

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

CODE ON ACCESS TO INFORMATION

INTRODUCTION

The mission of the Mandatory Provident Fund Schemes Authority (MPFA) is to ensure the provision of retirement protection for Hong Kong's workforce through an effective and efficient system of prudential regulation and supervision of privately managed provident fund schemes. To this end MPFA recognizes the need for the community to be well informed about MPFA, the services it provides and the rights and responsibilities of different parties under the Mandatory Provident Fund (MPF) System.

This code defines the scope of information that will be provided to the general public, sets out how the information will be made available either routinely or in response to a request, and lays down procedures governing its prompt release.

The Code authorizes and requires MPFA staff, routinely or on request, to provide information unless there are specific reasons for not doing so. These reasons are set out in Part 2 and will normally be cited if a request for information is refused.

Requests for information will be handled as promptly and helpfully as possible, and if necessary members of the public will be asked to clarify their requests or directed to the most appropriate government department / body. Procedures will be kept as simple as possible.

The Code also sets out procedures for review or complaint if a member of the public believes that the Code has not been properly applied.

Part 1

PROVISION OF INFORMATION

Information to be published or made available routinely

1.1 The MPFA will publish, or make available for inspection at its offices and/or its website, the following –

- information on MPFA and its services, including:
 - (i) its organization;
 - (ii) the services it provides; and
 - (iii) its performance pledges and the extent to which they have been met;
- public registers established under relevant legislation;
- publications, including its annual reports, booklets, press releases;
- a list setting out the categories of the records that it maintains; and
- the procedures and any charges for access to the information.

1.2 Whenever a service for the public is introduced or changed, MPFA will publish sufficient information to explain the nature of the service or change, and who will be affected by it.

Information to be provided on request

1.3 The MPFA will also, on request, provide additional information relating to its policies, services, decisions and other matters falling within its area of responsibility, except those requests for information in the areas listed in Part 2, which may be refused.

Legal obligations and restrictions

1.4 The Code is administrative in nature and does not affect statutory rights of access to information. Correspondingly, the Code does not affect legal restrictions on access to information whether these are statutory prohibitions, or obligations arising under common law or international agreements which apply to Hong Kong. If there is any inconsistency between the Code and a statutory provision, or between the Code and an obligation arising under common law or an international agreement, the latter shall prevail.

- 1.5 In particular, the release of information under the Code is subject to the restrictions set out in section 41 of the Mandatory Provident Fund Schemes Ordinance (MPFSO) (Chapter 485, Laws of Hong Kong).

PROCEDURES

Access to Information Officer

- 1.6 The MPFA will designate an Access to Information Officer who will be responsible for promoting and overseeing the application of the Code.

Requests for information

- 1.7 Requests for information may be made orally or in writing.
- 1.8 Oral requests will usually suffice where the information sought can be provided readily and simply, for example by oral replies or provision of leaflets or standard forms. MPFA staff may, however, ask for an oral request to be confirmed in writing where necessary and appropriate.
- 1.9 Written requests may be made by letter, email or the application form at the Appendix, and should be addressed to the MPFA's Access to Information Officer.
- 1.10 Requests for access to and/or correction of an individual's own personal data held by MPFA will be dealt with separately pursuant to the requirements of the Personal Data (Privacy) Ordinance and is outside the scope of this code. The relevant procedures are available at MPFA's website:
http://www.mpfa.org.hk/eng/main/privacy_policy/index.jsp

Responses to requests for information

- 1.11 Responses to requests for information will be given as promptly as possible.
- 1.12 Where a request, whether written or oral, cannot adequately be met by an oral reply or provision of a standard leaflet, form, etc., the information may be given by –
- providing a copy of the relevant record or part thereof;
 - providing a transcript of the relevant record or part thereof;

- affording a reasonable opportunity to inspect, hear or view the relevant record or part thereof; or
- providing a summary of the relevant record or part thereof.

So far as possible, information will be provided in the form in which it exists. Where disclosure of certain information in a record must be refused, access will normally be provided to the remaining part of the record.

1.13 The Code does not oblige MPFA to -

- acquire information not in its possession; or
- create a record which does not exist.

Where there is a request for information not in MPFA's possession or for a record which does not exist, the applicant for information will, where possible, be directed to an appropriate alternate source.

