



SECTION 7

IS THE INFORMATION ALREADY REASONABLY ACCESSIBLE OR SHORTLY TO BE PUBLISHED?

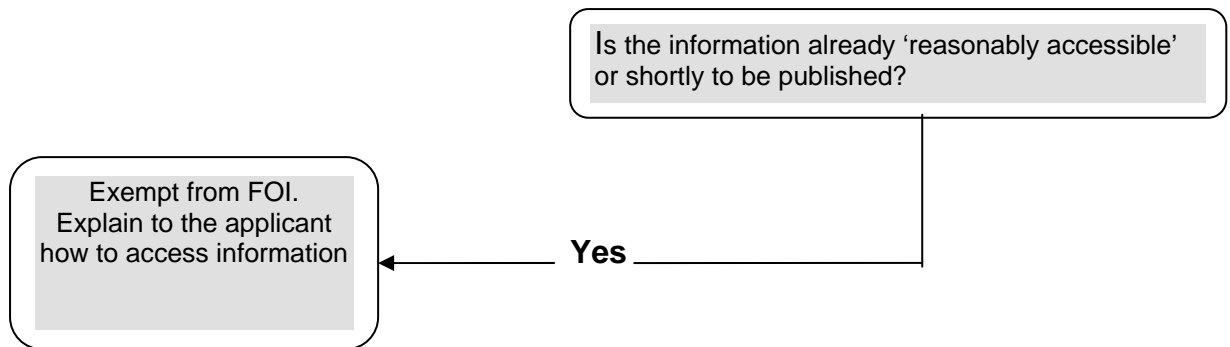
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At this stage, you know what the request is about, you have enough information to find what the applicant wants, and it is likely or possible that the Council holds the information.

The next step is to consider whether the information is already reasonably accessible to the applicant.

7.1 The s.21 exemption: information accessible by other means

What this means is that:

The information requested may be exempt, if it is reasonably accessible to the applicant by other means e.g. through the Council's Publication Scheme even if there is a charge for providing the information. <http://www.dartford.gov.uk/foi/>. or where the Council is obliged to communicate the information to the applicant otherwise than under the FOI Act.

It is the circumstances of the applicant and not the public as a whole, which need to be considered when determining accessibility.

Information may be accessible on payment of a fee, or where the Council or any other person is obliged to provide the information to the public, on request, under any other legislation. However, if the Council or another person is only obliged to make the information available for inspection under other legislation, then the information will not fall under this exemption, unless it is contained in the Publication Scheme.



Examples

- Information contained in the Publication Scheme (unless the format in which it is made available will mean that it is still not reasonably accessible in the applicant's particular circumstances);
- Information available from the local Land Charges Registry;
- Information available from the local Land Registry;
- Information about a limited company which could be obtained from Companies House;
- Agendas, minutes and reports of Council meetings and lists of Council members accessible under Part VA of the Local Government Act 1972, provided they are in the Publication Scheme. <http://www.dartford.gov.uk/foi/>

7.2 The s.22 exemption: information intended for future publication

Information may be exempt if it is information which is intended to be published and it is reasonable that the information should not be disclosed until the intended date of publication. This term includes where the Council is intending to charge for the information once it is published.

The date for publication need not be determined, however if challenged, the Council would need to present evidence to substantiate the claim that there was, at the time the request was made, a settled intention to publish the information.

Examples

- Information relating to research projects which would be inappropriate to publish until the project had been completed;
- Statistical information which is usually published to a specific timetable (annually, quarterly etc.);
- Where the release of the information may result in unfairness to others e.g. information regarding a service offered on a first come first serve basis, which would be undermined by premature disclosure;
- Where there is a duty to present a report in the first instance to a particular individual, e.g. in the case of a complaint, before making it generally available.



7.3 Claiming these exemptions

If the information is subject to either of the exemptions referred to above, then you don't have to deal with the request under the FOI Act. You should contact the applicant (technically a 'Refusal Notice', although to use this term might be confusing), explaining where and how the applicant can access the information and whether a charge applies etc [Annex O].

7.4 Information Commissioner's Awareness Guidance

Awareness Guidance Nos. 6 and 7 refer.