

**SECTION CONTENTS**

**CHAPTER 25 SECTION 8**

**EXEMPTING INFORMATION ON THE GROUNDS OF INTERNATIONAL RELATIONS AND WHERE IT MAY PREJUDICE RELATIONS WITHIN THE UK**

1. **EXEMPTING INFORMATION ON THE GROUNDS OF INTERNATIONAL RELATIONS**
  - 1.1 Background
  - 1.2 Definition of key terms
  - 1.3 Type of information covered by the exemption
  - 1.4 Key considerations when assessing the likelihood of prejudice
  - 1.5 Key considerations when assessing whether information may be confidential from another state, an international organisation or international court
  - 1.6 Consultation with the Foreign and Commonwealth Office
  - 1.7 Public interest balancing test
  - 1.8 Applying the exemption
  - 1.9 Duration of the exemption and relationship with other exemptions
  
2. **EXEMPTING INFORMATION WHERE IT MAY PREJUDICE RELATIONS WITHIN THE UK**
  - 2.1 Background
  - 2.2 Information obtained from or shared between administrations
  - 2.3 Other information which if disclosed could prejudice relations
  - 2.4 Assessing the degree of prejudice resulting from disclosure
  - 2.5 Public interest balancing test
  - 2.6 Applying the exemption
  - 2.7 Duration of the exemption and relationship with other exemptions
  
3. **APPENDIX A: STANDARD LETTER TEMPLATES**

**CHAPTER 25  
SECTION 8**

**EXEMPTING INFORMATION ON THE GROUNDS OF  
INTERNATIONAL RELATIONS AND WHERE IT MAY  
PREJUDICE RELATIONS WITHIN THE UK**

**1 EXEMPTING INFORMATION ON THE GROUNDS OF INTERNATIONAL  
RELATIONS**

**1.1 Background**

Section 27 of the Freedom of Information Act 2000 (“the Act”) states that:

(1) Information is exempt information if its disclosure would, or would be likely to, prejudice –

- (a) relations between the UK and any other state,
- (b) relations between the UK and any international organisation or international court,
- (c) the interests of the UK abroad, or
- (d) the promotion or protection by the UK of its interests abroad.

(2) Information is also exempt information if it is confidential information obtained from a state other than the UK or from an international organisation or international court.

It is important to note that this exemption can be applied on two different grounds:

Section 27(1) focuses on the **effects of disclosure** rather than on the type of information. It applies where information whose disclosure would or would be likely to **prejudice** any of the matters mentioned in section 27(1)(a) – (d).

Section 27(2) **describes information** by reference to its origins and the circumstances in which it was obtained, namely **confidential information** obtained from another state or from an international court or organisation.

This exemption is also a qualified one, which means that staff must carry out a public interest balancing test even if requested information falls under the terms of either 27 (1) or 27 (2). For the exemption to be applied, the public interest considerations in not releasing the information requested must outweigh the public interest considerations in favour of disclosing that information.

The aim of this exemption is to protect the UK’s international relations, its interests abroad and the UK’s ability to protect and promote those interests. The UK’s interests abroad and thus the subject matter of its international relations cover a wide and changing range of matters, including for example trade, defence, environment, immigration control, human rights and the fight against terrorism and international crime.

If staff are in doubt about whether a disclosure of information would prejudice any of the matters mentioned in section 27(1), or be confidential within the terms of section 27(2), they should consult with the lead Government Department concerned. In many instances this will be the Foreign and Commonwealth Office (FCO).

Where IND Directorates are seeking to apply this exemption, it must be authorised at Grade 7/Assistant Director level or above, and the IND Central FOI Team must also approve its use. IND Directorates can arrange for this approval to take place by calling or emailing (on POISE) the following individuals:

## 1.2 Definition of key terms

IND staff should be clear about some of the key terms which are defined in this exemption. These will assist the understanding of what information could potentially be covered by the exemption:

**'Confidential information'** obtained from a state, international court or international organisation' is defined in section 27(3). The definition allows for the possibility that confidentiality may be either expressly imposed under the terms on which it was obtained or inferred as a matter of the reasonable expectation of the state, organisation or court from the circumstances in which it was obtained.

