishment of an FOI Officers' Network and Forum

2.1 The FOI Coordinating Unit within the Ministry for Justice and Home Affairs, which shall be managed by the Assistant Director (Freedom of Information) and headed by the Director, Programme Implementation, shall be responsible for:

- Monitoring the implementation of FOI-related obligations by Public Authorities (e.g. publication of information pursuant to article 17 of the Act and notification of the Internal Complaints Procedure);
- Assisting FOI Officers in channeling requests for documents or information to the proper Public Authorities where these have been erroneously addressed by applicants;

² Refer to Part II of the Second Schedule of the Public Administration Act (Cap. 497).

- Advising FOI Officers on the applicability or otherwise of the exemptions foreseen by the Act, or any other legislative provisions regulating disclosure of information;
- Keeping records of requests received and replies provided to applicants, particularly with a view to issue guidelines for similar requests that would be made in the future;
- Advising on other procedural issues relating to freedom of information.

2.2 An FOI Officers' Network, made up of the FOI Coordinating Unit and each Public Authority's FOI and Alternate FOI Officer, shall be established, with a view to:

- a) facilitate procedures whereby requests for documents or information addressed to the wrong Authority by applicants are re-directed to the responsible Authority;
- b) facilitate the organisation of training for the Officers concerned;
- c) carry out any activities or meetings necessitating consultation or communication of information to the Officers concerned, further to sharing knowledge and experience related to the implementation of Freedom of Information commitments.

2.3 This Network shall be chaired by the FOI Coordinating Unit, which shall convene meetings for members of the Network as necessary. The Information and Data Protection Commissioner may be requested to attend meetings of the Network by the FOI Coordinating Unit. Moreover, the Commissioner may, where considered necessary, request the FOI Coordinating Unit to convene the Network to address any issue of concern to the Information and Data Protection Commissioner's Office.

2.4 The Officers on the Network shall provide information as necessary to the Chair of the Network and communicate with the Information and Data Protection Commissioner as required.

2.5 An FOI Forum, made up of the FOI Coordinating Unit and each Ministry's Principal FOI Officer and Alternate Principal FOI Officer shall be established. The Forum shall convene on a regular basis to discuss matters relating to the implementation of the Act, Regulations made under the Act as well as the provisions of this Code, among other matters.

2.6 With a view to ensuring that data is captured in a standardised manner by Public Authorities, thereby facilitating the exchange of cases between Public Authorities as well as the fulfilment of reporting requirements, the FOI Coordinating Unit may prescribe the use of a common IT workflow system by FOI Officers.

3.0 Communication with Applicants

- 3.1 Whenever a Freedom of Information request is received electronically, the FOI Officer shall submit the documents or information referred to in Section 10.0 of this Code in electronic format whenever possible, unless the applicant explicitly requests otherwise.
- 3.3 Whenever a Freedom of Information request is received by traditional communication methods, the FOI Officer shall submit the documents or information referred to in Section 10.0 of this Code using the same communication methods whenever possible, unless the applicant explicitly requests otherwise.
- 3.3 Acknowledgements may be sent in electronic format whenever the applicant communicates an electronic address to the Public Authority.

4.0 Clarification of requests made by eligible persons

- 4.1 Whenever an applicant submits a request for a document or information in writing that is not in line with article 6 of the Act or that is not clear in terms of the document or information required, the FOI Officer shall assist the applicant in re-formulating the request in line with the said article or to clarify the request, as the case may be.
- 4.2 Assistance to the applicant may be provided by telephone or in writing, including by electronic means. The FOI Officer shall insert a note in the form originally filled in and sent by the applicant, indicating that a clarification was obtained from the applicant (e.g. by telephone), as well as the information required by the applicant. Any such note shall be signed and dated by the FOI Officer. Prior to inserting such note the FOI Officer shall inform the applicant, who may be given the opportunity to instead submit a fresh form that shall be considered as a clarification of the original request. The relevant timeframes prescribed by the Act would start to apply once the application form with the pertinent clarifications is received by the Public Authority.
- 4.3 Alternatively, if the applicant so prefers and it is practical to do so, the FOI Officer shall hold a meeting with the applicant.
- 4.4 Assistance to the applicant may include:
- guidance to make a request in line with article 6 of the Act; or
 - an outline of the different types of documents that may meet the terms of the request.
- 4.5 Whenever such information is requested of applicants, FOI Officers shall not seek to determine the aims or motivation of the applicant. The scope of any requests for information by the FOI Officers should solely be to identify the document or information required by the applicant.