Target response times

1.14 Where possible, information will be made available within ten days* of receiving a request. If that is not possible, the applicant will be so advised by an interim reply within ten days of receiving the request. The target response time will then be twenty-one days from receipt of the request.

* Whenever the term "days" is used in the Code, this means "working days".

1.15 If a request is to be refused, the applicant will be so informed within the timeframe set out in paragraph 1.14.

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

1.17 These targets may be extended if necessary to accommodate the third party procedures set out in paragraphs 1.18 - 1.19, or where the applicant fails to pay any charges levied in accordance with paragraph 1.20.

THIRD PARTY INFORMATION

Procedures and timeframe

- 1.18 Where information requested is held for, or was provided by, a third party under an explicit or implicit understanding that it would not be further disclosed, and where such information is disclosable under the Code, MPFA will so advise the third party and invite him to consent to, or make representations against disclosure. The third party will be asked to respond within twenty days or such reasonable longer period as he may be granted on request.
- 1.19 On receipt of consent in writing from the third party, the information may be disclosed.

CHARGES

- 1.20 Processing requests for information uses resources and MPFA may therefore require payment for this service. Any charges levied will reflect the cost of providing the information, and the information will not be released until the requisite payment has been made.

REVIEW

- 1.21 Any person who believes that MPFA has failed to comply with any provision of the Code may ask MPFA to review the situation. The target response times set out in paragraphs 1.14 to 1.17 also apply to requests for review.
- 1.22 Any person who believes that MPFA has failed to properly apply any provision of the Code may also complain to The Ombudsman. The Ombudsman's address is -

30/F, China Merchants Tower
Shun Tak Centre
168-200 Connaught Road Central
Hong Kong
Telephone: (852) 2629 0555
Fax: (852) 2882 8149

FURTHER INFORMATION

- 1.23 This code has been developed in conformity with the principles of the Government's Code of Access to Information. Members of the public may wish to refer to the Government's Code (<http://www.access.gov.hk/en/code.htm>) and the Government's Guidelines on Interpretation and Application of the Code (<https://www.access.gov.hk/filemanager/content/codeonacctoinfo/guidelines.pdf#page=1>) as reference.

Part 2

INFORMATION WHICH MAY BE REFUSED

- 2.1 The MPFA may refuse to disclose information, or may refuse to confirm or deny the existence of information, in the categories and for the reasons set out below, which will normally be cited if a request is refused.
- 2.2 References in this part to "harm" and "prejudice" include both actual harm and prejudice and the risk or reasonable expectation of harm and prejudice. In such cases, MPFA will consider whether the public interest in disclosure of the information outweighs any harm or prejudice that could result.

Legal restrictions

- 2.3 Information whose disclosure would constitute -
- (a) a contravention of any law which applies in Hong Kong (including but not limited to section 41 of the MPFSO on non-disclosure of information and the Personal Data (Privacy) Ordinance) (Chapter 486, Laws of Hong Kong); or
 - (b) a breach of any obligation arising under common law or under any international agreement which applies to Hong Kong.
- 2.4 Paragraph 2.3 is the overriding restriction in considering the release of information under the Code.

Law enforcement and legal proceedings

- 2.5 (a) Information whose disclosure would harm or prejudice the administration of justice, including the conduct of any trial and the enforcement or administration of the law.
- (b) Information whose disclosure would harm or prejudice the conduct or impartial adjudication of legal proceedings, or any proceedings conducted or likely to be conducted by a tribunal or inquiry, whether or not such inquiry is public or the disclosure of the information has been or may be considered in any such proceedings.
- (c) Information which relates to proceedings which have been completed, terminated or stayed, or which relates to investigations which resulted in or may have resulted in proceedings, whether any such proceedings are criminal or civil.
- (d) Information which would be privileged from production in legal proceedings on the ground of legal professional privilege.
- (e) Information whose disclosure would harm or prejudice the prevention, investigation and detection of crime and offences, the apprehension or prosecution of offenders, or the security of any detention facility or prison.

Supervision of the MPF market

- 2.6 Information whose disclosure would harm or prejudice the maintenance of stability in the MPF market, or the ability of MPFA to supervise the MPF market.

