

**Confidential information obtained from a foreign government or international organisation**



**Category of Information**

1. Information (in any form) obtained, in confidence, from a foreign government or international organisation.

**Working Assumption**

2. If, having been consulted, the State or organisation concerned objects to disclosure or if, in the absence of consultation, the circumstances make it reasonable to assume that the State or organisation would object to disclosure – **withhold**, citing exemption under s27(2) of the Act (International Relations).

**Procedural issues:** Consult foreign government or international organisation if there is doubt about whether the information is confidential or their attitude to disclosure. However, if the State or organisation concerned has itself put the information into the public domain, it may be assumed that they would not object to disclosure.

3. If disclosure would be contrary to an obligation under international law, for example, in a treaty to which the United Kingdom is a party – Withhold citing exemption under s27(2) (International Relations) under s44(1)(b) of the Act (Prohibitions on Disclosure).

**Reason for assumption**

4. The effective conduct of international relations depends upon maintaining trust and confidence between Governments and international organisations. This relationship of trust allows for the free and frank exchange of information

on the understanding that it will be treated in confidence. If the United Kingdom does not respect such confidences, its ability to protect and promote United Kingdom interests through international relations will be hampered in a number of ways:

- The State or organisation concerned could be more reluctant to share sensitive information (e.g. trade information) with the United Kingdom in future, hampering the Government's ability to protect and promote the United Kingdom's interests overseas;
  - Other States and organisations not directly concerned with supply of information in question could be less willing to provide similar information to the United Kingdom, again hampering the United Kingdom's ability to protect and promote the United Kingdom's interests overseas;
  - Other States and international organisations could be less likely to respect the confidential nature of information supplied by the United Kingdom, to the detriment of the United Kingdom interests;
  - Disclosure may provoke a negative reaction in the State or organisation whose confidence has been breached. The nature and extent of such a reaction will vary according to the circumstances but could seriously damage the United Kingdom's interests and might, for example, damage the United Kingdom's commercial interests.
6. Disclosure would be prohibited, if the disclosure of that information is contrary to a binding obligation on the United Kingdom under international law.

## **Referral Points**

7. Working assumptions do not fit all situations. The referral points set out below describe specific situations where the working assumption (either to release information or withhold information) should not be used. The fact that the assumption does not apply **does not mean you should automatically release the information**. In these circumstances, the information request

should be **referred** to a more senior member of staff, or a dedicated FOI practitioner, for them to consider:

- The issue covered is unlikely to be a matter of concern to the other government, international organisation or wider international community;
- The other government or organisation has agreed to disclosure but you have concerns that disclosure would harm another interest e.g. commercial interests or another body not directly concerned with supply of information;
- The information relates to negotiations, which are no longer current and where the negotiating positions are well known, e.g. a treaty has been signed and background information has been released;
- The request states that the applicant is asking for internal review of an earlier decision to refuse to release information – working assumptions are only designed to be used on the first occasion that information is requested. Appeals against decisions to withhold information may need more careful consideration and should therefore be referred;
- The information relates to a matter covered by the Environmental Information Regulations (EIRs). The EIRs have been closely aligned with the FOI Act to ensure that there are as few operational differences as possible. However, there are some differences between the two regimes, particularly in that some of the exceptions in the EIRs are worded differently from the FOI Act exemptions, and all of the EIR exceptions are subject to the public interest test. If there is any doubt as to whether or not information is covered by the EIRs, the case should be referred. Further guidance on the EIRs can be found at:  
<http://www.foi.gov.uk/guidance/exguide/sec39/chap02.htm> and  
<http://www.defra.gov.uk/corporate/consult/envinfo/index.htm>
- This working assumption should only be considered to be valid in relation to requests for information less than 10 years old, since the public interest in

withholding the information is likely to have changed and mean that a more careful argument is needed when refusing to release information. All such cases should be referred; or

- You think that there is a public interest in releasing the information which could override the objections of the other government. (For example issues relating to human rights abuses, or the safety of British citizens in a particular country.)