- 4.6 Whenever assisting with requests FOI Officers shall not require applicants to be in possession of administrative information such as file numbers or names.
- 4.7 In the event that an applicant, after being given due assistance by the FOI Officer, still cannot clarify the terms of his/her request, the applicant shall be formally informed that the Public Authority is not in a position to process the request as notwithstanding assistance provided by the said Authority to clarify the scope of the request, the applicant could not provide the necessary clarifications. The applicant would also be informed of the internal complaints procedure of the Public Authority and his/her right to request investigation and review by the Information and Data Protection Commissioner in accordance with article 23 of the Act.

5.0 Transfer of Requests between Public Authorities

- 5.1 Whenever an FOI Officer receives a request relating to documents or information that may be held by another Public Authority he/she shall contact the FOI Officer of that Authority. Should it be confirmed that the document or information in question is held by that Authority, the request shall be duly transferred.
- 5.2 In cases where the FOI Officer receiving the request is aware which Public Authority holds the requested document or information, he/she shall bring the request to the attention of that Public Authority. The request shall be brought to the attention of the Public Authority holding the document or information as soon as possible and in any case not later than 5 working days after the day on which the request was received. The 20 working-day timeframe for notifying the applicant as to whether his/her request will be met or not is not suspended during the time when the request is being transferred from one Public Authority to another. Whenever the Officer is in doubt as to the Public Authority holding the document or information referred to in the request, the Officer may bring the request to the attention of the FOI Coordinating Unit. The FOI Officer shall therefore transmit the request to a contact person within the FOI Coordinating Unit as soon as possible and in any case not later than 2 working days after the day on which the request was received. The contact person within the FOI Coordinating Unit shall immediately transmit the request to the members of the FOI Network.
- 5.3 Whenever more than one Public Authority informs that it holds the document or information in question and the Public Authorities in question all pertain to the same Ministry, a decision on which authority shall respond shall be taken by the Principal FOI Officer. Whenever the Public Authorities pertain to different Ministries, a decision on which authority shall respond to the applicant's request shall be taken by the FOI Coordinating Unit
- 5.4 Whenever an FOI Officer receives a request from another FOI Officer or through the FOI Coordinating Unit, on whether a particular document or information is held by his/her Public Authority or not, the receiving FOI Officer shall indicate to the requesting Officer, within a maximum of 5 working days, whether the document or information in question is held by his/her Authority. Should it transpire that the Public Authority of the receiving

FOI Officer does not hold the document or information in question, the requesting Officer shall still remain responsible for identifying the Public Authority to whom the request should be forwarded.

- 5.5 The applicant shall be formally notified by the FOI Officer who received the request of the transfer of the request, and that the request would be pursued by the Public Authority to which the request was transferred. Such notification shall be communicated to the applicant within not more than 10 working days of the receipt of the request from the applicant.
- 5.6 Whenever it results that no Public Authority has the document requested, the Public Authority that received the request shall inform the applicant that it does not have the document requested and that it has no grounds for believing that the document is held by another Public Authority.

