

Freedom of Information (Jersey) Law 2011

DECISION NOTICE

JOIC Reference	CAS-04722
Date of Decision Notice	23 December 2024
Scheduled Public Authority	Infrastructure and Environment
Address	Ministerial Offices Government of Jersey Union Street St. Helier Jersey JE2 3DN
Date of Request	16 January 2024
Date of Initial Response	23 February 2024
Date of request for Internal Review of Initial Response	11 March 2024
Date of Revised Response	23 April 2024
Date of request for Internal Review of Revised Response	30 May 2024
Date of Internal Review Response	26 July 2024
Date of appeal to Information Commissioner	28 July 2024

Summary/Decision

1. On 16 January 2024, the Complainant requested certain information from Infrastructure and Environment (the **SPA**) about steps taken by the Government of Jersey (**GoJ**) to deal with land within and around Jersey Airport that had been contaminated with certain PFAS chemicals. Specifically, the Complainant sought information of relevant discussions, copies of Ministerial

Decisions, copies of reports and identification of reports which had been submitted to the Law Officers' Department for advice (the **Request**).

2. The SPA wrote to the Complainant on 23 February 2024 (the **Initial Response**) stating that all of the information sought in the Request was being withheld (the **Withheld Information**), and citing the exemptions at Art.10, 16, 23, 31, 32 and 35 of the Freedom of Information (Jersey) Law 2011 (the **FOI Law**) as variously applicable to various parts of the Complainant's Request. The Complainant did not agree with the Response and requested an internal review on 11 March 2024 (the **First IR Request**).
3. Rather than respond to the First IR Request, the SPA issued a revised response on 23 April 2024 (the **Revised Response**) to which the Complainant raised their second request for an internal review (the **Second IR Request**) on 30 May 2024.
4. The SPA issued its response to the Second IR Request on 26 July 2024 (the **Internal Review Response**) and upheld the previous decision that had been made.
5. The Complainant did not agree with the outcome of the Internal Review and issued an appeal to the Information Commissioner (the **Commissioner**) on 28 July 2024 (the **Appeal**).
6. The Commissioner's decision is that the appeal is rejected. There are no further steps the SPA needs to take in relation to this matter

The Role of the Information Commissioner

7. It is the duty of the Commissioner to decide whether a request for information made to a SPA has been dealt with in accordance with the requirements of Part 1 of the FOI Law.
8. This Decision Notice sets out the Commissioner's decision.

The Request

9. The Complainant's Request was focused on information regarding land within and surrounding Jersey Airport that has been contaminated by certain chemicals (PFAS) and the GoJ's response to dealing with that contamination. Specifically, there were four aspects to the Complainant's Request as follows:
 - a. *"The dates in the last 10 years when action to require that this pollution be stopped was discussed by the Minister for the Environment or his Officers."* (**Request A**)
 - b. *"Copies of all reports generated during the last 10 years which include "PFAS" or "PFOS" AND make reference to any of the 3 pieces of legislation above."* (**Request B**)¹
 - c. *"Copies of all reports generated in the last 10 years which include "PFAS" or "PFOS" AND have been submitted to the Law Officers' Department or Law Practice(s) for opinion"* (**Request C**)
 - d. *"Copies of all Ministerial Decision Records containing "PFAS" or "PFOS" AND make reference to any of the 3 pieces of legislation above"* (**Request D**)²

¹ The three pieces of legislation referred to by the Complainant are the Statutory Nuisances (Jersey) Law 1999, the Water Pollution (Jersey) Law 2000 and the Water (Jersey) Law 1972

² The three pieces of legislation referred to by the Complainant are as set out in Footnote 1.