### **International Court**

This means any international court which is established by:

- a resolution of an international organisation of which the UK is a member; or
- an international agreement to which the UK is a party.

Examples include the International Court of Justice, the European Court of Justice, the International Criminal Court and the European Court of Human Rights.

### **International Organisation**

This means any international organisation whose members include any two or more states, or any organ of such an organisation. The UK does not have to be a member of the organisation concerned. Organisations such as Organisation of Petroleum Exporting Countries and the Organisation of American states may therefore be covered by this term. Organs of international organisations would include, for example, the European Commission and the European Parliament.

### **State**

The reference to the word '**state**' in this exemption includes the Government of any state and any organ of its Government, and references to a state other than the UK include references to any territory outside the UK. The latter will include, for example, the Crown Dependencies (Jersey, Guernsey and the Isle of Man) and British Overseas Territories (e.g. Gibraltar) and territorial entities not recognised as states. Organs of Government will include a state's legislature and executive.

## 1.3 Types of information covered by the exemption

Information whose disclosure is potentially covered by this exemption spans a broad spectrum and could include, for example:

- reports on, or exchanges with, foreign governments or international organisations such as the EU, NATO, the UN, Commonwealth, World Bank or International Monetary Fund;
- information about the UK's activities relating to UK citizens or companies abroad, particularly their consular and commercial interests;

- information about other states' views or intentions provided in the course of diplomatic and political exchanges of views;
- details of inward and outward state visits and visits by Ministers and officials;
- information supplied by other states on diplomatic or other channels;
- discussion within the UK government on approaches to particular states or issues;
- information relevant to actual or potential cases before an international court; and
- details of the UK's positions in multilateral or bilateral negotiations.

These examples are not exhaustive and are provided as an illustration of the kind of information the potential disclosure of which could prompt the use of this exemption.

#### 1.4 **Key considerations when assessing the likelihood of prejudice**

The trigger for assessing whether to apply the exemption under section 27 (1) is an assessment by staff of ***the likelihood of the prejudice*** which may be caused to the UK's international relations by disclosure of requested information. There are many possible questions for staff to consider when assessing this:

- What sort of reaction is disclosure likely to provoke in other states, international organisations and courts?
- If a negative reaction is anticipated, what will the implications of that reaction be?
- How is it likely to impact on the UK's 'ability to 'do business' in and with those states etc?
- Even where disclosure is unlikely to provoke a negative reaction in other states etc, would it nonetheless be likely to prejudice UK interests abroad or the UK's ability to protect and promote those interests (for example, by alerting others to the UK's intentions or negotiating positions)?

It will be necessary to consider the likely implications not only for the state and subject matter most immediately concerned, but also for other aspects of the UK's relations with the state concerned and its relations with other states. Staff should also consider whether the disclosure of the information requested would be likely to prejudice relations with that state in another aspect of those relations. For example, disclosure by IND of sensitive immigration related information might make that state reluctant to share sensitive environmental information with the UK or less likely to vote for the UK in an election to an international body. This should all be considered before a decision is made as to whether prejudice might be caused by disclosure.

Other points to take into account when assessing the likelihood of prejudice include:

##### Security classification of the information

The fact that a document carries a security classification does not necessarily mean the exemption applies, though it may be an indication that use of the exemption

should be considered. Each request should be considered on its merits and staff should assess the specific information that has been requested and any prejudice associated with its disclosure to establish whether use of the exemption here is appropriate.

#### Other information already in the public domain

Individual requests for information must be considered on their merits but staff should take account of what is already in the public domain when assessing prejudice to international relations. The fact that similar or related information is already in the public domain may reduce or negate any potential prejudice. For example the state concerned may have put the information itself in the public domain. But care needs to be taken where the information is put into the public domain by a non-official source in which case disclosure by the UK could provide confirmation of the veracity of the information.

