## **DEVB(W)135**

## CONTROLLING OFFICER'S REPLY

(Question Serial No. 4910)

Head: (39) Drainage Services Department

Subhead (No. & title): Not Specified

Programme: Not Specified

<u>Controlling Officer</u>: Director of Drainage Services (LO Kwok-wah)

Director of Bureau: Secretary for Development

## Question:

Regarding the work in relation to the Code on Access to Information, will the Government advise this Committee of the following:

1) Concerning the requests for information under the Code on Access to Information received by the Drainage Services Department 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 of how the requests have been handled eventually.

## From October to December 2018

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

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

Concerning the requests for information under the Code on Access to Information received by the Drainage Services Department 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 of how the requests have been handled eventually.

From October to December 2018

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

2019

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

3) Any person who believes that a department has failed to comply with any provision of the Code on Access to Information may ask the department to review the situation. Please advise this Committee in each of the past 5 years, (i) of the number of review cases received; (ii) of 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 of the following information by year in table form (with text descriptions).

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

VV 11111	n 10 days m	on take of fecer	pi of a written reques	St.	
			Number of		
	requests for	requests	requests for which	requests for	applications
	which the	involving	the information	information	which the
			requested could not	which were	applicants
	requested		be provided since	refused under	indicated that
	was	for which the			
	provided	information	be transferred to	provisions in	wish to
		requested	another department	Part 2 of the	proceed with
		could not be	which held the	Code on	and withdrew
		provided	information under	Access to	
			request	Information	not accept the
					charge
2020					
2019					
2018					
2017					
2016					

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

111111	•		eccipi of a without to	1	
	Number	of Number of	Number of	Number of	Number of
	requests for	or requests	requests for which	requests for	applications
	which th	ne involving	requests for which the information	information	which the
	information	third party	requested could not	which were	applicants
	requested wa	as information	be provided since	refused under	indicated that
	provided	for which	the requests had to	the	they did not
	_	the	be transferred to another department	exemption	wish to
		information	another department	provisions in	proceed with
		requested	which held the information under	Part 2 of the	and withdrew
		could not be	information under	Code on	since they did
		provided	request	Access to	not accept the
			1	Information	charge
2020					9
2019					
2018					
2017					
2016					
	•				

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

* * 1 (11)	m 21 to 31 days	mom date of i	eceipi of a written re	quest.	
			Number of		
	requests for	requests	requests for which	requests for	applications
	which the		the information		
	information		requested could not		
			be provided since		
	provided	for which	the requests had to		they did not
		the	be transferred to	exemption	wish to
		information	1		
			which held the		
			information under		
		provided	request		not accept the
				Information	charge
2020					
2019					
2018	_				
2017					
2016					

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

Date	Subject of information requested	Specific reason

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

Date	Subject of information requested	Specific reason

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

Date	Subject	Particular exemption	Whether the	Reasons for
		provision in Part 2 of	advice of the	refusing to accept
		the Code on Access	Privacy	or only partially
		to Information under	Commissioner	accepting the
		which requests for	for Personal	advice of the
		information were	Data was fully	Privacy
		refused	accepted	Commissioner for
				Personal Data

Asked by: Hon CHAN Tanya (LegCo internal reference no.: 480)

Reply:

