

Information Sheet - the Personal Affairs Exemption

An agency can refuse access to **exempt matter** or an **exempt document**. The word "matter" refers to a piece of information. It could be a whole page or part of a page, right down to a single word or figure. Parts of a page can be exempt matter when other parts are not.

Section 44(1) of the *Freedom of Information Act* (FOI Act) sets out this ground of exemption:

*Matter is exempt matter if its disclosure would disclose information concerning the **personal affairs** of a person, whether living or dead, unless its disclosure would, on balance, be in the **public interest**.*

The s.44(1) exemption:

- only applies to information about real people, not companies, clubs or other organisations;
- does not stop you getting access to information that is only about your personal affairs. But, it can stop you from getting access to information about you, if the same information also concerns someone else's personal affairs.

What is personal affairs information?

- Under the FOI Act, "personal affairs" doesn't cover every piece of information about a person, or about his/her "affairs". It covers only information about those affairs that are "personal", that is, information about the private aspects of a person's life, not about things the person does in a job or business, or as part of a public activity.
- So information about a person's work or business doesn't usually qualify as information concerning his/her personal affairs.

Examples of information about a person that usually concerns his/her personal affairs

- family relationships
- health
- personal relationships with other people
- personal details, like date of birth or height
- signature
- home address or telephone number
- information about a person's domestic residence
- information about a student's education
- information about what has happened to a prisoner in prison
- personal income (however, it has been held that the public interest requires disclosure of the gross income payable to a public servant)
- personal/domestic financial obligations (as distinct from financial obligations of a business)

Examples of information that doesn't usually concern personal affairs

- information created by a person at work
- information about a person at work or business, unless it is about a personal aspect of their life, say, about why they took sick leave
- work or business address or telephone number
- name in work documents
- the fact that a person wrote a letter in an official capacity, say, for their employer, or as an office holder of a club

Names and identifying matter

A person's name, by itself, is not information concerning personal affairs. For example, if it simply shows that the person worked on a particular job, or wrote a letter for a club, it would not show anything about a private aspect of his/her life. So the information would not concern his/her personal affairs.

But if a name links an identifiable person to information about a private aspect of his/her life (eg. information about his/her health), the name in the context of that information would be personal affairs information. In many cases, deletion of a person's name and other identifying information will allow the rest of the document to be disclosed without affecting the person's privacy. The FOI Act permits deletion of parts of documents in such cases.

Public interest balancing test

If you have requested information that does concern another person's personal affairs, there is a public interest against giving access to it. The Information Commissioner must then weigh up all the public interest considerations in favour of giving access, and the ones against giving access. Unless the ones in favour of access outweigh the ones against access, the matter will be exempt matter.

For more detail about the public interest balancing test, you can read the Information Sheet on *Public Interest Balancing Tests*.

Further reading

If you want to read more about "personal affairs" you can go to the Information Commissioner's website at www.infocomm.qld.gov.au. Some sections of the FOI Act and cases you might like to look at are:

- about "personal affairs" in detail: *Re Stewart and Department of Transport* (93006)
- about the difference between work or employment affairs and personal affairs: *Re Pope and Queensland Health* (94016) at paragraphs 108-116
- about the difference between business affairs and personal affairs: *Re Timms and Department of Employment, Vocational Education, Training and Industrial Relations* (93007)
- about "shared personal affairs" information: s.44(2) of the FOI Act and *Re "B" and Brisbane North Regional Health Authority* (94001) at paragraphs 172-178
- about deletion of exempt matter and disclosure of the rest of the document: s.32 of the FOI Act and *Re Morris and Queensland Treasury* (95025) at paragraphs 25-28

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Information Sheets are introductory only. They deal with issues in a general way. Additional factors may be relevant in particular cases. Detailed consideration of the exemption provision is set out in the cases referred to in the Information Sheet. The Information Commissioner considers each case on its merits.