#### The timing of a request

The sensitivity of information will often be dependent on the timing of a request and the age of the information. For example, while disclosing information about the UK's negotiating position at an international conference might be prejudicial before the conference is concluded, concern about disclosing some or all of the information may diminish or disappear with the passage of time. Similarly, potentially prejudicial comments about the policies of a foreign government may diminish in sensitivity after a change of government.

### **1.5 Key considerations when assessing whether information may be confidential from another state, an international organisation or international court**

Under section 27(2) confidential information received from another state, an international organisation or an international court is exempt. This part of the exemption applies for as long as the terms on which the information was obtained require it to be held in confidence. It also applies while the circumstances in which it was obtained make it reasonable for the state, organisation or court to expect that it will be so held.

In assessing whether this part of the exemption applies, the following factors should be considered:

#### In what terms was the information supplied?

For example, was the information supplied under arrangements containing either a requirement to preserve its confidentiality or consent to its disclosure? In the absence of any express provision, should consent to disclosure or a requirement for confidentiality be implied? For example, an implied confidentiality requirement is likely to apply to the content of most diplomatic exchanges with other states and political discussions with Ministers and officials of other governments, much of which takes place under a relationship of assumed confidentiality.

It is not necessary for the information to be contained in a document supplied directly by a foreign government for section 27(2) to apply. The information may, for example, have been obtained by IND after passing through several Government Departments.

In some cases, it may be possible to form a reasonable judgement as to whether the information remains confidential without needing to consult the supplier. This may be

because staff have (or can consult someone who has) recent knowledge of the topic and the supplier's likely reaction to disclosure or because of an express condition of confidentiality or consent to disclosure attached to the supply of the information. In case of doubt, consult the supplier of the information.

Is the information or a substantial part of it already in the public domain, in the UK or overseas?

**How** the information came to be in the public domain may be important, as relations with a foreign government might still be prejudiced by the UK officially disclosing information which has previously only been in the public domain as a result of, for example, an unattributable press story or speculation.

Does the state or organisation concerned have a culture of transparency in international relations?

It is reasonable to take into account another state's general views on disclosure e.g. a state with a more liberal approach to freedom of information may be less likely to take offence at disclosure of some kinds of information and so the risk of prejudice to international relations may be lower (although it may still be prudent to forewarn the state concerned of a proposed disclosure). With a state, or international organisation, that has a less liberal approach to disclosure than the UK, account will need to be taken of its higher threshold for disclosure: what might be acceptable to others might still prejudice relations with that state or organisation.

#### 1.6 **Consultation with the Foreign and Commonwealth Office**

As a matter of general principle, it will be good practice to consult with relevant FCO officials when considering whether to disclose information that may affect the UK's international relations as they will, in most cases, be best placed to assess the likely impact of disclosure. This will also assist staff where they are unsure about the source of information that IND may hold due to it being passed through a number of other Government bodies. FCO officials should normally be consulted before officials from foreign governments or international organisations are consulted about the disclosure of information. However, where IND Directorates have well-established international relationships it may be sufficient to only keep FCO officials informed of any consultation on disclosure issues.

#### 1.7 **Public interest balancing test**

Before information may be withheld under either part of this exemption, an assessment must be made, in all the circumstances of the case, of the public interest considerations both in favour of disclosure and in favour of protection of the information. Only if the arguments against disclosure outweigh those in favour disclosure can this exemption be applied.

##### ***Public interest considerations when assessing information under the prejudice test***

When considering the exemption of information under section 27(1), the key issue to be assessed is whether the public interest in disclosure is outweighed by the damage or likely damage that would be caused to the United Kingdom's international relations, its interests abroad or its ability to protect and promote those interests.

Where the prejudice or likely prejudice would be relatively trivial the public interest in

favour of disclosure is likely to prevail. For example, disclosure of information about the content of a discussion with a foreign official would be unlikely to provoke any significant negative reaction by that official or his/her government or to have any significant detrimental affect on third states' willingness to enter into similar discussions in future.

Where the prejudice or likely prejudice is potentially more serious there would have to be a more specific and compelling public interest in disclosure to outweigh the public interest in non-disclosure. For instance, where disclosure of information about the United Kingdom's attitude to an international issue of particular concern to a state would be likely to provoke a strong negative reaction that could, for example, make it less likely that British companies would be awarded Government contracts by the state concerned.