6.0 Consultation with Third Parties

- 6.1 Whenever a request is made for a document that is held by the Public Authority of the FOI Officer receiving the request, but relates to third parties, and such document does not appear to fall within the scope of the Act's exemptions, the FOI Officer shall inform the third parties in question on the possible disclosure of the document. This consultation shall be limited to the third parties' views as to whether the document in question falls within the scope of the exemptions foreseen by the Act or not, or any restriction on disclosure foreseen by any other law. The Public Authority, which has sole responsibility for the request made by the applicant, is not bound to abide by the recommendations of the third parties concerned if it considers that, in accordance with the applicable legislation, the applicant is entitled to access to the document in question. The Public Authority shall communicate to the third parties concerned its final decision whether to disclose or otherwise, preferably giving reasons why it has opted for a specific decision, particularly when this is contrary to any opinions or recommendations forthcoming from such third parties.
- 6.2 In the event that the third parties in question are represented by an association, consultations may be held with the association. Where the number of parties in question exceeds 10 persons or institutions, and they are not represented by an association, the FOI Officer may consult a representative sample reaching or nearing 20%.
- 6.3 The persons in question shall be given 10 working days to submit their views as to whether the said exemptions apply or not. If no feedback is received within 10 working days the FOI officer shall consider that the persons in question are giving their tacit consent to the disclosure of the document. The FOI Officer, following due consultation with the Head of Department, may provide for an extension of not more than another 5 working days of the consultation period, even if notification of the Public Authority's decision would not be communicated to the applicant within the 20 working days foreseen by article 10 of the Act. The applicant would be duly informed of the extension of the 20-day timeframe, the reason thereof, the internal complaints procedure of the

Public Authority and the right to address a complaint to the Information and Data Protection Commissioner in accordance with article 23 of the Act.

- 6.4 During consultations the FOI Officer may also consult the third parties concerned on whether any further explanatory material or advice should be given to the applicant together with the document in question. Such advice may include references to copyright restrictions.
- 6.5 When processing a request relating to documents held by the Public Authority receiving the request, but prepared or otherwise involving another Public Authority or Authorities, but no other third parties, the FOI Officer shall consult the FOI Officer of the Authority or Authorities in question. The response by these Authorities concerning their views as to whether the document should be disclosed would be submitted within a maximum of 10 working days. If no response is received during such timeframe the FOI Officer shall consider that the Authority or Authorities in question are giving their tacit consent to the disclosure of the document.
- 6.6 In cases involving disagreement between the Public Authority receiving a request for a document and a third party, including another Public Authority, responsibility for the reply to be provided always lies with the Authority that received the request.

7.0 Inclusion of Disclosure of Information clauses in Contracts entered into by Public Authorities

- 7.1 Heads of Public Authorities shall consider their obligations in terms of the Act when entering into contracts with private companies. Contractors shall be made aware that contracts, or extracts thereof, may be disclosed under the Act unless these fall within the scope of the Act's exemptions or any other law regulating disclosure.
- 7.2 Contracts may feature provisions relating to those clauses the disclosure of which would require prior consultation with the contractor in question, as a third party, in accordance with the procedure laid down in Section 6.0 of this Code, without prejudice to the Public Authority's obligations as set out in the Act:

Provided that any existing or future contract that does not feature such clause shall be subject to disclosure, without prejudice to any relevant exemptions.

8.0 Complaints about the handling of requests for documents or information

- 8.1 Although applicants are entitled to address complaints or seek review of any decision by a Public Authority by making recourse to the Information and Data Protection Commissioner, each Public Authority must primarily offer avenues for applicants to complain to, and seek a review by, the Public Authority itself, by adopting an Internal Complaints Procedure.

