

Explanation of the exemption

The information that you have requested is exempt from disclosure in under section 31(1)(g) with section 31(2)(a-d) of the FOIA.

31(1) provides that Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice - (g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2)

(2) The purposes referred to in subsection (1)(g) to (i) are -

- a) the purpose of ascertaining whether any person has failed to comply with the law,
- b) the purpose of ascertaining whether any person is responsible for any conduct which is improper,
- c) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise,
- d) the purpose of ascertaining a person's fitness or competence in relation to the management of bodies corporate or in relation to any profession or other activity which he is, or seeks to become, authorised to carry on

The Public Interest Test

Having acknowledged that the requested information is exempt under section 31 it is necessary that I consider a public interest test to identify whether there is a wider public interest in disclosing this information as opposed to maintaining the exemption.

In favour of disclosure

- disclosure of the requested information could demonstrate to stakeholders and relevant parties that the Commission is active in investigating. Furthermore, this disclosure may encourage stakeholders to work with us and contribute to our programme of work
- there is a legitimate public interest in promoting accountability and transparency of public authorities
- Public disclosure of this information may also, by way of demonstrating our proactive work in this area, discourage unlawful activities being pursued.
- Further to this, increasing confidence in the Commission as a regulator and its ability to uphold the law.

In favour of maintaining the exemption

- Disclosure of the requested information may prejudice the outcome of this and or any future investigation by the Commission, or another body by exposing investigative techniques and practices to the detriment of the public interest.

- Providing information which makes specific individuals or events identifiable may deter stakeholders or other sources of information and from sharing important information with us or other law enforcement agencies.
- Further to this, providing information which makes specific individuals or events identifiable could alert individuals involved to the fact that the Commission was investigating a particular case and provide them with an opportunity to alter their behaviours and evade detection
- Once/if a formal regulatory decision has been made or the agreement of a regulatory settlement the Commission will ordinarily publish all such decisions in full.

Weighing the Balance

Having considered the above points, the Commission is of the view that the balance of the public interest lies with maintaining the exemption.

The Commission acknowledges that there is a public interest in promoting the accountability and transparency of public authorities and the importance of having sufficient information in the public domain to support consumers with their choice of operator.

However, disclosure of the information would be damaging to the Commission as a regulatory body which ultimately serves to protect the wider public interest