Although each request must be considered on its merits, the public interest in maintaining this exemption is likely to be strongest under section 27 (1) when the disclosure of information would:

- significantly weaken the UK's bargaining position in international negotiations;
- inhibit other Governments' willingness to share sensitive information with the UK;
- or
- inhibit frankness and candour in diplomatic reporting.

#### ***Public interest considerations in respect of confidential information***

When considering the balance of the public interest in respect of confidential information covered by section 27(2), the following are some examples of matters which might be taken into account:

- whether disclosure would be contrary to international law (for example where disclosure would be a breach of a treaty obligation);
- whether disclosure would undermine the UK's reputation for honouring its international commitments and obligations;
- whether disclosure would be likely to undermine the willingness of the state, international organisation or court that supplied the information to supply other confidential information in future (or whether it would be likely to have such an affect on the willingness of states, international organisations or courts in general);
- whether disclosure would be likely to provoke a negative reaction from the state, international organisation or court that supplied the information that would damage the UK's relations with them and/or its ability to protect and promote UK interests;
- whether disclosure would be likely to result in another state, international organisation or court disclosing confidential information supplied by the UK, contrary to the UK's interests;
- whether the state, international organisation or court that supplied the confidential information has objected to its disclosure and good relations with them would be likely to suffer if the objection were ignored.

While the specific circumstances of each case must be considered, where any of the

above considerations are present, there is likely to be a strong public interest in non-disclosure. Where the other country is opposed to disclosure, that will also be a very important consideration. The impact on relations with the other country is likely to be so severe in those circumstances that the working assumption should be in favour of retention; under these circumstances, it will only rarely be the case that the public interest in disclosure outweighs the case for retention.

## 1.8 Applying the exemption

Where staff have decided to apply the exemption and not to communicate the information requested, there will still be another separate assessment to be made under the Act's information access provisions as to whether to confirm or deny in response to the applicant that IND holds the information. Again this assessment must be made with reference to the public interest balancing test.

If staff make this further assessment and decide that confirming or denying whether the information is held by IND **would not** be likely to prejudice any of the matters in section 27(1) or would disclose information covered by section 27(2), a reply should be sent by IND Directorates who should adapt the standard template at **Appendix A**. This is entitled: '**Standard letter template for use when applying an exemption under section 27 where disclosure may harm international relations and the duty to communicate has been exempted**'.

### *Using a neither confirm nor deny response to the applicant*

Staff may decide, however, that confirming or denying whether the information is held in IND would in itself be likely to prejudice any of the matters in section 27(1) or would disclose information covered by section 27(2), and that it is also in the public interest to withhold the fact that IND holds this information. Where this occurs, the reply to the applicant should state that it can be neither confirmed nor denied (NCND) whether the information is held under section 27 (4) of the Act. Advice on drawing up a response using NCND is available on request from the IND Central FOI Team.

## 1.9 Duration of the exemption and relationship with other exemptions

This exemption does not expire when the records in which the information is contained are 30 years old and become historical records. However the sensitivity of a subject, and therefore the need to apply an exemption may diminish with the passage of time.

Staff will often need to consider this exemption alongside other exemptions. The exemptions which are the most likely to be relevant are:

- section 23 (Information supplied by, or relating to, bodies dealing with security matters) – for example in cases where that information concerns foreign governments or nationals;
- section 24 (National security) – for example in cases where confidential information supplied by a foreign government needs to be protected for our own national security reasons;
- section 28 (intra- UK relations) – for example when information concerning international relations is held by Devolved Administrations (see Point 2).

- Section 30 (Investigations and proceedings conducted by public authorities) – for example in relation to requests made to or received from overseas police, prosecutors and courts in respect of criminal investigations and prosecutions;
- Section 31 (Law enforcement)
- Sections 35 (Formulation of government policy, etc.) and 36 (Prejudice to effective conduct of public affairs) – for example in relation to the development of foreign policy ;
- Section 41 (Information provided in confidence) – where disclosure of that information would not only be an actionable breach of confidence but would also prejudice international relations;
- Section 43 (Commercial interests) – for example where disclosure would prejudice the UK's commercial interests both domestically and abroad.

