



# Freedom of Information Act 2000

## 2000 CHAPTER 36

### PART III

#### GENERAL FUNCTIONS OF [F1]MINISTER FOR THE CABINET OFFICE], SECRETARY OF STATE] AND INFORMATION COMMISSIONER

#### 46 Issue of code of practice by [F1]Secretary of State].

- (1) The [F2]Secretary of State] shall issue, and may from time to time revise, a code of practice providing guidance to relevant authorities as to the practice which it would, in his opinion, be desirable for them to follow in connection with the keeping, management and destruction of their records.
- (2) For the purpose of facilitating the performance by the Public Record Office, the Public Record Office of Northern Ireland and other public authorities of their functions under this Act in relation to records which are public records for the purposes of the <sup>M1</sup>Public Records Act 1958 or the Public Records Act (Northern Ireland) 1923, the code may also include guidance as to—
  - (a) the practice to be adopted in relation to the transfer of records under section 3(4) of the <sup>M2</sup>Public Records Act 1958 or section 3 of the <sup>M3</sup>Public Records Act (Northern Ireland) 1923, and
  - (b) the practice of reviewing records before they are transferred under those provisions.
- (3) In exercising his functions under this section, the [F3]Secretary of State] shall have regard to the public interest in allowing public access to information held by relevant authorities.
- (4) The code may make different provision for different relevant authorities.
- (5) Before issuing or revising any code under this section the [F4]Secretary of State] shall consult—
  - [F5](a) the [F6]Minister for the Cabinet Office],
  - (b) the Commissioner, and
  - (c) in relation to Northern Ireland, the appropriate Northern Ireland Minister.

*Changes to legislation: Freedom of Information Act 2000, Section 46 is up to date with all changes known to be in force on or before 12 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (6) The [<sup>F7</sup>Secretary of State] shall lay before each House of Parliament any code or revised code made under this section.
- (7) In this section “relevant authority” means—
- (a) any public authority, and
  - (b) any office or body which is not a public authority but whose administrative and departmental records are public records for the purposes of the <sup>M4</sup>Public Records Act 1958 or the Public Records Act (Northern Ireland) 1923.

#### Textual Amendments

- F1** Words in s. 46 heading substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 2(5)(c)**
- F2** Words in s. 46(1) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 2(5)(b)**
- F3** Words in s. 46(3) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 2(5)(b)**
- F4** Words in s. 46(5) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 2(5)(b)**
- F5** S. 46(5)(a) inserted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, **Sch. 2 para. 12(2)**
- F6** Words in s. 46(5)(a) substituted (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\)](#), art. 1(2), **Sch. 2 para. 14(2)(l)** (with art. 12)
- F7** Words in s. 46(6) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 2(5)(b)**

#### Modifications etc. (not altering text)

- C1** S. 46(1) functions transferred (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), arts. 1(2), **6(1)(b)**, (3)(a) (with art. 7)
- C2** S. 46(3) functions transferred (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), arts. 1(2), **6(1)(b)**, (3)(a) (with art. 7)
- C3** S. 46(5)(6) functions transferred (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), arts. 1(2), **6(1)(b)**, (3)(a) (with art. 7)
- C4** S. 46(5)(a) functions transferred (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), arts. 1(2), **4(1)**, (2)(h) (with art. 5)

#### Commencement Information

- I1** S. 46 wholly in force at 30.11.2002; s. 46 in force at Royal Assent to the extent that it confers power to make code of practice, see s. 87(1)(m)(3); s. 46 otherwise in force at 30.11.2002 by [S.I. 2002/2812](#), **art. 2(b)**

#### Marginal Citations

- M1** 1958 c. 51.  
**M2** 1958 c. 51.  
**M3** 1923 c. 20 (N.I.)  
**M4** 1958 c. 51.

**Changes to legislation:**

Freedom of Information Act 2000, Section 46 is up to date with all changes known to be in force on or before 12 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 23(3)(p) inserted by [2024 c. 9 s. 29](#)