- 8.2 Each Public Authority should therefore establish a procedure whereby applicants can seek review of any decision taken, or complain about any delays in relation to the release of documentation. This procedure shall be referred to and duly explained in all formal replies submitted by each Public Authority in relation to the Act, and shall, in particular, be included in each Reply Form along with information relating to the right of the applicant to address a complaint or seek review by the Information and Data Protection Commissioner.
- 8.3 The Internal Complaints Procedure must not be cumbersome on the applicant. In particular, it should not:
- a) entail more than 10 working days, from the receipt of the complaint, to notify the applicant of the Public Authority's decision. If access is to be granted to a document or information, this shall be in accordance with paragraph 10.3 of this Code;
 - b) require the submission of information by the applicant which is not envisaged by the Act;
 - c) entail additional charges for the applicant, over and above those prescribed by the Act and by the Fees charged by Public Authorities for Access to Documents Regulations.
- 8.4 Moreover, the procedure would enable the applicant to:
- a) file a complaint in writing (including by electronic means);
 - b) give reasons for his or her disagreement with the Public Authority's decision to withhold the information requested; and,
 - c) report failure to meet the stipulated deadlines in the Act, as well as the failure to send notifications.
- 8.5 The internal complaints procedure shall provide for the addressing of relevant complaints foreseen by the Act, such as access to the document or information being denied, or the document or information not being provided in the preferred format. Furthermore, whenever fees are charged in accordance with the Fees charged by Public Authorities for access to documents Regulations, the internal complaints procedure shall provide for:
- a) reporting of disagreement by the applicant on the implementation of the said Regulations by the Authority in question;
 - b) the possibility for the applicant to give reasons why he/she considers that the fee should not be applied in relation to his/her request pursuant to article 9(5) (b) of the Act; however without prejudice to the Public Authority's discretion in this regard as stipulated in the Act.
- 8.6 Each Public Authority shall communicate its pertinent procedure, compliant with the above minimum standards, through its FOI Officer, to the Principal FOI Officer of the Ministry who shall, in turn, forward it to the Information and Data Protection Commissioner and the FOI Coordinating Unit prior to the entry into force of the Act.

- 8.7 The Information and Data Protection Commissioner may make recommendations relating to the procedure adopted by each Public Authority. Where the Information and Data Protection Commissioner considers that the internal complaints procedure adopted by a Public Authority is too cumbersome, and that the Public Authority in question is therefore not in conformity with this Code, the Commissioner may make a practice recommendation pursuant to article 22 of the Act, specifying the steps which ought to be taken to bring about conformity.
- 8.8 Whenever the Public Authority's decision in the context of the internal complaints procedure is not favourable to the applicant, the applicant shall be reminded of his/her right to address a complaint or seek a review of the decision by the Information and Data Protection Commissioner in accordance with article 23 of the Act.
- 8.9 Whenever an applicant notifies a Public Authority by means of the Internal Complaints Procedure that he/she has been provided with a document other than the one that had been requested, the Public Authority shall make an assessment as to whether the applicant had in fact provided sufficient information for the FOI Officer to be able to identify the requested document. In the event that the Public Authority considers that insufficient information had been provided, the applicant shall be informed accordingly. In the event that the Public Authority considers that sufficient information had been provided, the Public Authority shall inform the applicant that his/her request has been reconsidered, and inform the applicant as to whether the document would be provided or withheld in terms of the relevant exemptions of the Freedom of Information Act.
- 8.10 The Officer assessing requests made in terms of the Internal Complaints Procedure shall, insofar as possible, be distinct from the FOI Officer or the Alternate FOI Officer, and may be the Head of the Public Authority in question.

9.0 Keeping of documents and records by Public Authorities

- 9.1 Documents stored in a paper-based Registry System and electronically stored documents should be easily and, if possible, directly accessible, to the FOI Officer and the Alternate FOI Officer of the Public Authority concerned.
- 9.2 Insofar as Data Protection considerations and the exemptions foreseen by the Act do not apply, the documents referred to in article 19 (1) of the Act shall, whenever possible, be uploaded on the Public Authority's website or another related website as necessary:
- 9.3 The Information and Data Protection Commissioner and the Information and Data Protection Tribunal shall communicate to the FOI Coordinating Unit information relating to decisions on Freedom of Information cases. Wherever necessary, the FOI Coordinating Unit would be bringing such decisions to the attention of the FOI Officers' Network.

- 9.4 Public Authorities shall also keep records of requests for documents or information received and replies provided in terms of the Act. Public Authorities shall also keep record of decisions by the Information and Data Protection Commissioner and the Information and Data Protection Tribunal that are relevant to their area of interest.
- 9.5 The Information and Data Protection Commissioner shall also make further recommendations as necessary to Public Authorities on the keeping of documents and records 6 months following the submission of the first annual report (in accordance with article 21(5) of the Act) to the Minister on the workings of the Act. The recommendations would also be brought to the attention of the FOI Coordinating Unit. Alternatively the Information and Data Protection Commissioner may communicate with the Public Authorities through the FOI Coordinating Unit.