Staff should consult the separate guidance contained in this IDI Chapter on each of these exemptions in order to establish which, if any, are relevant to the information request being considered.

## 2. EXEMPTING INFORMATION WHERE IT MAY PREJUDICE RELATIONS WITHIN THE UK

### 2.1 Background

Section 28 of the Act exempts information, which would, or would be likely to, prejudice relations between administrations in the UK. The exemption here is a qualified one and is subject to both a **prejudice** and **public** interest test in order for it to be applied. It can only be used where the release of information would, or would be likely to cause prejudice to the relations between administrations, and where the public interest considerations in not releasing the information requested outweigh the public interest considerations in favour of disclosing that information.

The administrations captured by this exemption are: the UK Government and the respective devolved administrations, namely:

- the Scottish Administration (see section 44 the Scotland Act 1998);
- the Executive Committee of the Northern Ireland Assembly (see section 20 of the Northern Ireland Act 1998); and
- the Welsh Assembly (see sections 1 and 2 of the Government of Wales Act 1998).

There are two distinct circumstances in which the exemption under section 28 might be applied by staff:

- 1) Where information has been requested and has been obtained from or shared between IND and the devolved administrations (see Point 2.2 for details);
- 2) Where information held by IND could prejudice relations if disclosed because IND

would not want the devolved administrations to see that information. Or the devolved administrations themselves would not want the information requested to be disclosed (see Point 2.3 for details).

It is also important to note that in Scotland the freedom of information regime is governed by separate legislation, Freedom of Information (Scotland) Act 2002. . Section 3(2)(a)(ii) of that Act makes it clear that information received from an UK Government Minister or Department is not within the scope of that Act. Although some IND staff are based in Scotland, the functions they carry out remain reserved matters and so any FOI requests about this work is governed by the Freedom of Information Act 2000.

When contemplating the disclosure or withholding of information under section 28, IND staff should give appropriate consideration to the views of the other administration(s). Consultation is likely to provide the most reliable evidence of whether or not there is likely to be prejudice to relations within the UK. Nevertheless, decisions on disclosure are, ultimately, a matter for IND if it receives a request and holds the information concerned.

Where IND Directorates are seeking to apply this exemption, it must be authorised at Grade 7/Assistant Director level or above, and the IND Central FOI Team must also approve its use.

## **2.2 Information obtained from or shared between administrations**

The memorandum of understandings (“MOU”) sets out details of the relationships between the administrations and their respective responsibilities. Each MOU has safeguards to ensure that information shared with other administrations is subject to appropriate protection.

It has been agreed that in certain circumstances confidentiality is expected between administrations and that the administrations should (as far as possible) respect this confidentiality. Under the MOU, administrations will:

- state what restrictions (if any) there should be on information they share;
- treat information received in accordance with the restrictions placed on their usage;
- disclose information in accordance with the Freedom of Information Act (but in doing so have regard to the necessary safeguards and in difficult cases refer back to the originator of the information);
- accept that some information is subject to statutory or other restrictions and that there will be a common approach to the classification and handling of sensitive material.

## **2.3 Other information which if disclosed could prejudice relations**

Apart from information shared between administrations there may be many circumstances in which IND holds information the disclosure of which would be likely to prejudice relations with another administration and vice versa. Examples might

include:

- briefing or comments held by IND on a devolved administration's plans or policies;
- information about a devolved administration that has come direct from a third party;
- briefing or comments on another administration's plans or policies ;

The above are illustrative example and different considerations will clearly apply to information on a case by case basis.

#### **2.4 Assessing the degree of prejudice resulting from disclosure**

In seeking to apply the exemption here, it will be necessary for staff to consider on a case by case basis the degree of prejudice which might be caused by disclosure.