10. On 23 February 2024, the SPA provided the Initial Response, essentially declining to provide the information requested, citing the various exemptions cited at para.2 of this Decision Notice.
11. The Complainant issued their First IR Request on 11 March 2024 indicating that they did not agree with the SPA's reliance on various exemptions of the FOI Law cited by the SPA. In light of the comments made by the Complainant, instead of carrying out an internal review, the SPA issued a Revised Response on 23 April 2024, a copy of which can be found on the GoJ's disclosure log [here](#).
12. Following receipt of the Revised Response, the Complainant raised their Second IR Request. The main thrust of the Complainant's request was that:
 - a. In respect of Request A, they had not asked for a list and considered that the SPA had misinterpreted their Request. Rather, dates of meeting had been sought and the Complainant did not consider that the SPA had taken appropriate steps to consider this aspect of the Request.
 - b. In respect of Request B, the Complainant was critical that they had simply been provided with links to publicly available information which clearly did not contain references to any of the legislation cited in the Request. The Complainant did not believe that this link provided access to all available reports including those within the scope of the Complainant's Request.
 - c. In respect of Request C, the Complainant was critical of the fact that the SPA had not appeared to carry out any attempt at the public interest test, as it is obliged to do when considering the application of qualified exemptions and, in any event, did not consider that the exemption had been properly engaged.
 - d. In respect of Request D, the Complainant was critical of the fact that of the two Ministerial Decisions directed to the Complainant, they were "*irrelevant*" as they did not contain references to any of the information cited in the Request. Of the two Ministerial Decisions withheld from the Complainant, the Complainant was critical of the fact that the SPA had not appeared to carry out any attempt at the public interest test, as it is obliged to do when considering the application of qualified exemptions and, in any event, did not consider that the exemption had been properly engaged.
13. The results of the Internal Review were communicated to the Complainant on 26 July 2024, as follows:
 - a. In respect of Request A, the reviewers concluded that Arts.10 and 16 of the FOI Law had been appropriately applied.
 - b. In respect of Request B, the reviewers concluded that Arts.23 of the FOI Law had been appropriately applied.
 - c. In respect of Request C, the reviewers concluded that Arts.31 and 32 of the FOI Law had been appropriately applied.
 - d. In respect of Request D, the reviewers reviewed the two withheld Ministerial Decisions and concluded that the first (2015-0100) relating to settlement avenues and testing was appropriately exempted from disclosure under Art.35, but that the second (2022-0002) had been inappropriately withheld and should be released (albeit in redacted form).

The Investigation

Scope of the case

14. On 28 July 2024, the Complainant contacted the Commissioner to appeal against the Internal Review Response. The Complainant asked the Commissioner to review the Complainant's Request and the responses received from the SPA to ascertain whether what had been provided was in accordance with the FOI Law and whether the exemptions cited by the SPA were appropriately applied.
15. The Commissioner has set out in this Notice the issues he has had to consider in respect of the relevant exemptions cited by the SPA.
16. In coming to a decision on this matter, the Commissioner has considered all the relevant submissions, or parts of submissions, made to him by both the Complainant and the SPA. He is satisfied that no matter of relevance has been overlooked.

Chronology

17. On 12 August 2024, the Commissioner wrote to the SPA to advise that the Complainant had made an Appeal to the Commissioner, pursuant to Art.46 of the FOI Law. The SPA was asked to provide their written submissions in response to the complaint made by the Complainant.
18. The SPA finally responded to that letter on 4 October 2024, providing detailed explanations as to why it considered the various exemptions had been appropriately applied in this case. Additional queries were raised by the Commissioner on 15 October 2024, and to which the SPA responded on 19 November 2024.

Analysis

REQUEST A

The Complainant's position

19. The Complainant's position is as set out in the Second IR Request. In short, the Complainant says that they did not request the information in any particular format and does not accept the explanations supplied by the SPA regarding the likely work involved in having to search the GoJ systems. The Complainant considers that both Art.10 and Art16 of the FOI Law have been incorrectly applied in respect of Request A.

The SPA's position

20. The SPA contends that the information requested (namely dates of discussions by Ministers) is not held by the SPA because there is no list existing containing that information (citing Art.10 of the FOI Law) and that in order to locate the information required to provide a response, such would take in excess of the of the 12.5 hours provided for under Reg.2(1) of the Freedom of Information (Costs) (Jersey) Regulations 2014 (the **Costs Regulations**), and therefore it is not required to take such steps citing Art.16 of the FOI Law. Specifically, in its Revised Response, the SPA noted that:

"Under the Freedom of Information legislation the Government of Jersey is not required to create or manipulate data when responding to a Freedom of Information request if the information is not held in the format requested, e.g., if a list is not maintained regarding which a particular subject was discussed by the Minister or Government of Jersey officers.

