

EXEMPTIONS

There are 24 exemptions where information does not have to be provided. There are two categories of exemptions as follows:

Absolute exemptions - If an absolute exemption applies, the information does not have to be released.

Qualified exemptions - If a qualified exemption applies, the balance of public interest has to be considered before deciding whether or not to release the information. The applicant will be informed of this within the 20 working days period and given an estimate of how long it will take to reach a decision. The information will not be released if the public interest in maintaining the exemption outweighs the public interest in disclosure.

The 8 absolute exemptions are:

Information accessible to the applicant by other means (absolute) section 21

For example, information which the authority is required by law to communicate, or publishes in the context of its approved publication scheme. It must be 'reasonably' accessible to the applicant.

Information supplied by or relating to bodies dealing with security matters (absolute) section 23

This only applies to information supplied by or relating to one of the security bodies listed in the section.

Court records (absolute) section 32

Information that is only held as part of the documentation for a court or tribunal case, or a statutory inquiry.

Parliamentary privilege (absolute) section 34

Information is exempt where necessary to prevent infringement of parliamentary privilege.

Prejudice to the effective conduct of public affairs (absolute for information held by either House of Parliament; for all other information covered by this section, public interest test) section 36

This section applies to information held by any public authority. However, with the exception of statistical information, a 'qualified person' is required to operate the exemption. For authorities not listed in the section, including local authorities in England and Wales, this is either a minister of the Crown or someone authorised for this purpose by a minister.

Personal information (absolute exemption for subject access requests and in certain other situations; the public interest test applies to third party requests) section 40

This section operates as a gateway to the Data Protection Act. Subject access requests are decided under the terms of the DP Act. Third party requests for personal information are decided in accordance with the data protection principles, but within the overall framework of the FOI Act.

Information provided in confidence (absolute) section 41

This exemption applies where disclosure would constitute an actionable breach of confidence.

Legal prohibitions on disclosure (absolute) section 44

Information, the disclosure of which is prohibited by any other enactment, is incompatible with any community obligation, or would be a contempt of court.

The 16 exemptions that are qualified by the public interest test are:

Information intended for future publication (public interest test) section 22

This applies where publication was planned at the time the request was made.

National Security (public interest test) section 24

Information that is not covered by section 23 above, but exemption is needed to safeguard national security.

Defence (public interest test) section 26

Information likely to prejudice national defence or the armed forces.

International relations (public interest test) section 27

Information likely to prejudice the UK's international relations to interests.

Relations within the United Kingdom (public interest test) section 28

Information likely to prejudice relations between the UK administrations: the UK government, the National Assembly for Wales, the Scottish administration, and the executive committee of the Northern Ireland Assembly.

The economy (public interest test) section 29

Information likely to prejudice the economic interests of the UK or part of the UK, or the financial interests of the government or any of the national administrations in the UK.

Investigations and proceedings conducted by public authorities (public interest test) section 30

Information held for the purpose of criminal investigations and proceedings, and information obtained from confidential sources relating to these or civil proceedings arising out of them.

Law enforcement (public interest test) section 31

Information not covered by section 30 above, and which is likely to prejudice a wider range of investigations and conduct, including prevention of crime; assessment and collection of any tax; regulatory enforcement; health and safety; any civil proceedings.

Audit (public interest test) section 33

Applies to information held by public authorities which have functions relating to audit or examining the economy, efficiency and effectiveness of the use of resources of other public authorities; information is exempt if its disclosure is likely to prejudice those functions.

Formulation of government policy (public interest test) section 35

Information held by a government department or the National Assembly for Wales, relating to the formulation of government policy.

Prejudice to effective conduct of public affairs (for all public authorities except the House of Commons and the House of Lords) (public interest test) section 36

This section applies to information held by any public authority. However with the exception of statistical information, a 'qualified person' is required to operate the exemption. For authorities not listed in the section, including local authorities in England and Wales, this is either a minister of the crown or someone authorised for this purpose by a minister.

Communication with Her Majesty etc and honours (public interest test) section 37

This applies to information that relates to communications with Her Majesty, member of the Royal family or Royal household, or the conferring of honours.

Health and safety (public interest test) section 38

Information that would, or would be likely to, endanger the physical, or mental health or safety of any individual.

Environmental information (public interest test) section 39

Environmental information does not fall within the FOI Act if it must be released in accordance with Environmental Information Regulations which will be introduced to implement the Aarhus Convention. However, if the information is subject to a discretionary exemption under the environmental regulations, then the FOI Act public interest test would apply.

Legal professional privilege (public interest test) section 42

This exemption applies where a claim to legal professional privilege could be maintained in legal proceedings.

Commercial interests (public interest test) section 43

This exemption applies to trade secrets, and to information which if disclosed would, or would be likely to, prejudice the commercial interests of any person, including the authority holding it.