Prejudice here means more than embarrassment; the release of information would have to be sufficient to risk harm to relations between IND and the administrations – current or future. It is very important when assessing the likelihood of prejudice that IND staff consult with officials from the relevant devolved administrations where the information has come from that administration or where disclosure may affect its interests. Consultation will provide the most reliable evidence of whether disclosure is likely to prejudice relations within the UK.

#### **2.5 Public interest balancing test**

Once staff have established that information would potentially prejudice relations between IND and the devolved administrations, they must still assess, in all the circumstances of the case, whether the public interest in having the information disclosed outweighs the public interest that would be protected by non-disclosure.

The imperatives for disclosure must be assessed here against the reality that the devolution settlement relies on an atmosphere of trust, co-operation, sharing information and respect between the four administrations. The disclosure of information which damages the fundamental basis for the settlement is likely to be a very significant factor in determining whether information should be disclosed. If disclosure may cause the breakdown of relationships between administrations and thus compromise the effectiveness of the settlement then it is clearly in the public interest to withhold information.

Where there has been consultation with a devolved administration, and that administration is opposed to disclosure on reasonable grounds, it is likely that disclosure will only be warranted where there are strong public interest considerations in favour of disclosure. Nevertheless, the case should be considered on its own merits; although the views of another administration one way or the other are likely to be very relevant, they cannot be determinative on IND if it holds the information concerned and is dealing with the request.

Examples of cases where the public interest might favour withholding information might include requests for:

- Confidential briefing for UK ministers provided by IND for ministerial meetings.
- Policy plans received by IND from devolved administrations on a confidential basis which have not yet been announced.
- Details of meetings between IND and the devolved administrations the disclosure of which could affect the effectiveness of such meetings.
- Details of sensitive UK negotiating position in the EU which, though reserved, impacts on devolved matters.
- IND's assessments of politics and policies in the devolved administrations.

Examples of cases which might favour disclosure might include:

- Information which helps public understanding of the devolution settlement.
- Information which would explain how decisions were taken (after an announcement has been made).
- Details of negotiations which are no longer sensitive because of the passage of time.
- Cases where the administration which provided the information would have disclosed the information (even if a case can be made for non-disclosure).

These examples are for illustrative purposes only and individual cases must be considered on their merits.

## 2.6 Applying the exemption

Where staff have decided to apply the exemption and not to communicate the information requested, there will still be another separate assessment to be made under the Act's information access provisions as to whether to confirm or deny to the applicant that IND holds the information. Again this assessment must be made with reference to the public interest balancing test

If staff make this further assessment and decide that confirming or denying whether the information is held by IND **would not** prejudice relations between any administration within the United Kingdom, a reply should be sent by IND Directorates using and adapting the standard template at **Appendix A** entitled: '**Standard letter template for use when applying an exemption under section 28 where information may prejudice relations within the United Kingdom and the duty to communicate has been exempted**'.

### ***Using a neither confirm nor deny response to the applicant***

Staff may, however, decide that in some instances confirming or denying whether the information is held in IND would in itself prejudice relations between any administration within the United Kingdom, and it is also in the public interest to withhold the fact that IND has this information. Where this occurs, the reply to the applicant should state that it can be neither confirmed nor denied (NCND) whether the information is held under section 28 (3) of the Act. A standard template for IND Directorates to use and adapt in such circumstances is also attached at **Appendix A**

entitled: '***Standard template letter for use to an applicant where the duty to confirm has been exempted under section 28 (3) and a neither confirm nor deny response is engaged***'.

## **2.7 Duration of the exemption and relationship with other exemptions**

Under section 63 of the Act, information contained in historical records (that is to say records over 30 years old) cannot be exempt information under section 28.

Many other exemptions may be relevant in the context of relations between IND and the devolved bodies. These may include:

- Section 23. Information supplied by, or relating to, bodies dealing with security matters.
- Section 24. National security.
- Section 27. International relations (see point 1 above);
- Section 31. Law enforcement.
- Section 35. Formulation of government policy and section 36- prejudice to effective conduct of public affairs.
- Section 41. Information provided in confidence

Staff should consult the separate guidance contained in this IDI Chapter on each of these exemptions in order to establish which, if any, are relevant to the information request being considered.