Therefore, it would be considered that this information is not held since it is not held in the format requested.

However, some of the requested information may be held within Government of Jersey records, such as the calendars and diaries of multiple individuals. A manual search of these records would need to be carried out to determine if this information is held and to extract the requested information since it is not stored in a centrally accessible area.

The Government of Jersey systems are not configured in a way that will allow extraction of the details requested.

It has been estimated that to provide the information requested would exceed the 12.5 hours allowed for Freedom of Information responses..."

21. In addition to explanations provided in its Response, Revised Response and Internal Review Response, the SPA was invited to provide submissions to this office and to provide the Commissioner with evidence of searches of its systems in order to satisfy the Commissioner that the requested information was not actually held by the SPA. It was also asked to provide cogent evidence of its reliance on Art.16, which it did essentially advising that on its calculations it would likely take over 18 hours to conduct reviews to ascertain whether or not information was held.

Analysis

22. Firstly, there appears to be some confusion on the part of the SPA regarding its duties under the FOI Law in that it appears to consider that it is not obliged to search for and collate information into a form that can then be passed to the requester in response to a request. The FOI Law is clear that an individual has the right to ask for information 'held' by a public authority and to have that information communicated to them. The definition of "held" is not set out in the FOI Law, but guidance from the UK ICO (which although not binding in this jurisdiction, the Commissioner considers helpful in this instance) is clear that a SPA may need to draw information together from various sources and put it together in order to respond to a request for information:

"There are some circumstances where you may still "hold" information, even though you do not have it immediately to hand when a request is made.

Extracting and compiling information

Sometimes a requester wants a list of documents, schedule of correspondence or a document summary rather than a particular document itself. Whilst you may not physically possess such a document, you would probably still hold the information, because you could compile or extract it from raw data that you possess.

If you have the "building blocks" necessary to produce a particular type of information, it is likely that you would hold that information unless it requires particular skills or expertise to put the building blocks together.

Example

Decision notice [FS50070854](#) concerned a request for information about discussions between the UK and the US on energy policy and oil production. The initial request was for the information on the actual discussions. This was followed up with a request for a schedule of documents falling within the scope of the original request. In respect of the schedule, the Commissioner stated that:

"The information already exists: the public authority cannot be said to be creating it. And, while producing a list of the documents in which the relevant information is contained may be a new task, it is not creating new information; it is simply a re-presentation of existing information..."

...

Exercising skill and judgement to compile information

Creating lists and schedules is usually a relatively simple – if time-consuming – task. However, there are some circumstances where you cannot compile information without exercising a degree of skill or judgement.

When you hold information in electronic files and can retrieve and manipulate it using query tools or language within the software, that information is held for the purposes of FOIA. The use of query tools or languages does not involve the creation of new information. Such tools are only a means of filtering existing information..."³

23. This is a standard facet of a SPA's freedom of information obligations and, in this case, meeting information would likely be held within calendar entries and so the SPA should theoretically be able to compile a response to the Complainant's Request by conducting relevant searches of appropriate systems, including deploying relevant search terms. If those searches are inconclusive and it becomes apparent that it is only a manual search that could definitively determine whether or not the requested information is held, it is in then that a SPA may start to consider whether the costs of compliance would exceed the appropriate limit.
24. In terms of the SPA's reliance on Art.16, the 2014 Regulations allow a SPA to refuse to comply with a request for information if the SPA estimates that the cost of compliance would exceed the specified amount as set out in those regulations. The 2014 Regulations allow a scheduled public authority to charge the following activities at a flat rate of £40 per hour of staff time.
 - a. Determining whether the SPA holds the information;
 - b. Locating the information, or a document which may contain the information;
 - c. Retrieving the information, or a document which may contain the information; and
 - d. Extracting the information from a document containing it.
25. A SPA must ensure that it has carried out adequate and properly directed searches in response to a request for information. The Commissioner will consider the scope, quality and thoroughness of any searches performed and test the strength of a SPA's reasoning and conclusions if it says that no information is held that may fall within the ambit. The Commissioner will also consider the SPA's calculation in terms of its reliance on Art.16 of the FOI Law.
26. The Commissioner has considered the information provided by the SPA and is satisfied that Art.16 was appropriately engaged in this case.

