

Freedom of Information Act 2000 – Exemptions

The Freedom of Information Act 2000 sets out 24 exemptions where the general right of access to information is either not to be allowed or will be qualified. Apart from vexatious or repeated requests, to which NILGOSC need not respond, there are two general categories of exemption: (a) absolute exemptions and (b) qualified exemptions. A summary of these exemptions is set out below.

a) Absolute exemptions

Absolute exemptions are the exemptions for which there is no duty to consider disclosure in the public interest. They are set out in Part II of the Freedom of Information Act 2000.

Section 21: Information accessible to the applicant by other means.

Section 23: Information supplied by, or relating to, bodies dealing with security matters.

Section 32: Court records, etc.

Section 34: Parliamentary privilege.

Section 36: Prejudice to effective conduct of public affairs (information held by the Houses of Lords and Commons only).

Section 40: Personal Information. There is an absolute exemption from the provisions of the Freedom of Information Act 2000 if the applicant making the request for information is the subject of the information requested as they have right of access to that information under the Subject Access Right of the Data Protection Act 1998 ("DPA 1998"). There is also an exemption from the provisions of the FOIA if the information requested concerns a third party and disclosure would breach one of the Data Protection Principles.

Section 41: Information provided in confidence.

Section 44: Prohibitions on disclosure where a disclosure is prohibited by an enactment or would constitute contempt of court.

(b) Qualified exemptions

Even though an exemption exists, NILGOSC will have a duty to consider whether disclosure is required in the public interest.

Section 22: Information intended for future publication.

Section 22a: Information obtained in the course of, or derived from, a program of research.

- Section 24:* National security (other than information supplied by or relating to named security organisations, where the duty to consider disclosure in the public interest does not arise).
- Section 26:* Defence.
- Section 27:* International relations.
- Section 28:* Relations within the United Kingdom.
- Section 29:* The economy.
- Section 30:* Investigations and proceedings conducted by public authorities.
- Section 31:* Law enforcement.
- Section 33:* Audit functions.
- Section 35:* Formulation of government policy etc.
- Section 36:* Prejudice to effective conduct of public affairs (except information held by the Houses of Lords and Commons, where the exemption is absolute (see section (a) above)).
- Section 37:* Communications with Her Majesty and the awarding of honours.
- Section 38:* Health and safety.
- Section 39:* Environmental information.
- Section 40:* Personal information. If NILGOSC believes that disclosure would not breach any of the Data Protection Principles, but the individual who is the subject of the information has properly served notice under s.10 of the DPA 1998 that disclosure would cause unwarranted and substantial damage or distress, or the individual who is the subject of the information would not have a right to know about it or a right of access to it under the DPA 1998, there will be no absolute exemption, and NILGOSC will be obliged to consider the public interest in deciding whether to release the information.
- Section 42:* Legal professional privilege.
- Section 43:* Trade secrets and prejudice to commercial interests.