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

From January to September 2019

(ii) Content of the requests for providing some of the information was provided  There was one application.  (iii) Reasons for providing some of the required information was provided  (iii) Reasons for providing some of 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)  There was one application.  A third party raised objection to disclosure of third party information.  (iii) Whether the decision on withholding some of the information was made the directorate (D1 or D2) level (according to prejudice test", i.e. whether the decision on withholding some of the information was made the directorate (D1 or D2) level (according to 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.  There was one application.  A third party information.	1 Tom January to Se	ptemeer 2019		,
which only some of the of the required information was made information was only only made at the directorate (D1 or D2) level (according to paragraph 1.8.2 of the Guidelines on Interpretation and Application) and Application.  There was one application to disclosure of third party information.	(i) Content of the	(ii) Reasons for	(iii) Whether the	(iv) Whether the decision on
of the required information only made at the directorate provided (D1 or D2) level (according to paragraph 1.8.2 of the Guidelines on Interpretation and Application) (according to paragraph 2.1.1 of the Guidelines on Interpretation and Application); if yes, please provide the details.  There was one application.  There was one application.  A third party objection to disclosure of third party information.	•	providing	decision on	withholding some of the
information was provided (D1 or D2) level (according to paragraph 1.8.2 of the Guidelines on Interpretation and Application) (according to paragraph 2.1.1 of the Guidelines on Interpretation and Application); if yes, please provide the details.  There was one application.  There was one application.  There was one application.  There was one application.  There was one application to disclosure of third party information.	which only some	some of the	withholding some of	information was made
provided (D1 or D2) level the public interest in disclosure of such paragraph 1.8.2 of the 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.  There was one application.  There was one disclosure of third party raised objection to disclosure of third party information.	of the required	information	the information was	subject to a "harm or
(according to paragraph 1.8.2 of the Guidelines on Interpretation and Application)  There was one application.  There was one application to disclosure of third party information.  There was one application to disclosure of such information did not outweigh any harm or prejudice that	information was	only	made at the directorate	prejudice test", i.e. whether
paragraph 1.8.2 of the Guidelines on Interpretation and Application)  There was one application.  A third party raised objection to disclosure of third party information.  There was one application.  A third party raised objection to disclosure of third party information.  There was one application.  There was one application.  A third party raised objection to disclosure of third party information.  There was one application.  A third party raised objection to disclosure of third party information.  A third party information did not outweigh any harm or prejudice that	provided		(D1 or D2) level	the public interest in
Guidelines on Interpretation and Application)  There was one application.  A third party objection to disclosure of third party information.  Guidelines on 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.  There was one application.  The Department carried out a "harm or prejudice test" which showed that the public interest in disclosure of such information did not outweigh any harm or prejudice that			(according to	disclosure of such
Interpretation Application)  Application  Application  Application  Application  Interpretation (according to paragraph 2.1.1)  of the Guidelines on Interpretation and Application); if yes, please provide the details.  There was one application.  There was one application.  A third party raised objection to disclosure of third party information.  Interpretation and Application); if yes, please provide the details.  The Department carried out a "harm or prejudice test" which showed that the public interest in disclosure of such information did not outweigh any harm or prejudice that			paragraph 1.8.2 of the	information outweighs any
Application)  (according to paragraph 2.1.1 of the Guidelines on Interpretation and Application); if yes, please provide the details.  There was one application.  A third party raised objection to disclosure of third party information.  (according to paragraph 2.1.1 of the Guidelines on Interpretation and Application); if yes, please provide the details.  The Department carried out a "harm or prejudice test" which showed that the public interest in disclosure of such information did not outweigh any harm or prejudice that			Guidelines on	harm or prejudice that could
of the Guidelines on Interpretation and Application); if yes, please provide the details.  There was one application.  There was one application.  Yes.  The Department carried out a "harm or prejudice test" which showed that the public disclosure of third party information.  There was one application to disclosure of interest in disclosure of such information did not outweigh any harm or prejudice that			Interpretation and	result from disclosure
Interpretation and Application); if yes, please provide the details.  There was one application.  A third party raised objection to disclosure of third party information.  Interpretation and Application; if yes, please provide the details.  The Department carried out a "harm or prejudice test" which showed that the public interest in disclosure of such information did not outweigh any harm or prejudice that			Application)	(according to paragraph 2.1.1
Application); if yes, please provide the details.  There was one application.  There was one application.  Yes.  The Department carried out a "harm or prejudice test" which showed that the public disclosure of third party information.  The Department carried out a "harm or prejudice test" which showed that the public interest in disclosure of such information did not outweigh any harm or prejudice that				of the Guidelines on
There was one application.  A third party application.  Yes.  The Department carried out a "harm or prejudice test" which showed that the public disclosure of third party information.  The Department carried out a "harm or prejudice test" which showed that the public interest in disclosure of such information did not outweigh any harm or prejudice that				Interpretation and
There was one application.  A third party raised objection to disclosure of third party information.  Yes.  The Department carried out a "harm or prejudice test" which showed that the public interest in disclosure of such information did not outweigh any harm or prejudice that				Application); if yes, please
application.  raised objection to disclosure of third party information.  raised objection to disclosure of third party information.  "harm or prejudice test" which showed that the public interest in disclosure of such information did not outweigh any harm or prejudice that				provide the details.
application.  raised objection to disclosure of third party information.  raised objection to disclosure of third party information.  "harm or prejudice test" which showed that the public interest in disclosure of such information did not outweigh any harm or prejudice that	There was one	A third party	Yes.	The Department carried out a
objection to disclosure of third party information.  which showed that the public interest in disclosure of such information did not outweigh any harm or prejudice that	application.	raised		"harm or prejudice test"
third party information. information did not outweigh any harm or prejudice that		objection to		~ ~
information. any harm or prejudice that		disclosure of		interest in disclosure of such
		third party		information did not outweigh
		1 .		
				could result from disclosure.

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

From January to September 2019

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

3.