Management and operation of MPFA

- 2.7 (a) Information whose disclosure would harm or prejudice negotiations, commercial or contractual activities.
- (b) Information whose disclosure would harm or prejudice the competitive or financial position or the property interests of MPFA.
- (c) Information whose disclosure would harm or prejudice the proper and efficient conduct of the operations of MPFA.
- (d) Information which could only be made available by unreasonable diversion of MPFA's resources.

Internal discussion and advice

- 2.8 Information whose disclosure would inhibit the frankness and candour of discussion within MPFA, and advice given to MPFA. Such information may include –
- (a) papers for and records of discussion at any internal MPFA meeting, or at any meeting of a government advisory body;
 - (b) opinions, advice, recommendations, consultations and deliberations by MPFA staff or advisers to MPFA.

Staff employment and public appointments

- 2.9 Information which would harm or prejudice the management of MPFA staff or the appointments to statutory / advisory boards / committees.

Improper gain or advantage

- 2.10 Information whose disclosure could lead to improper gain or advantage.

Research, statistics and analysis

- 2.11 (a) Information relating to incomplete analysis, research or statistics, where disclosure could be misleading or deprive MPFA or any other person of priority of publication or commercial value.
- (b) Information held only for preparing statistics or carrying out research, and which relates to individuals, companies or products which will not be identified in reports of that research, or in published statistics.

Third party information

- 2.12 Information held for, or provided by, a third party under an explicit or implicit understanding that it would not be further disclosed. Such information may be disclosed only with the third party's consent in writing, or if the public interest in disclosure outweighs any harm or prejudice that would result.

Business affairs

- 2.13 Information including commercial, financial, scientific or technical confidences, trade secrets or intellectual property, whose disclosure would harm the competitive or financial position of any person.

Premature requests

- 2.14 Information which will soon be published, or whose disclosure would be premature in relation to a planned announcement or publication.

External relations

- 2.15 Information received in confidence from, and conveyed in confidence to, other governments and international organizations.



APPLICATION FOR ACCESS TO INFORMATION 申請索取資料表格

(This form can be completed either in English or Chinese. Please read the notes below before writing.)
這份表格可用英文或中文填寫，填寫前請細閱表格下面的備註。

Applicant's Particulars 申請人個人資料

Name 姓名	* Mr 先生 Mrs 太太 Miss 小姐 Ms 女士		
Correspondence Address 通訊地址			
Tel. No. 電話號碼		Fax No. 傳真號碼	
Email Address 電郵地址			

* Please delete as appropriate 請刪去不適用者

Information Requested 索取的資料

To	:	Access to Information Officer, Mandatory Provident Fund Schemes Authority Level 8, Tower 1, Kowloon Commerce Centre, 51 Kwai Cheong Road, Kwai Chung, New Territories, Hong Kong (Fax no: 2259 8806 / Email: mpfa@mpfa.org.hk)
致	:	香港新界葵涌葵昌路 51 號九龍貿易中心 1 座 8 樓 強制性公積金計劃管理局公開資料主任 (傳真號碼：2259 8806 / 電郵：mpfa@mpfa.org.hk)
<p>Details of information requested, such as type of information requested, date or period to which the information is related. Please be as specific as possible: it will help us clearly identify what you are looking for. Use a separate sheet if necessary. 所需資料詳情(例如資料種類、資料日期或所涉及的期間。請盡量具體說明詳情，以便我們清楚知道你所需要的資料。如有需要，請另頁書寫。)</p>		

Signature _____
簽署

Date _____
日期

Notes 備註

1. A charge reflecting the cost of reproducing the records concerned may be levied. We will advise you in advance of any such charge. If a charge is payable, information will not be released until the requisite payment has been made.
本局按照複印紀錄所需的成本收取費用，並會預先告知你所需繳付的費用。如需收費，則本局在收到有關費用後，才會向你發放所索取的資料。
2. You may be asked to provide additional information to help us meet your request. We may not be able to process your application if you do not provide sufficient information.
你或需提供更多資料，以協助我們回應你的申請。如未能提供足夠資料，本局可能無法處理你的申請。
3. The information provided will be used for processing your application for access to information.
你所提供的資料，將用於處理索取資料的請求。
4. For correction of or access to personal data contained in this application, please contact the Access to Information Officer of Mandatory Provident Fund Schemes Authority.
如欲更改或索取載列在本表格的個人資料，請與積金局公開資料主任聯絡。