

EXEMPTIONS

The Public Interest test is applied to Qualified exemptions but not Absolute exemptions. The number in the first column is the section from the Freedom of Information Act 2000.

S	Reason for Exempt Information (those unlikely to be used by local government are shaded)	Public Interest Test
21	<p>Information accessible to applicant by other means Although this is written as an exemption it does not mean that the applicant cannot obtain the information. It means that the authority should direct the applicant to its publication scheme or other public organisation and provide advice and assistance to enable them to access the information.</p>	Absolute
22	<p>Information intended for future publication This applies where the authority plans to publish the information in the future and it is reasonable not to disclose it till then.</p>	Qualified
23	<p>Information supplied by, or relating to, bodies dealing with security matters This applies to information supplied by or relating to one of the security bodies listed in the section.</p>	Absolute
24	<p>National Security This applies to information which is neither derived from, nor relates to, any of the security bodies listed under s. 23.</p>	Qualified
25	<p>Certificates (issued) under 23 and 24 A certificate issued by a Minister of the Crown certifying that exemption from the duty to communicate information, or to confirm or deny, is required for the purpose of safeguarding national security.</p>	Qualified
26	<p>Defence This applies to information which may adversely affect:- (a) the defence of the British Islands or of a colony, or (b) the capability, effectiveness or security of any relevant forces</p>	Qualified
27	<p>International relations This applies to information which may adversely affect:- (a) relations between the UK and any other State (b) relations between the UK and any international organisation or court (c) the interests of the UK abroad (d) the promotion of protection by the UK of its interests abroad</p>	Qualified
28	<p>Relations within the United Kingdom This applies to information which may adversely affect relations between any administration in the UK and any other such administration.</p>	Qualified
29	<p>The economy This applies where disclosure of information may adversely affect:-</p>	Qualified

	(a) the economic interests of the UK or of any part of the UK (b) the financial interests of any administration of the UK	
30	Investigations and proceedings conducted by public authorities This exemption covers information relevant to criminal investigations and proceedings and information obtained from confidential sources for criminal or civil proceedings.	Qualified
31	Law enforcement This extends the s. 30 exemption to a wider range of law enforcement functions. For example information which will prejudice the prevention or detection of a crime, concerning the assessment or collection of any tax or duty, or relating to regularity and enforcement activity.	Qualified
32	Court records etc This includes information in documents served for the purposes of legal proceedings, filed with a court or held by a person conducting an enquiry or arbitration. This exemption leaves unchanged the normal rule for obtaining court records.	Absolute
33	Audit functions Applies to public authorities which have audit functions in relation to other public authorities or the examination of the economy, efficiency and effectiveness with which other public authorities use their resources in discharging their functions. Disclosure of information which would be likely to prejudice the exercise of these functions is exempt.	Qualified
34	Parliamentary privilege This preserves Parliament's sole power to control its own business, in relation to the disclosure of information.	Absolute
35	Formulation of government policy etc Information held by a government department or by the National Assembly for Wales is exempt where it relates to:- (a) the formation or development of government policy (b) Ministerial communications (c) a request for provision or the provision of advice by any of the Law Officers (d) the operation of any Ministerial private office	Qualified
36	Prejudice to the effective conduct of public affairs This exemption can only be applied by a 'qualified person'. The Monitoring Officer and Chief Executive have been designated qualified persons for the purposes of this section.	Qualified
37	Communications with Her Majesty etc and honours A public authority is exempt to communicate information where it relates to communications with:- (a) Her Majesty, other members of the Royal Family or Royal Household (b) The conferring by the Crown of any honour or dignity.	Qualified
38	Health and Safety This exemption applies to information which would endanger the physical or mental health of any individual or endanger the	Qualified

	safety of any individual.	
39	<p>Environmental information</p> <p>This section operates as a gateway to the revised Environmental Information Regulations (EIRs) which define an access to environmental information which is in some respects more open than that defined in the FOI Act. For practical purposes the revised EIRs and the FOI Act are quite closely aligned.</p>	Qualified
40	<p>Personal information</p> <p>This section simply acts as a gateway to the Data Protection Act, which applies to requests from individuals for their own personal data. The Freedom of Information Act exemption does not mean that the authority does not have to comply with the request. What it means is that a decision on disclosure must be made under the provisions of the Data Protection Act as a Subject Access Request.</p> <p>Requests for information about someone else will be made under the FOI Act. Disclosure should not be made if this would breach any of the data protection principles in the DP Act.</p>	Absolute Qualified
41	<p>Information provided in confidence</p> <p>This applies if releasing the information would amount to an actionable breach of confidence at the time the request is made. This means that you need to understand and apply the common law test for breach of confidence which includes an inherent public interest test.</p> <p>The public authority should only accept information in confidence from third parties if it is 'necessary' to obtain that information in connection with any of the authorities functions.</p>	Absolute
42	<p>Legal professional privilege</p> <p>A public authority is exempt from the duty to communicate information where a claim to legal professional privilege could be maintained in legal proceedings. While information relating to ongoing litigation would almost never be disclosed, there may be a public interest in disclosing general legal advice, for example, about interpretation of a statute.</p>	Qualified
43	<p>Commercial interests</p> <p>Disclosure of information is prohibited when it would or be likely to prejudice the commercial interests of any person (including the public authority holding it). The disclosure of a 'trade secret' would be information of commercial value which is protected by the law of confidence. It first requires a 'prejudice' test to be satisfied. If that is satisfied, the authority must then apply the public interest test.</p>	Qualified

44	Prohibitions on disclosure This applies to information the disclosure of which may lead to prosecution under any other legislation (eg The Human Rights Act), or if disclosure would be in contempt of court.	Absolute
----	---	----------