

Freedom of Information exemptions

Commonly used exemptions are set out below along with how they may be applied. This is not an exhaustive list of exemptions.

Exemptions apply to information, not documents. Therefore specific parts of documents may be withheld, or multiple exemptions applied to a single document.

Some exemptions are **qualified**, this means that the public interest in disclosure will be weighed against the reasons for withholding the information when considering if these exemptions apply. Arguments for and against the use of the exemption will be formulated and weighed against one another.

Exemption:	S22 – Information intended for future publication
Summary:	<p>Information will be exempt if:</p> <ul style="list-style-type: none"> • the Trust or another body (such as CQC/HSCIC) intends to publish the information at some future date, whether determined or not • it is reasonable to withhold the information prior to publication <p>This exemption applies if, when published, the information will be made generally available to the public.</p> <p>This exemption is qualified by the public interest test.</p>
How the exemption will be applied:	<ol style="list-style-type: none"> 1. We will determine if there is a settled intention to publish the information 2. We will consider if the public interest in withholding the information until publication outweighs the public interest in disclosure. <p>Where possible, we will provide a likely date and place of publication when invoking this exemption.</p>

Exemption:	S36 - Prejudice to the effective conduct of public affairs
Summary:	<p>This is a broad exemption which applies where disclosing information would:</p> <ul style="list-style-type: none"> • Prejudice the effective conduct of public affairs • Inhibit free and frank advice and discussion <p>The judgement about prejudice must be made by our CEO for this exemption to apply; the only exception is where statistical information is being considered.</p> <p>This exemption is qualified by the public interest test.</p>
How the exemption will be applied:	<ol style="list-style-type: none"> 1. We will consider if disclosure would, or would be likely to: <ol style="list-style-type: none"> a. Prejudice the effective conduct of public affairs, or b. Inhibit free and frank advice and discussion 2. Unless statistical information is being considered, we will provide the relevant information to the CEO to provide a judgement on the likely prejudice of disclosure.

	3. We will consider if the public interest in withholding the information outweighs the public interest in disclosure.
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Exemption:	S38 – Endangering health and safety
Summary:	This exemption applies if disclosure would be likely to pose a significant risk to an individual’s physical or mental health and safety. This exemption is qualified by the public interest test.
How the exemption will be applied:	<ol style="list-style-type: none"> 1. We will consider if disclosure would be likely to pose a significant risk to: <ol style="list-style-type: none"> a. an individual’s physical/mental health b. an individual’s safety 2. We will consider if the public interest in withholding the information outweighs the public interest of disclosure.

Exemption:	S40(2) – Personal information
Summary:	Information will be exempt where disclosure would breach the Data Protection Act. Most commonly, this is when disclosure would be considered unfair or unlawful. The personal information exemption applies to information relating to a living individual who can be identified using that information. The individual does not necessarily need to be referred to by name to be considered identifiable.
How the exemption will be applied:	<ol style="list-style-type: none"> 1. We will establish if the information relates to living, identifiable individual(s). 2. We will consider if disclosure would be fair/lawful, taking into account: <ol style="list-style-type: none"> a. If the information is sensitive personal data b. The possible consequences of disclosure for the individual c. The reasonable expectations of the individual d. Any legitimate interests in the public having access to the information and how this balances against the rights and freedoms of the individual. 3. If disclosure is not considered to be fair/lawful, information will not be disclosed. 4. If disclosure is considered to be fair/lawful: <ol style="list-style-type: none"> a. We will consider if the information is already in the public domain or the individual has made the information public. b. We will consider if there is a legitimate interest in disclosure to the public. c. We will consider if disclosure would cause unwarranted harm to the individual’s interests.

Exemption:	S41 – Information provided in confidence
Summary:	<p>This applies to information which has been provided to the Trust in confidence.</p> <p>The information must have been obtained from another person or organisation for this exemption to apply. The exemption may apply to documents (or parts of documents) created by the Trust which contain confidential information provided by a third party.</p> <p>The Trust may only apply this exemption where disclosure of the information would give rise to an actionable breach of confidence.</p>
How the exemption will be applied:	<ol style="list-style-type: none"> 1. We will determine if the information has been provided by a third-party. 2. We will consider if the information is confidential. 3. We will consider if the information was provided to the Trust on the understanding that it would be held in confidence 4. We will consider if unauthorised disclosure would cause detriment to the third-party. 5. We will consider if there is an overriding public interest in disclosure which would outweigh the duty of confidence.

Exemption:	S43(2) – Commercial interests
Summary:	<p>This applies to the disclosure of information likely to prejudice the commercial interests of any person (including the Trust). Information will be withheld where disclosure would inhibit that person's ability to participate competitively in a commercial activity.</p> <p>This exemption is qualified by the public interest test.</p>
How the exemption will be applied:	<ol style="list-style-type: none"> 1. We will identify whose commercial interests would be affected by disclosure. 2. We will identify what the impact/damage would be if we did disclose the information. 3. We will consider if the public interest in withholding the information outweighs the public interest of disclosure.