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

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

	Number of	Number of	Number of	Number of	Number of
	requests for	requests	requests for	requests for	applications
	which the	involving	which the	information	which the
	information	third party	information	which were	applicants
	requested	information	requested	refused	indicated
	was provided	for which the	could not be	under the	that they did
		information	provided	exemption	not wish to
		requested	since the	provisions in	proceed with
		could not be	requests had	Part 2 of the	and
		provided	to be	Code on	withdrew
			transferred to	Access to	since they
			another	Information	did not
			department		accept the
			which held		charge
			the		
			information		
			under		
			request		
From	22	Nil	Nil	Nil	Nil
January to					
September					
2019					
2018	25	Nil	Nil	Nil	Nil
2017	11	Nil	Nil	Nil	Nil
2016	22	2 (Note 1)	Nil	3 (Notes 1	Nil
				and 2)	

(Note 1: There are two cases involving third party information, in which only part of information not involving the third party or with the third party's consent to disclose is provided under the exemption provisions in Part 2 of the Code on Access to Information.

Note 2: There is one case in which only part of information is provided under the exemption provisions in Part 2 of the Code on Access to Information.)

Within the period from the 11<sup>th</sup> day to the 21<sup>st</sup> day from date of receipt of a written

request:

	Number of	Number of	Number of	Number of	Number of
	requests for	requests	requests for	requests for	applications
	which the	involving	which the	information	which the
	information	third party	information	which were	applicants
	requested	information	requested	refused	indicated
	was provided	for which the	could not be		_
		information	provided	exemption	not wish to
		requested	since the	provisions in	proceed with
		could not be	requests had	Part 2 of the	and
		provided	to be	Code on	withdrew
			transferred to	Access to	since they
			another	Information	did not
			department		accept the
			which held		charge
			the		
			information		
			under		
			request		
From	10	Nil	Nil	Nil	Nil
January to					
September					
2019					
2018	13	Nil	Nil	1	Nil
2017	7	Nil	Nil	Nil	Nil
2016	5	Nil	Nil	Nil	Nil

Within the period from the  $22^{nd}$  to the  $51^{st}$  day from date of receipt of a written

request:

	Number of	Number of	Number of	Number of	Number of
	requests for	requests	requests for	requests for	applications
	which the	involving	which the	information	which the
	information	third party	information	which were	applicants
	requested	information	requested	refused	indicated
	was provided		could not be	under the	•
		information	provided	exemption	not wish to
		requested	since the	provisions in	proceed with
		could not be	requests had	Part 2 of the	and
		provided	to be	Code on	withdrew
			transferred to	Access to	since they
			another	Information	did not
			department		accept the
			which held		charge
			the		
			information		
			under		
			request		
From	1	1 (Note 3)	Nil	1 (Note 3)	Nil
January to					
September					
2019					
2018	2	Nil	Nil	Nil	Nil
2017	0	Nil	Nil	Nil	Nil
2016	1	Nil	Nil	Nil	Nil

(Note 3: One and the same case involving third party information, in which only the part of information not involving the third party or with the third party's consent to disclose is provided under the exemption provisions in Part 2 of the Code on Access to Information)

(b) Cases in which the information requested could not be provided within 21 days from dates of receipt of the requests concerned during the period from 2016 to September 2019:

D-4-	C-1-:4 - f:f	C : C:		
Date	Subject of information requested	Specific reason		
From January to		More time is required for		
September 2019	Services Department (DSD) to	extensive search on data and		
	contractors for use of Quality	information.		
	Powered Mechanical Equipment			
2018	Information related to the recruitment			
	of Non-Civil Service Contract Staff in			
	the DSD			
2018	The discharge location of sewage			
	treatment facilities and the volume of			
	sewage treated in the facilities; and			
	the location of river stage gauges			
	under the DSD and the information on			
	the water levels recorded by the			
	gauges			
2016	The DSD's data on the number of			
	staff; the amounts of electricity			
	consumption and production; the			
	amount of chemicals used; the amount			
	of sludge produced; the volume of			
	sewage treated; and the monthly			
	average quality of effluent			

(c) There was no case in which the information requested could not be provided within 51 days from date of receipt of a request during the period from 2016 to September 2019:

Date	Subject of information requested	Specific reason
Not applicable	Not applicable	Not applicable

5. Regarding the requests for information under the Code on Access to Information received during the period from 2015 to September 2019, the DSD did not consult the Privacy Commissioner for Personal Data when handling the cases in which requests for the required information were refused under the exemption provisions in Part 2 of the Code on Access to Information:

		Particular		Reasons for
Date	Subject	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	refusing to accept or only partially accepting the advice of the Privacy Commissioner for Personal Data

| Not applicable   |
|------------------|------------------|------------------|------------------|------------------|
| 1 tot applicable |