REQUEST B

The Complainant's position

³ <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/determining-whether-we-hold-information/>

27. The Complainant noted that Revised Response linked through to reports regarding the PFAS/PFOS contamination but that none of those reports contained referenced to the three pieces of legislation cited in the Request. The Complainant therefore questioned whether other reports existed stating his Second IR Request *"I do not believe that ALL such reports held by the Government of Jersey can be accessed by the given link"*.
28. The Complainant maintained this view in their appeal to the Commissioner.

The SPA's position

29. The SPA said in its Initial and Revised Response that this aspect of the Request was exempt under Art.23, essentially because it was already available elsewhere. In its Internal Review Response, the SPA indicated that:

"The Panel's decision is that the application of Article 23 (Information accessible to applicant by other means) of the Freedom of Information (Jersey) Law 2011 had been correctly applied.

The reviewers, having considered the application of Article 23 in this instance concluded that the exemption was appropriate and should be upheld"

Analysis

30. In its response to the Commissioner's questions, the SPA advised that there were simply no other reports available about the PFAS/PFOS contamination and therefore the links provided to the Complainant gave access to all reports held by the SPA. The SPA considered it was being helpful to the Complainant but directing them to all the available information on the topic.
31. The Commissioner considers that the wording of the Revised Response and Internal Review may have been more clearly stated and could have been expanded to explain why the links to the published material were being provided. It is understandable why the Complainant questioned the responses provided by the SPA as they do not directly answer the actual request that had been made.
32. As noted at para 21 above, a SPA must provide evidence of searches carried out in response to the Request. The SPA has provided evidence of its searches carried out and provided screenshots of searches of its systems against reports mentioning PFAS/PFOS, using the legislation titles as additional search terms.
33. The Commissioner has reviewed those searches and is satisfied that on the balance of probabilities the SPA does not actually hold any information falling within scope of this part of the Request as worded.
34. However, the Commissioner concludes that the SPA technically incorrectly relied on Art.23, and which simply was not relevant to this aspect of the Request.
35. This is because the wording of this aspect of the Request clearly set out that the Complainant had asked only for reports that contained references to the cited legislation, not reports mentioning PFAS/PFOS more generally.
36. The SPA could simply have advised the Complainant at the outset that there were simply no reports held by the SPA relating to PFAS/PFOS AND that contained references to the three pieces of legislation cited by the Complainant, and cited Art.10 of the FOI Law confirming that the requested information was not held.

37. However, given the Commissioner's finding that the information was simply not held, there is nothing to be supplied to the Complainant and no further steps the SPA needs to take in respect of this aspect of the Request.

REQUEST C

The Complainant's position

38. The main thrust of the Complainant's appeal in respect of this aspect of the Request, is that the SPA has not adequately addressed the public interest test that must be done when a SPA is seeking to rely on either an Art.31 or Art.32 exemption. In his Second IR Request, the Complainant noted at that point that in his view:

"The response continues to note that these exemptions are "qualified exemptions" and not "absolute" ones. However, there is no evidence that a "Public Interest" test has been applied to this information, rather a blanket reference to a judicial Judgement (sic) with no specifics of my application This applied "test" would apply to any request for Information concerning legal aspects. You are behaving as if Articles 31 and 32 are absolute exemptions and not qualified ones... It has already admitted that the Law Officers have been consulted (email from Tim du Feu dated 31 't (sic) July and 10th September 2020) and the advice "concludes that the use of this Law would not be appropriate in this case." And "the Government does not consider that the present situation satisfied the definition o fa (sic) statutory nuisance according to the Statutory Nuisances (Jersey) Law 1999. Further, the law was not in existence at the time of the historic contamination." This aspect of the communications has therefore lost its privilege...

