

## Oral Parliamentary Questions



### Category of Information:

1. Answer and background briefing for Oral PQ.

### Working assumptions:

**Note:** All the assumptions below assume that the request for information has been received after the PQ session. Any requests for information before a PQ session should be referred.

2. Initial answer to the tabled question and answers given by the Minister in the PQ session: **release**.
3. Factual biographical information about MP or Peer asking the question from published sources: **release**.
4. Opinion and speculation about the reasons behind the question and likely motivation: **withhold** – apply exemption 36(2)(b)(i) (prejudice to the effective conduct of public affairs – free and frank advice).
5. All other background material (including factual material, such as ‘if pressed’ lines, political briefing on the policy, information marked ‘not to be disclosed’, ‘worst accusations’ ‘elephant traps’, ‘best points’ unused supplementary questions: **withhold** – apply exemption 36(2)(b)(i) (prejudice to the effective conduct of public affairs – free and frank advice).

### Reasons for the assumptions

6. **Initial answer and answers given in the PQ session** – the information is already in the public domain. Although exemption 21(1) (information accessible by other means) could apply, on some occasions it may be simpler

and easier to release the information, or, alternatively, provide the applicant with an extract from Hansard.

7. **Factual biographical information about MP or Peer asking the question** – biographical information about MPs and Peers is readily available in the public domain, and there is no argument for withholding it as long as it is from a published source. Factual information about the number of times an MP or Peer has asked a question of a Department, or lists of the previous questions they have asked can also be put together from readily available public information, and therefore should be released.
8. **Opinion and speculation about the reasons behind the question and likely political motivation; All other background material** – Section 36(2)(b)(i) of the Act recognises that the release of information that “would, or would be likely to inhibit ... the free and frank provision of advice” may need to be withheld.
10. There are strong public interest reasons why officials should be able to provide free and frank advice to Ministers ahead of a Parliamentary Question session.
11. It is in the public interest that Ministers can properly answer Parliamentary questions, provide sound information to Parliament, robustly defend policy decisions, and, where necessary, protect collective responsibility.
12. If they are to do this effectively, they must have full and frank advice. This advice must enable them to see the political context of the question being asked, the likely motivation for the question, the views of other MPs and Peers of the issue being discussed, and it must give them a full overview of the policy issue, Government position and background of the issue being discussed.
13. Even though some of the information in a PQ background briefing will be factual, and in many cases readily available in the public domain, it should nevertheless be withheld. Part of the process of providing free and frank advice is selecting the factual information that should go into a briefing pack.

14. Revealing what factual information officials have selected, even if it is separated from judgements about that information (such as 'best point', 'worst statistic' etc), harms the briefing process by making it easier for opponents of the Government to anticipate the likely content of briefing packs in the future. This could make officials reluctant to provide full and frank advice, if they fear that doing so could give the Government's political opponents an unfair advantage.

## Referral points

15. 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 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>; and

- This working assumption should only be considered to be valid in respect of 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.