

FOI 11/2024 – Section 42 Exemption “Advice Privilege”

Public Interest Test

The above exemption is a qualified exemption, and a Public Interest Test must be carried out to decide whether the public interest in maintaining the exemption outweighs the public interest in disclosure.

Information under consideration for release

A confidential annex from the Board Meeting held on 4th September 2023.

Arguments in favour of disclosure of the requested information

1. Disclosure of the requested information would be in line with a public authority being open and transparent in how it transacts its business, and would help in promoting accountability.
2. Disclosure would also be within the overall spirit of the Freedom of Information legislation in asking public bodies to be open and transparent.

Arguments in favour of engaging the exemption and withholding the requested information

1. Maintaining legal privilege would safeguard openness in all communications between the Board and its legal advisors to ensure access to full and frank legal advice, which in turn is fundamental to the administration of justice.

Result

Taking into account the deliberations above, it is felt that the public interest in engaging the exemption to withhold the information outweighs the arguments towards disclosure.

As a result the information should not be provided.