10.0 Submission of documents or information to applicants

- 10.1 Public Authorities shall respond to requests for documents by applicants in accordance with the provisions of the Act, by providing the applicant with an existing document or extract thereof, without prejudice to the pertinent exemptions. Responses to requests for information as per article 20 of the Act shall be drawn up in line with the format outlined in the said article, without prejudice to the pertinent exemptions.
- 10.2 Whenever a Public Authority communicates a decision to an applicant that access to a document or information will be granted in terms of article 10 or 11 of the Act, at the same time informing the applicant of the fees applicable to the request, the Public Authority shall make available the document or information to the applicant within a maximum of 10 working days of the relevant payment being made.
- 10.3 Whenever a Public Authority communicates a decision to an applicant that access to a document or information will be granted in terms of article 10 or 11 of the Act, at the same time informing the applicant that no fee will be charged, the Public Authority shall make available the document or information to the applicant within a maximum of 10 working days from the notification of the said decision.
- 10.4 Whenever a Public Authority decides to grant access to a document or information in the context of the Internal Complaints Procedure, the document or information shall be made available to the applicant within a maximum of 10 working days from the notification of the said decision, whenever no fee is to be charged. Wherever a fee is charged the document or information shall be made available within a maximum of 10 working days of the relevant payment being made.
- 10.5 A Public Authority may consider a request for access to a document or information abandoned by the applicant, whenever the applicant fails to effect any payment due within 20 working days of the Public Authority having communicated its decision to the applicant.

Provided that the request shall not be considered to have been abandoned whenever the applicant has addressed a complaint.

11.0 Dealing with Vexatious Requests

11.1 Whereas Public Authorities remain bound to provide the documents or information requested by applicants in accordance with the provisions of the Act, it should be ensured that vexatious requests are not allowed to hinder the proper functioning of the Act or the effectiveness of Public Authorities in implementing it.

11.2 Determining whether a request is vexatious implies recourse to its context and history. As a first step, it is to be determined whether a request is likely to cause unjustified distress, disruption or irritation to staff (e.g. use of hostile or abusive language; unreasonable fixation on an individual member of staff; mingling of accusations and complaints; repeated vaguely worded requests that are not clarified by the applicant).

11.3 Secondly, it would have to be considered whether:

- a) the request appears obsessive; and/or,
- b) whether complying with the request would impose a significant burden on the Public Authority, disrupting its operations (including the handling of other requests in terms of the Act).

11.4 In this regard, a Public Authority may refuse to comply with repeated requests by the same person for the same information, particularly when such requests are made within short periods when the information in question could not have changed in any substantial manner. A notification of refusal shall be sent to the applicant, wherever possible substantiating the reason for the refusal, e.g. 'The request was refused as a reply to the same request was already provided by the Department only last month.'

11.5 Whenever a refusal is issued, the applicant shall be informed of the Public Authority's internal complaints procedure and his right to seek investigation and review by the Information and Data Protection Commissioner in accordance with article 23 of the Act.

12.0 Administration of Fees

12.1 When charging processing fees in accordance with the Fees charged by Public Authorities for access to documents Regulations, time spent searching for a document or information that turns out to have been misplaced or could not otherwise be readily located as a result of negligence or any other operational inadequacy shall not count towards the calculation of the processing fee.

13.0 Application of article 14(f)- Requests that result in a substantial and unreasonable diversion of the resources of Public Authorities from other operations

- 13.1 Whereas Public Authorities are bound to provide documents or information to applicants, subject to the relevant exemptions, due consideration must be given to the impact of requests made in terms of the Act on the operations of the Public Authority.
- 13.2 Public Authorities may consider a request to entail a substantial and unreasonable diversion from other operations if its total cost to the Public Authority reaches or exceeds €100.00, calculated with reference to the following rates:
- i) €5.00 per man-hour of processing;
 - ii) The rates applicable to additional fees in Schedules 2 and 3 of the Fees charged by Public Authorities for Access to Documents Regulations.
- 13.3 Wherever Public Authorities take into consideration the application of article 14(f) they shall give applicants the opportunity to redefine the request in such a manner as to make it more easily addressed by the Public Authority. A refusal in accordance with article 14(f) would be issued when the applicant in question refuses or is otherwise unable to redefine the request.
- 13.4 Public Authorities are not precluded from acceding to a request for information in specific cases where, even though the cost limit referred to in paragraph 13.2 of this Code is exceeded, they consider it appropriate to do so.

