

**DOCUMENTING EXEMPTIONS & EXCEPTIONS UNDER THE FREEDOM OF
INFORMATION ACT 2000/ENVIRONMENTAL INFORMATION REGULATIONS 2004**

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1. AUDIENCE

- a) Departmental Information Governance Lead Officers ("DIGLO")
- b) Directorate business specialists
- c) Appeal Panel Members

2. OBJECTIVE

The objective is to ensure that all Coventry City Council ("The Council") follows appropriate processes that meet the requirements on legislation and adequately protect the Council's interests.

3. APPLYING EXEMPTIONS/EXCEPTIONS

In general, if the information requested is available, current and in a form to be disclosed, the employee responsible will provide this. If the information is not subject to any exemptions, then release it.

If disclosure is to be withheld, there are two types of exemptions, absolute and qualified, which apply to FOI. A set of Exceptions-all qualified- also exist under EIR. Guidance on Exemptions & Exceptions themselves is contained in FOI & EIR Guidance Notes ()

3.1 Details of the Directorate Case

In all instances, where a Directorate intends to withhold information, it is for the Directorate to make a clear case for this, considering the case both for and against disclosure. A valid FOI exemption or EIR exception must also be cited.

When doing this, the Departmental Information Governance Lead Officer (DIGLO) must refer to and seek approval of the [Information Governance Team \(IG\)](#) before considering applying FOI Exemptions and EIR Exceptions or making any response refusing disclosure.

3.2 Absolute (unconditional) exemptions

These apply to FOI only. They can be applied to information that does not have to be released to the applicant either because it is already publicly-available (in the Council's [Publication Scheme](#) for example.

Information to which an absolute exemption applies does not require the Council to take a public interest test, although DIGLO should apply the following procedures to ensure that the decision to use is appropriate and can be justified if challenged in future.

3.3 Qualified (conditional) exemptions/exceptions

These exist in FOI but will also apply to all EIR Exceptions – Information to which a qualified exemption/EIR Exception applies requires the Council to take a test of prejudice or to demonstrate that the balance of public interest is in favour of non-disclosure.

4. THE EXEMPTION/EXCEPTION PROCESS

When applying an exemption or exception, a copy of the pro forma provided at **5. Documenting the Decision** (attach extra sheets as required) should be completed by the relevant DIGLO, in consultation with IG and with input if required from a Directorate Business Specialist or a Legal Representative advising the Directorate.

Exemption/Exception(s) being claimed must be clearly identified in the tables below, together with the particular information they are being applied to.

When the Directorate involved responds to the request for information (and withholds disclosure of some or all the requested information) the completed pro forma should be kept with a copy of the information disclosed and withheld in response to the request. In the event of a complaint or appeal being received by the Council, this will form a major part of the case to be considered.

In addition, in all cases where information is withheld, a refusal letter must be issued.

This must include a statement that the applicant has a right of appeal. (Note: Appeals against refusals to disclose are covered in a separate guidance note).

5. POSSIBLE EXEMPTIONS/EXCEPTIONS TO APPLY

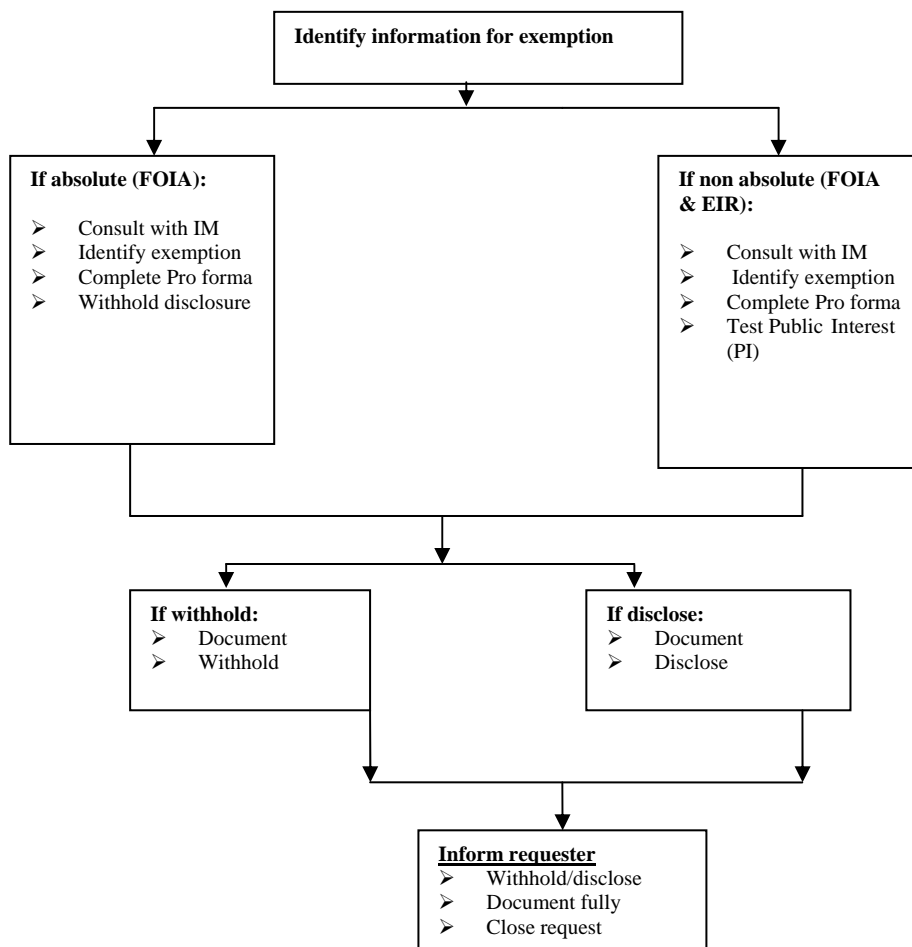
5.1 FOI EXEMPTIONS (Text in brackets indicates whether a PI test is required Absolute-no, Qualified-yes)

