

Exemptions

Whilst the Freedom of Information Act 2000 ("the Act") creates a right to request specific information held by public authorities, it also creates a number of exemptions from that right. These have the effect of permitting public authorities to withhold some or all of the information requested, where that information fits the terms of one or more of the exemptions.

Many of the exemptions will only apply where pressing public interest arguments can be made for withholding the information. In other words, information that falls into a particular exemption category (for example, defence) will nevertheless have to be disclosed unless it can be successfully argued that the public interest in withholding it is greater than the public interest in releasing it. These exemptions are known as 'qualified' exemptions.

A few exemptions (known as 'absolute' exemptions) do not contain the above requirement. Where information falls within the terms of an absolute exemption, the public authority may withhold the information without considering any public interest arguments.

Exemptions where the public interest test does not apply ('absolute exemptions')

Section 21: Information accessible to applicant by other means

Section 23: Information supplied by, or relating to, bodies dealing with security matters

Section 32: Court records, etc

Section 34: Parliamentary privilege

Section 36: Prejudice to effective conduct of public affairs (only applies to information held by House of Commons or House of Lords)

Section 40: Personal information (absolute where the applicant is the data subject of the information, as these requests should be dealt under the Data Protection Act 1998, but not in relation to information relating to a third party).

Section 41: Information provided in confidence

Section 44: Prohibitions on disclosure where a disclosure is prohibited by an enactment or would constitute contempt of court

Exemptions where the public interest test applies ('qualified exemptions')

Section 22: Information intended for future publication

Section 24: National security

Section 26: Defence

Section 27: International relations

Section 28: Relations within the United Kingdom

Section 29: The economy

Section 30: Investigations and proceedings conducted by public authorities

Section 31: Law enforcement

Section 33: Audit functions

Section 35: Formulation of government policy, etc

Section 36: Prejudice to effective conduct of public affairs (except information

held by the House of Commons or the House of Lords)

Section 37: Communications with Her Majesty, etc and honours

Section 38: Health and Safety

Section 39: Environmental information as this can be accessed through the Environmental Information Regulations

Section 40: Personal information. People cannot access personal data about themselves under the Freedom of Information Act 2000 as there is already access to such information under the Data Protection Act 1998. Personal data about other people cannot be released if to do so would breach the Data Protection Act

Section 42: Legal professional privilege

Section 43: Commercial interests

When a member of the general public requests information and that is withheld due to exemptions then the requestor will always be told what exemptions have been applied.