### 3. APPENDIX A

#### STANDARD LETTER TEMPLATES

#### STANDARD LETTER TEMPLATE FOR USE WHEN APPLYING AN EXEMPTION UNDER SECTION 27 WHERE DISCLOSURE MAY HARM INTERNATIONAL RELATIONS AND THE DUTY TO COMMUNICATE HAS BEEN EXEMPTED

Our Ref:

Your Ref:  
Date

Dear **[enter applicant name]**,

Thank you for your *letter/fax/email* **[delete as appropriate]** of **[insert date of letter from applicant]** where you have requested information about **[insert type of information requested by the applicant]** . This falls to be dealt with under the Freedom of Information Act 2000.

I can confirm that this information is held by *IND/IND Directorate* **[delete and or insert relevant Directorate name as appropriate]**

**[If section 27 (1) is the reason for the exemption]**

I have decided, however, not to communicate this information to you pursuant to the exemption under section 27(1) *(a)/(b)/(c)/(d)* **[delete as appropriate]** as it would prejudice *relations between the UK and any other state/ relations between the UK and any international organisation or international court/ the interests of the UK abroad/ the promotion or protection by the UK of its interests abroad* **[delete as appropriate: if 27 1(a) is used then the response should refer to relations between the UK and any other state/if 27 1(b) is used then the response should refer to relations between the UK and any international organisation or international court/etc.]**

If we were to disclose the information you have requested this could prejudice **[IND Directorates to explain what the effects of the prejudice would be in respect of disclosure on any of the categories under 27 (1) a-d]**

Or

**[If section 27 (2) is the reason for the exemption]**

I have decided, however, not to communicate this information to you pursuant to the exemption under section 27(2) of the Freedom of Information Act 2000. This allows us to exempt information if it is confidential information obtained from a State other than the United Kingdom or from an international organisation or international court. **[IND Directorates to state, as far as is possible without revealing exempt information, why the information is being exempted]**

## Public interest test

**[IND Directorates to use public interest balancing test in all responses irrespective of whether 27 (1) or 27 (2) is being used.]**

The use of this exemption also requires us to consider whether in all the circumstances of the case the public interest in maintaining the exemption stated above outweighs the public interest in disclosing the information.

We have considered the public interest there may be in the circumstances of this case in disclosing the information to you. There may be a public interest in **[IND Directorates to insert the public interest test argument in favour of disclosure on particular request. Refer to point 1.7 for advice on the issues which should be considered]**

We have also considered the public interest there may be in maintaining the exemption to the duty to communicate. **[IND Directorates to insert why it is considered that it is reasonable to withhold information until expected publication date and the public interest considerations against disclosure on particular request and. Refer to point 1.7 for advice on the issues which should be considered]**

We have considered whether in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information. We have concluded that the balance of the public interests identified lies in favour of maintaining the exemption **[IND Directorates need to insert reasons for concluding that the arguments for withholding the information requested outweighs the arguments for disclosure].**

If you are dissatisfied with this response you may request an independent internal review of our decision to turn your request down. During the independent review the department's handling of your information request will be reassessed by staff who were not involved in providing you with this response. An internal review can be requested by submitting your complaint to:

IND Complaints Unit  
11th Floor, West Wing  
Block 'C'  
Whitgift Centre  
Wellesley Road  
Croydon  
CR9 1AT

Should you remain dissatisfied after this internal review, you will have a right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information Act.

Yours sincerely,

**[Signature of staff member]**

**[Insert full name of IND staff member dealing with request]**

**[Insert IND Directorate]**

**STANDARD LETTER TEMPLATE FOR USE WHEN APPLYING AN EXEMPTION UNDER SECTION 28 WHERE INFORMATION MAY PREJUDICE RELATIONS WITHIN THE UNITED KINGDOM AND THE DUTY TO COMMUNICATE HAS BEEN EXEMPTED**

Our Ref:

Your Ref:  
Date

Dear **[enter applicant name]**,

Thank you for your *letter/fax/email* **[delete as appropriate]** of **[insert date of letter from applicant]** where you have requested information about **[insert type of information requested by the applicant]** . This falls to be dealt with under the Freedom of Information Act 2000.

