

Written Parliamentary Questions



Category of Information:

1. Answer and background information to written PQ.

Working assumptions:

Note: If a request for information is received before an answer has been tabled, the working assumption no longer applies and the request should be referred.

2. It must be remembered that the FOI Act gives access to information, not documents. Where the working assumption is to release, it is assumed that factual information will be removed from the context of the PQ briefing pack before being sent to the applicant.
3. Written answer: **release**
4. Factual biographical information about MP or Peer asking the question from published sources: **release**.
5. Opinion and speculation about the reasons behind the question and its motivation: **withhold** – apply exemption 36 (2)(b)(i) (prejudice to the effective conduct of public affairs – free and frank advice).
6. Background factual and statistical material about the policy area and answer: **release**. Judgements about information (such as ‘our best figures are...’ or ‘worst accusation’) should generally be withheld, as this is the opinion of the official rather than factual information.

Reasons for assumptions

7. **Written answer** – the information is already in the public domain. Although exemption 21 (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.
8. **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.
9. **Opinion and speculation about the reasons behind the question and likely political motivation** – Section 36 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 in briefing for written PQs. It is in the public interest that Ministers can properly answer Parliamentary questions, and provide sound information to Parliament.
11. 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 asked about.
12. Background information relating to written PQ's exist for a different reason than for Oral PQ information. The background factual information supplied in an Oral PQ briefing is intended to be deployed by a Minister to defend policy during a questions session, whereas the factual information in formal written

PQ's exists only to show the Minister why a particular answer has been given. The public interest considerations relating to the factual information supplied as background to written PQs are different from those which require consideration in relation to oral PQ briefing.

Referral points

13. 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

- The information relate to or contain personal data or are concerned with a personal matter
- 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.
- If you think that an exemption other than s36 applies to the information (such as commercially sensitive material, national security information); or,
- If the PQ answer refused to give out information, and the factual briefing would reveal the information that was withheld

Referral points from the assumption to release:

- the information is particularly sensitive, or came from a specialised source (such as a commercial or security assessment); or
- if the PQ answer refused to give out information, and the factual briefing would reveal the information that was withheld.