

Freedom of Information Requests – Exemptions

Exceeds an appropriate limit on resources (Section 12)

FOI requests should not negatively affect your normal functions. There is a cost limit at which point a request can be refused - this is £450 in the case of a local authority. Staffing should be estimated as £25 p/h – 18 hours. Time spent calculating potential cost should not be included. The cost of a request need only be estimated.

A request is vexatious or repeated (section 14)

You may refuse to comply with a request if it is vexatious. In this case, you may take into account the request's history and previous contact with the requester. When deciding if a complaint is vexatious you must consider: if it will take too much time to answer; the applicant's tone; if the request is obsessive; whether there is any value in the request. A request is considered vexatious not the requester – each new request should be assessed individually. You should exercise care when refusing on these grounds.

Regardless of whether the request is vexatious, it can be refused if it is a repeat of an earlier one from the same person. A refusal cannot be made if a request is on a similar topic; it must be an identical request or have substantial overlap. A request cannot be refused on grounds of repetition if a reasonable amount of time has lapsed or the information is likely to have changed.

Information is easily accessible by other means (Section 21)

The FOI Act states that requests can be refused on the grounds that they are readily available to the applicant elsewhere. However, you have a duty when refusing the request to ensure that the applicant is in no doubt where this information can be found.

Information is easily accessible by other means (Section 22)

A request can be refused if, prior to receiving it, a decision has been made to make publicly available the requested information in the future.

Investigations and Proceedings (Section 30)

A request can be refused if the information is being held as part of a criminal investigation or an investigation by the public body. This is subject to the public interest test. Any potential prejudice should be weighed up as part of the test but does not need to be explained in the refusal.

Personal Information (Section 40)

If a request is for the personal information of employees, such as salary information, it can be refused. Third party personal information may also be refused but this is subject to the public interest test.

Information provided in Confidentiality (Section 41)

Information given to the council by another body – a company, an individual or another public authority – in confidence is subject to an exemption. A refusal can be made if the request requires a breach of confidence which could result in the authority being taken to court. This exemption does not stand for information generated within the council.

Commercial Sensitivity (Section 43)

A request should be refused if the information is a trade secret – subject to the Public Interest Test. It should also be refused if the release of information is likely to prejudice the commercial interest of a third party. In calculating this, you should ask the third party their opinion where possible and perform a prejudice test to decide if the information would damage someone's commercial interests.

Prohibitions on Disclosure (section 44)

Refusal can be given if the information is protected by legislation elsewhere. This is an absolute exemption and therefore no Public Interest Test is needed.

Safeguarding National Security (Section 23 & 24)

If the requested information poses a risk to national security if released, it can be refused. This is subject to the Public Interest Test.