I can confirm that this information is held by *IND/IND Directorate* **[delete and or insert relevant Directorate name as appropriate]**

I have decided, however, not to communicate this information to you pursuant to the exemption under section 28(1) of the Freedom of Information Act 2000. This allows us to exempt information if its disclosure would, or would be likely to, prejudice relations between any administration in the United Kingdom and any other such administration.

If we were to disclose the information you have requested this could **[IND Directorates to explain what precise relations within UK administrations would be prejudiced by disclosure. Then go on to explain what the effects of the prejudice would be in respect of disclosure of requested information.]**

The use of this exemption also requires us to consider whether in all the circumstances of the case the public interest in maintaining the exemption stated above outweighs the public interest in disclosing the information.

We have considered the public interest there may be in the circumstances of this case in disclosing the information to you. There may be a public interest in **[IND Directorates to insert the public interest test argument in favour of disclosure on particular request. See Point 2.5 for further details]**

We have also considered the public interest there may be in maintaining the exemption to the duty to communicate. **[IND Directorates to insert why it is considered that it is reasonable to withhold information until expected publication date and the public interest considerations against disclosure on particular request and. See Point 2.5 for further details]**

We have considered whether in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information. We have concluded that the balance of the public interests identified lies in favour of maintaining the exemption **[IND Directorates need to insert reasons for**

**concluding that the arguments for withholding the information requested outweighs the arguments for disclosure].**

If you are dissatisfied with this response you may request an independent internal review of our decision to turn your request down. During the independent review the department's handling of your information request will be reassessed by staff who were not involved in providing you with this response. An internal review can be requested by submitting your complaint to:

IND Complaints Unit  
11th Floor, West Wing  
Block 'C'  
Whitgift Centre  
Wellesley Road  
Croydon  
CR9 1AT

Should you remain dissatisfied after this internal review, you will have a right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information Act.

Yours sincerely,

**[Signature of staff member]**

**[Insert full name of IND staff member dealing with request]**

**[Insert IND Directorate]**

**STANDARD TEMPLATE LETTER FOR USE TO AN APPLICANT WHERE THE DUTY TO CONFIRM HAS BEEN EXEMPTED UNDER SECTION 28 (3) AND A NEITHER CONFIRM NOR DENY RESPONSE IS ENGAGED.**

**[Insert details of relevant Directorate address here]**

Our Ref:

Your Ref:

Date

Dear **[insert name of applicant]**,

Thank you for *your letter/fax/email* **[delete as appropriate]** of **[insert date of letter from applicant]** where you have requested information about **[insert type of information requested by the applicant]**. This falls to be dealt with under the Freedom of Information Act 2000.

I have considered your request carefully and have decided that we are not obliged to inform you whether the IND holds the information of the description specified in your request.

We are not obliged to inform you whether or not the requested information is held pursuant to section 28(3) of the Freedom of Information Act 2000. This exempts information which prejudices relations within the United Kingdom.

**[IND Directorate to insert explanation for using the exemption under section 28 to the extent this is possible without disclosing exempt information.]**

**[IND Directorate give reasons for the public interest balancing test concluding that the public interest in the maintenance of the exemption outweighs the public interest in disclosing – to the extent this is possible without disclosing exempt information.]**

You should not infer from this response that the information you request is or is not held.

If you are dissatisfied with this response you may request an independent internal review of our decision to turn your request down. During the independent review the department's handling of your information request will be reassessed by staff who were not involved in providing you with this response. An internal review can be requested by submitting your complaint to:

IND Complaints Unit  
11th Floor, West Wing  
Block 'C'  
Whitgift Centre  
Wellesley Road  
Croydon  
CR9 1AT

Should you remain dissatisfied after this internal review, you will have a right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information Act.

Yours sincerely,

**[Signature of staff member]**

**[Insert full name of IND staff member dealing with request]**

**[Insert IND Directorate]**