

Local Government Act 1972 Schedule 12A
Access to Information: Exempt Information May 2008

SI 2006 No. 88 Local Government (Access to Information) (Variation Order 2006)

Para Descriptions of Exempt Information

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). (see 8 below)
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.

Qualifications

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph 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.
9. Information is not exempt information 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.
10. Information which—
 - (a) falls within any of paragraphs 1 to 7 above; and
 - (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,is exempt information 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.

Interpretation

1. (1) In Parts 1 and 2 and this Part of the Schedule –

“employee” means a person employed under a contract of service;

“financial or business affairs” includes contemplated, as well as past or current, activities;

“labour relations matter” means –

(a) Any of the matters specified in paragraphs (a) to (g) of Section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or

(b) Any dispute about a matter falling within paragraph (a) above;

and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;

“office-holder”, in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;

“registered” in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).

(2) Any reference in Parts 1 and 2 and this Part of this Schedule to “the authority” is a reference to the principal Council or, as the case may be, the Committee or Sub-Committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference –

(a) in the case of a principal Council, to any Committee or Sub-Committee of the Council; and

(b) in the case of a Committee, to –

(i) any constituent principal Council;

(ii) any other principal Council by which appointments are made to the Committee or whose functions the Committee discharges; and

(iii) any other Committee or Sub-Committee of a principal Council falling within sub-paragraph (i) or (ii) above; and

(c) in the case of a Sub-Committee, to –

(i) the Committee, or any of the Committees, of which it is a Sub-Committee; and

(ii) any principal Council which falls within paragraph (b) above in relation to that Committee.

Note References to “Principal Council” includes a “National Park Authority”.

Public Interest

There is no legal definition of what the public interest is but Meredith Cook in her 2003 study "Balancing the Public Interest: Applying the public interest test to exemptions in the UK Freedom of Information Act 2000" identifies the following as some of the relevant considerations:

- 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 interest in public bodies obtaining value for money
- Public health
- Contingency plans in an emergency
- Damage to the environment