

**Department/Organisation: Leisure and Cultural Services Department
("LCSD")**

Case concluded in: February 2016

LCSD refused to release its tree inspection reports

The Event

Mr A had complained to LCSD for its failure to maintain properly the trees along a street. He requested the Department to provide the inspection reports in respect of those trees. In its reply to Mr A, LCSD indicated that: the tree inspection reports were "internal documents" the analysis of which could only be done by officers with professional knowledge in arboriculture; to avoid misunderstanding or misinterpretation of the reports, such information should not be released.

Upon our intervention, LCSD explained that it had taken reference from paragraph 2.9(c) of the Code on Access to Information ("the Code"), i.e. "information the disclosure of which would harm or prejudice the proper and efficient conduct of the operations of a department". The Department pointed out that as technical terms are used in tree risk assessment forms, laymen who do not have relevant knowledge and training may not be able to interpret or understand correctly tree inspection reports. They may as a result make unnecessary complaints, thereby wasting LCSD's resources and affecting its day-to-day tree management work.

Our Findings

We agreed that professional training may be required for correct interpretation of tree inspection reports. Nevertheless, "the information requestors may not be able to interpret the information correctly" is not among the valid reasons for refusal of disclosure set out in Part 2 of the Code. Besides, LCSD should not have assumed that people requesting such reports do not have professional training and, therefore, may not be able to correctly interpret the contents of the reports. Even if the information requestors do not have the relevant expertise, LCSD should not have assumed that they would not seek professional advice on the contents of the reports or that they would make unnecessary complaints due to misinterpretation of those reports and thereby waste the Department's resources.

According to the Code's Guidelines on Interpretation and Application, the rationale of paragraph 2.9(c) of the Code is that if disclosure of the requested information might have a negative effect on conduct of similar operations by a Government department in future, or that disclosure might prejudice the effectiveness of tests, the department may refuse to release the information. We did not see how in this case disclosure of the tree inspection reports would prejudice or affect the effectiveness of LCSD's tree inspection work. An open and accountable Government department should release information and answer enquiries from the public as far as practicable. Where necessary, the

department may add explanatory notes to the information released. LCSD should not indiscriminately regard such kind of service as “a waste of resources”. In short, it was inappropriate of LCSD to invoke paragraph 2.9(c) of the Code to refuse releasing the tree inspection reports.

Outcome

LCSD accepted our recommendation and has provided the requested information to Mr A.

Moreover, in responding to requests for tree inspection reports from the public, LCSD will provide the relevant risk assessment reports together with due assistance to avoid misunderstanding.