The information request was only for reports submitted TO Law Officers etc and not for any advice provided. The only explanation I have been able to envisage for why such learned people would advise that the use of the Law is inappropriate and the present situation does not meet the definition of statutory nuisance is that the information provided to them is out-of-date (from the era when PFAS were seen as innocuous harmless substances). Hence my request for reports provided TO legal authorities..."

The SPA's position

39. The SPA contends that Art.31 reflects the longstanding constitutional convention that government does not reveal whether Law Officers have or have not advised on a particular issue, or the content of such advice without the Law Officers' consent. The purpose of this confidentiality is to protect fully informed decision making by allowing Government to seek legal advice in private, without fear of adverse inferences being drawn from either the content of the advice or the fact that it was sought. It ensures that Government is neither discouraged from seeking advice in appropriate cases, nor pressurised to seek advice in inappropriate cases. In its response to the Commissioner's request for information, the SPA has provided its rationale as to why it considers Art.31 applies to this aspect of the Complainant's Request.

Analysis

40. The Commissioner understands that the Law Officers are the principal legal advisers to the GoJ, including the SPA. The core function of the Law Officers is to advise on legal matters, helping the Government to act lawfully and in accordance with the rule of law. The Commissioner considered the operation of Art.31 in previous decision notices⁴ and does not replicate same here.

⁴ [9 January 2019](#) and [18 October 2019](#)

Public Interest Test

41. The exemption given at Art.31 is a qualified exemption. This means that even where the exemption is engaged, information is only exempted if the public interest in maintaining the exemption outweighs the public interest in disclosing the requested information. The focus here is whether the SPA was correct in concluding that the public interest in maintaining the exemption outweighed the public interest in disclosure.
42. The SPA has argued that whilst certain members of the public may wish to know whether the Government sought legal advice on certain reports, this is principally a private interest on the part of the Complainant, not evidence of public interest more generally. It also contends that the public does not need to know whether or not advice has been sought regarding a particular report in order to challenge the report itself.
43. Factors which may be relevant in balancing the public interest arguments may include whether a large number of people are affected, lack of transparency in the SPA's actions and misrepresentation of any advice given.
44. The Commissioner does not consider the public interest to be sufficiently strong in these particular circumstances to override the convention at this stage and the exemption from disclosure provided for at Art.31 of the Law. Specifically, the Commissioner does not consider that public interest would be best served in disclosing single documents that may have been submitted to the LOD for advice, without any surrounding context regarding the scope and nature of the advice sought, when it was sought and, indeed, the advice received, To do so would not assist the public in any way and in fact may be counter-productive to the stated aims of the Complainant. There is no need for members of the public to know whether advice has been sought in order to challenge the contents of the report itself or steps taken by the Government of Jersey generally to deal with the contamination, and no cogent evidence has been supplied to show that these are exceptional circumstances such as to find that the usual privilege that exists in the context of the government seeking advice from the LOD should be overridden.
45. Given the finding that Art.31 has been appropriately engaged in this case, the Commissioner has not considered it necessary to go on to consider the application of Art.32.

REQUEST D

The Complainant's position

46. The Complainant's position is as set out in para.12(d) above.

The SPA's position

47. In its submissions to the Commissioner, the SPA considered that there had been an error in respect of the two withheld Ministerial Decisions in that it was actually clear that such did not fall within scope of Request D because they do not, in fact, refer to PFAS/PFOS AND cite any of the three pieces of legislation referenced by the Complainant. The SPA says that on that basis such are out of scope of the Complainant's Request and should thus not form part of this appeal.

Analysis

48. The Commissioner has reviewed the withheld information in respect of Request D. It is not understood why this issue was not picked up at either the Revised Response or Internal Review stage, but it is clear to the Commissioner that the Withheld Information does not, in fact, fall within scope of the Complainant's Request because it does not contain the words "... *"PFAS" or "PFOS" **AND** make reference to any of the 3 pieces of legislation"* cited by the Complainant (emphasis supplied).

