

## APPENDIX 4

### CODE OF PRACTICE ON ACCESS TO INFORMATION

#### 1. BACKGROUND

- 1.1 The Freedom of Information Act 2000 is “challenged with the task of reversing the working premise that everything is secret, unless otherwise stated, to a position where everything is public unless it falls into specified excepted cases.” (Lord Chancellor’s first Annual Report on the implementation of the Freedom of Information Act 2000; November 2001). It gives a general right of access to all types of recorded information held by public authorities, sets out exemptions from that right and places a number of obligations on public authorities.
- 1.2 The Act has been phased in over a number of years and has applied to virtually all extant public bodies from 1 January 2005. However, there is no blanket provision; public bodies are included by virtue of their being listed in the Schedule to the Act. WNDC is not listed and therefore the Act does not currently apply to WNDC.
- 1.3 In promoting best practice in corporate accountability and public transparency, however, the Corporation acts as if the Act does apply to WNDC.

#### 2. FREEDOM OF INFORMATION (FOI) PROVISIONS

- 2.1 The Act gives individuals the right to access all information held by public bodies. The Act’s provisions apply to all records; as well as formal files and archives, this means manuscript notes, early drafts, post-it notes, emails etc. The fundamental principle is that information is open, accessible and will be released, either automatically or on request.

#### 3. PUBLICATION SCHEME

- 3.1 The Act requires that each public authority adopts and maintains a Publication Scheme setting out details of information it will routinely make available, how the information can be obtained and whether there is any charge for it. All publication schemes have to be approved by the Information Commissioner. However, since the Act does not yet formally apply to the Corporation, the Information Commissioner has no jurisdiction. It is suggested that the Corporation should produce a voluntary Publication Scheme although this will not have the endorsement of the Information Commissioner.

#### 4. EXEMPTIONS

- 4.1 The following are the main exemptions provided by the Act. All information, including minutes and reports to the Board or Committees, are presumed to be public unless they fall fairly and reasonably within one of the exemptions and it is in the public interest for the exemption to be invoked. Sensitivity and potential embarrassment are not justifiable reasons for exemption under the provisions of the Act.

Section	Exemption	Likely to apply to:	Will not cover:
22	Information held with a view to its publication	Reports on the subject of a future press release, launch, or another specific event	
30	Information held for purposes of a criminal investigation.	Reports relating to advice on prosecution	
36	Information held which, if disclosed, would prejudice the conduct of public affairs or the free and frank provision of	Reports on advice to Ministers. Early formulation of policy or strategy	Issues that are merely sensitive or potentially embarrassing

	advice or exchange of views		
40	Information which is personal data under the Data Protection Act	Employee records Personal financial information	
41	Information supplied in confidence where disclosure would constitute an <u>actionable</u> breach of confidence	Will apply in very limited circumstances. Confidentiality must be asserted by those giving the information	
42	Information in respect of which a claim of legal privilege could be sustained in legal proceedings	Some reports containing legal advice on eg specific case	Reports containing legal advice where disclosure of the advice does no harm; e.g. on the interpretation of legislation
43	Information which constitutes a trade secret or which, if disclosed would prejudice the commercial interests of any person	Reports concerning tenders received from, or contracts to be entered into with, external contractors. Reports seeking pre-application planning advice	