

Freedom of Information Exemptions

The Freedom of Information Act contains a number of exemptions. Some of these are 'absolute'. If the information falls into one of these categories we are not obliged to release it. Others are 'qualified'. If the information falls into one of these categories we have to decide whether the public interest lies in releasing or withholding the information. This is called the Public Interest Test.

Section 1(3) - We're not sure what you want

This exemption means that the council does not have to comply with a request in situations where it needs more information from you in order to do so. However, when refusing to deal with the request for this reason, the council must ask you for more details so that we can deal with the request.

Section 12 - It will take too long to find the information you want

This exemption means that the council does not have to comply with a request if the cost of doing so exceeds the 'appropriate limit'. The appropriate limit is, effectively, 18 hours, and applies to time spent locating and collating the requested information.

In such circumstances we have a duty to advise you how, if possible, you could narrow the scope of your request to bring it within the limit. For example, you might have asked for certain information covering a 10 year period which takes too long to find – however, if the same information covering only a three year period could be collated within 18 hours, we will advise you of this.

Section 14(1) - The request is vexatious

The council do not have to comply with a request if it is vexatious. The definition of vexatious is not straightforward, but the following would be taken into consideration:

- Can the request fairly be seen as obsessive?
- Is the request harassing the authority or causing distress to staff?
- Would complying with the request impose a significant burden in terms of expense and distraction?
- Is the request designed to cause disruption or annoyance?
- Does the request lack any serious purpose or value?

Section 14(2) - You've already asked for this information

The council do not have to comply with repeated request. This only applies to requests from the same person, submitted without a 'reasonable' interval in between, and where we have already responded to the first request. Although FOI is officially 'applicant blind', this is one of a few circumstances where the council can consider the specific applicant.

A 'reasonable' interval depends upon the nature of the request; if the requested information changes or is updated frequently a reasonable interval may only be a couple of months. However, if the information is obviously never going to change, or only changes once a year, then a reasonable interval may be a year or longer.

Section 21 - The information you want is already available

If the information you have requested is already available elsewhere, your request can be refused. The council will, of course, tell you where and how you can find the information. This applies even to information that is only accessible to you elsewhere upon payment. Whilst the information may be readily accessible to some people, we must consider whether it is readily accessible to you. This is another of the few circumstances where the council can consider the specific applicant when responding to the request.

Section 22 - The information you want is going to be published in the future

If you make a request for information that is due to be published in future, your request might be refused. There must be a genuine intention to publish the information at a future date (even if a date of publication has not been set) at the time your request is received, and it must be reasonable in all the circumstances to withhold the information until the planned publication.

Section 30 - The information you want is held for investigative purposes

The council can withhold information that has been held at any time for the purposes of investigations and proceedings conducted by the council to determine whether somebody should be charged with an offence. It also applies to information that was obtained or recorded for these purposes.

Section 31 - Disclosing the information would prejudice law enforcement

If disclosure of the information you want would, or would be likely to, prejudice the prevention or detection of crime, or the apprehension or prosecution of offenders, then the council can refuse to disclose it.

Section 32 - The information has been filed with, or created by, a court

If the information you want is in a document that has been filed with a court, or is in a document that has been created by a court, it is exempt from disclosure.

Section 38 - Somebody's health or safety may be endangered

If disclosure of the information you want would, or would be likely to, endanger the physical or mental health of anybody the council can refuse to disclose it.

Section 40 - You're asking for personal information

If you are asking for personal information about yourself it will be refused. However, your request will automatically be considered as a subject access request under the Data Protection Act. If you are asking for personal information about somebody else, your request can be refused if disclosure of the information would breach one of the data protection principles, or if the individual concerned has specifically asked that the information is not disclosed (and they have provided suitable reasons as to why).

Section 41 - The information was provided in confidence

If the information you have asked for was provided to the council in confidence, your request may be refused, but only if disclosure would constitute a breach of confidence that could result in legal action being taken against the council. This only applies to information received from outside the council.

Section 42 - The information is legally privileged

The exemption exists to protect the confidentiality of communications between a client and their legal adviser. If the information you have requested constitutes legal advice, or a request for legal advice, then it might not be disclosed.

Section 43 - The information is commercially sensitive

If you have asked for information that is a trade secret, or for information that will prejudice somebody's commercial interests, your request might be refused.

Section 44 - We're not allowed to give you the information

The Freedom of Information Act does not over-rule other legislation. Disclosure of the information you have requested may be prohibited by another Act, and so we are legally prevented from providing it to you.