

PART 2 CLASSIFICATION

CATEGORIES OF CONFIDENTIAL AND EXEMPT INFORMATION

Only information which meets the confidential information definition or one of the categories of exempt information outlined below can be withheld from the public.

Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

Meaning of exempt information

The categories of exempt information are detailed within the Access to Information Act which allow local authorities to exclude the public and press from meetings and access to relevant information. The exempt paragraphs are set out in Schedule 12A to the Local Government Act 1972 (as amended by the Local Government (Access to Information) (Variation) Order 2006).

NOTE: Reports should usually be in part 1 and be split where appropriate if exempt information exists. It is the responsibility of the report author to justify the need for part 2 reports.

The categories are as follows:

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

For Standards Committees only

8. Information which is subject to any obligation of confidentiality.
9. Information which relates in any way to matters concerning national security.
10. The deliberations of a Standards Committee or of a sub-committee of a Standards Committee established under the provisions of Part 3 of the LGA 2000 in reaching a finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

All exempt reports must be justified in accordance with the above new categories.

Please note that information falling within paragraph 3 above is not exempt information if it is required to be registered under:

- (a) the Companies Act 1985
- (b) the Friendly Societies Act 1974
- (c) the Friendly Societies Act 1992
- (d) the Industrial and Provident Societies Acts 1965 to 1978
- (e) the Building Societies Act 1986 or
- (f) the Charities Act 1993

Note: Information is not exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

Further Guidance

In addition to the above, the new regulations require local authorities to apply a “public interest” test to all possible Part 2 issues. Whilst there is no legal definition, the public interest test is basically as follows:

“Information is exempt if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.”

To assist, the following are some of the relevant considerations when applying this test:

- the public interest in disclosure is particularly strong where the information in question would assist public understanding of an issue that is subject to current national debate.
- The issue has generated public or parliamentary debate.
- Proper debate cannot take place without wide availability of all the relevant information.
- The issue affects a wide range of individuals or companies.
- The public interest in a local interest group having sufficient information to represent effectively local interests on an issue.
- Facts and analysis behind major policy decisions.
- Knowing reasons for decisions.
- Accountability for proceeds of sale of assets in public ownership.
- Openness and accountability for tender processes and prices.
- Public health.
- Contingency plans in an emergency.
- Damage to the environment.

Report authors will need to build into the writing of reports consideration of whether there is exempt information and whether the public interest in disclosure outweighs the use of an exemption.