| | |
|------------|--|
| Section 21 | Information accessible to the applicant by both means (Absolute) |
| Section 22 | Information Intended for Future Publication (Qualified) |
| Section 30 | Investigations and Proceedings Conducted by Public Authorities (Qualified) |
| Section 31 | Law Enforcement (Qualified) |
| Section 33 | Audit Functions (Qualified) |
| Section 36 | Prejudice to Effective Conduct of Public Affairs (Qualified) |
| Section 37 | Communications with Her Majesty, etc Honours (Qualified) |
| Section 38 | Health and Safety (Qualified) |
| Section 39 | Environmental Information (Absolute) |
| Section 40 | Personal Information (Absolute) |
| Section 41 | Information Provided in Confidence (Absolute) |
| Section 42 | Legal Professional Privilege (Qualified) |
| Section 43 | Commercial Interests (Qualified) |
| Section 44 | Statutory prohibition on disclosure (Absolute) |

5.2 EIR EXCEPTIONS (All Qualified)

- 1 The information requested is not held by the Council
- 2 The request is manifestly unreasonable
- 3 The request is too general. (Please ensure advice and assistance was provided to the applicant);
- 4 The request concerns internal communications;
- 5 Disclosure would adversely affect:
 - ❖ Confidentiality of the Council's proceedings;
 - ❖ International relations, public security or national defence;
 - ❖ The course of justice, the ability of any person to receive a fair trial or the ability of the Council to receive a fair trial;
 - ❖ Confidentiality of commercial/industrial information;
 - ❖ Intellectual property rights;
 - ❖ Confidentiality of personal data/files;
 - ❖ The interests or protection of any person who supplied the information on a voluntary basis;
 - ❖ The information relates to the protection of the environment.

6. THE PROCESS ILLUSTRATED



7 DOCUMENTING THE DECISION

RFI Number:

REASON(S) FOR DIRECTORATE CLAIMING EXEMPTION(S)/EXCEPTION(S)

| INFORMATION REQUESTED FOR EXCEPTION/EXEMPTION | EXCEPTION/EXEMPTION APPLIED |
|--|-----------------------------|
| | |
| | |

Release of information is not recommended because:

For disclosure:

Against disclosure:

Signed:

Directorate:

Date:

Name:

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DOCUMENT HISTORY**Version History**

| Version | Status | Date | Author | Comments |
|----------------|---|-------------|----------------------|-----------------|
| 0.0.1 | Initial draft for IG consultation | 10/03/08 | Information Redacted | |
| 0.0.2 | Draft for DIGLO consultation | 27/03/08 | Information Redacted | |
| 0.0.3 | Draft incorporating IG & DIGLO feedback | 29/04/08 | Information Redacted | |
| 0.0.4 | Final draft | 07/08/08 | Information Redacted | |
| 1.0 | FINAL | 08/10/08 | Information Redacted | |

Review

| Name | Role | Business Area |
|----------------------|------------------------------------|--|
| Information Redacted | Information Governance Team Leader | Information Governance, Contracts & Governance |
| Information Redacted | Senior Solicitor | Finance & Legal Services |

Distribution (Primary)

| Name | Directorate | Format | Version | Date |
|-------------|--------------------|---------------|----------------|-------------|
| DIGLO | All | Electronic | 0.0.2 | 04/04/08 |
| DIGLO | All | Electronic | 0.0.4 | 07/08/08 |

Distribution (Copies)

| Name | Directorate | Format | Version | Date |
|-------------|--------------------|---------------|----------------|-------------|
| ALL STAFF | ALL | ELECTRONIC | 1.0 | |