14.0 Application of article 35(2) of the Act- Other reasons for withholding official information

- 14.1 article 35(2) of the Act enables Public Authorities to withhold documents falling within the scope of Part VI of the Act whenever ‘the public interest that is served by non-disclosure outweighs the public interest in disclosure.’
- 14.2 In considering whether the public interest is best served by non-disclosure Public Authorities shall therefore assess whether any of the following scenarios apply in relation to the respective articles of Part VI of the Act.

article 36- Internal Working Documents

- 14.3 In considering whether article 35(2) applies in relation to Internal Working Documents, the public interest in non-disclosure encompasses the following situations:
- a) The disclosure of the document would give rise to undue alarm or concerns; or
 - b) The disclosure of the document could give rise to misunderstandings or misconceptions with regard to Government Policy or intentions; or

- c) The document, if disclosed, may result in dissemination of information that is not factually accurate or out of date; or
- d) The document is a work in progress which is likely to undergo significant change before it is finalized; or
- e) The disclosure of the document would reveal internal discussions, deliberations, exchange of views, proposals, advice or recommendations on the part of officials or holders of political office concerning Government policy.

14.4 It is possible that the public interest in disclosure may outweigh these considerations, particularly with regard to matters which are of widespread public concern, but it may be assumed that this will happen in unusual situations and under normal circumstances documents need not be disclosed where the above considerations apply.

14.5 It should be noted that the considerations in paragraph 14.3 do not apply in the case of documents containing purely factual information. Such documents are therefore subject to disclosure.

14.6 The same applies to reports or studies drawn up by scientific or technical experts that involve the application of scientific or technical expertise, even if such documents contain advice on scientific or technical matters. Such documents are also subject to disclosure. Scientific or technical advice that is subject to disclosure can be distinguished from policy advice under paragraph 14.3 e) through the following characteristics:

- a) it involves the application of specialized expertise and does not take account of broader policy considerations;
- b) there is a reasonable expectation that a fresh study of the same issue by another similarly qualified individual would produce similar conclusions;
- c) it is undertaken by staff below senior management level (advice drawn up by senior managers should always be considered policy advice falling under paragraph 14.3 e) above, and hence not normally subject to disclosure).

article 37- Documents affecting financial or property interests of Public Authorities

14.7 Any document revealing administrative or other malpractices within the Public Authority shall not be considered to have a substantial effect on the financial or property interests of the Government or of another Public Authority, insofar as it contains no information having such effect, in which case only such information shall be withheld.

article 38- Documents concerning certain operations of Public Authorities

14.8 Any document revealing information that may in any way aid or otherwise affect candidates during tests or examinations shall be withheld in terms of article 38(a) and (b) of the Act. Any document that may prejudice the conduct or outcome of audits shall also be withheld under the same article.

14.9 In considering whether the public interest in non-disclosure outweighs that in disclosure in relation to article 38(c) and (d), it shall be assessed whether:

- a) the scenarios referred to in relation to article 36 apply; or
- b) whether any third party would stand to unduly benefit from the disclosure of the document; or,
- c) whether the disclosure of the document would hinder the effective enforcement of any applicable legislation by the Public Authority concerned.

15.0 Application of article 39 (2) of the Act- Appeals against Information Notices and Enforcement Notices served by the Information and Data Protection Commissioner

15.1 Public Authorities shall address appeals to the Tribunal in accordance with article 39(2) of the Act within 10 working days of the issuing of the pertinent Notice by the Commissioner.