

Terms of Reference: Review of the Freedom of Information (Jersey) 2011 Law

1. Introduction

The Freedom of Information (Jersey) 2011 Law (“the Law”) is designed to make public authorities more accountable and transparent, giving the public a “right to know” by providing them with information held, subject to certain exemptions based on nature of the information (for example, court information, or personal information) or the potential harm that a release could involve (for example, to the economy or commercial interests).

As the Law has been in force for more than 10 years, the Chief Minister has decided that it should be reviewed to ensure it remains fit for purpose.

2. Purpose

The purpose of the review is to examine the Law with a view to supporting transparency and promoting a strong “right to know” while also managing the volume and resource implications and supporting the effective conduct of public business.

The review will also consider the potential extension of the Law to additional public bodies, notably, those that are in public ownership or control or funded by the public.

3. Background

The Law has been in operation since 2015 but it was developed much earlier. The States Assembly gave in principle approval in 2005, with the legislation approved in 2011.

Inevitably, since that time, there have been developments in Freedom of Information good practice and lessons have been learnt from the practical application of the Law.

Jersey’s FoI Law is also more open than other jurisdictions with fewer exemptions. For example, there is no protection for ministerial communications or to support the effective conduct of the government.

In terms of application volumes and trends: The number of requests has grown since the Law was introduced and now exceeds 1,000 per year.¹ 55% of all requests are made by a small number of frequent and repeat requestors.

In terms of operational developments, the processing of requests is changing rapidly. The central Data Protection and FOI teams have merged into a new single team, which will deliver operational synergies; more guidance is being published on the parameters for requests; governance procedures are being enhanced, including around how appeals and approvals work; and a new internally developed system will increase automation to manage application volumes at lower unit cost.

¹ When the Assembly agreed the introduction of FOI in 2005, it was estimated that around 60 requests would be made per year.

More focus will also be placed on relationship management with frequent requestors, aiming to provide more information directly to manage volumes, and publishing more information proactively.

4. Scope

The review will include the following areas:

- a) The extent to which additional information can be provided in the public domain.
- b) Exemptions, cost considerations, provisions for repeat and vexatious requests.
- c) Extending the Law to include other public bodies.
- d) The structuring of the Law, including treating each Scheduled Public Authority as a separate body.
- e) Any other legislative improvements to support transparency and the objectives of the review.
- f) Any other operational improvements, including applications for AI or more automated mechanisms for compiling, assimilating and releasing information to support transparency and the objectives of the review.

5. Timing

A final report will be published by the end of 2025 with updates provided during the year to support in-year improvements, especially in relation to publishing more information.

6. Governance

The Review will report to the Chief Minister and Assistant Chief Minister, Deputy Malcolm Ferey, and be tabled with the Council of Ministers.

The Senior Responsible Officer will be the Head of the Ministerial Office.

The review will be conducted and the reports drafted by the Governance and Communities Policy Team in the Cabinet Office.

The Information Governance Team will contribute to the review.

The Review will include engagement with key stakeholders, including States Members; Parishes; Office of the Information Commissioner; Arm's Length Bodies; and internal FOI practitioners.

The Review will consider best practice developments in other jurisdictions and learning in Jersey since the Law was introduced.