49. In light of that finding, the Commissioner has not considered it necessary to go on to consider the application of Art.35 in respect of the two Ministerial Decisions originally withheld.
50. The Commissioner is also satisfied that there is no other information held by the SPA that does fall within scope and which has not been provided to the Complainant.
51. The Commissioner accordingly does not uphold this aspect of the Complainant's appeal.

GENERAL MATTERS

52. The Commissioner notes that a key feature of this appeal relates to the SPA not responding to the actual question that has been asked of it; instead providing something that has not been asked for. This was not ultimately helpful.
53. Each aspect of the Complainant's Request was very clearly defined and it is unsurprising that the responses provided by the SPA raised further questions from the Complainant. This is because the SPA did not provide adequate explanations to the Complainant about why their responses were apparently relevant to the questions that had been asked. Had the SPA simply advised the Complainant that, for example, there were no reports available in line with his specific request parameters and that all available reports on the subject were actually already published, this may have gone some way to limiting the scope of the Complainant's First and Second Internal Review Requests and/or their appeal more generally.

Responding to requests for information from the Commissioner.

54. The Commissioner notes that information was requested from the SPA on 12 August 2024. As set out in the Article 44 Code of Practice (such as was approved by the then Minister) para.57 is clear that information must be provided to the Commissioner within ten working days.
55. The information required by this office in order to progress this appeal should have been provided by 26 August 2024, but was not ultimately provided until 4 October 2024 i.e.39 working days after the request was made. This office had to issue two (2) chasers in order to obtain a response, with the reasons for the delay advanced being constraints on other members of staff (it also being noted that three (3) extensions were requested by the SPA, and granted).
56. Whilst delays may occur from time-to-time the timeframe set out in the Code of Practice has been in place for 8 years and approved by the then Minister, and whilst the Commissioner is sympathetic with resourcing and caseload issues, significant delays naturally impede the progress of the appeal.
57. The only method of escalating issues related to non-production of required information is to write to the Chief Minister under the terms of the Memorandum of Understanding dated 21 November 2014. The Commissioner does not wish to take such a step but will do so, if necessary, and so the SPA (and SPA's generally) are reminded that if there are to be any delays relating to the provision of required information, this needs to be raised as soon as possible and supported by cogent reasons regarding the reasons for any delay and an anticipated (realistic) timeframe for response. If information is not provided as requested, the SPA is also reminded that the Commissioner may consider that it is left with no alternative but to decide the appeal on the basis of the information available to it at that time.

The Decision

58. The Commissioner considers that:
 - a. in respect of Request A:

- i. the SPA responded to the request for information appropriately in this case and that the exemptions provided for at Art.10 and 16 of the FOI Law was appropriately deployed.
- b. in respect of Request B:
 - i. whilst the SPA incorrectly sought to rely on Art.23, the information was not actually held.
- c. in respect of Request C:
 - i. the SPA responded to the request for information appropriately in this case and that the exemption provided for at Art.31 of the FOI Law was appropriately deployed. (The Commissioner did not, therefore, need to consider the applicability of Art.32 to this question.)
- d. in respect of Request D:
 - i. the Withheld Information did not, in fact, fall within the scope of the Complainant's Request.

59. Accordingly, the Complainant's appeal is not upheld.

60. There are no further steps the SPA needs to take in this matter.

Right of Appeal

61. An aggrieved person has the right to appeal against this Decision Notice to the Royal Court of Jersey.

62. Any Notice of Appeal should be served on the Commissioner within 28 (calendar) days of the date on which the Decision Notice is issued.

Dated this 23 day of December 2024

Signed..... 

Mr Paul Vane
 Information Commissioner
 Office of the Information Commissioner
 5 Castle Street
 St Helier
 Jersey

8 General right of access to information held by a scheduled public authority

If a person makes a request for information held by a scheduled public authority –

- (a) the person has a general right to be supplied with the information by that authority; and
- (b) except as otherwise provided by this Law, the authority has a duty to supply the person with the information.

9 When a scheduled public authority may refuse to supply information it holds

(1) A scheduled public authority may refuse to supply information it holds and has been requested to supply if the information is absolutely exempt information.

(2) A scheduled public authority must supply qualified exempt information it has been requested to supply unless it is satisfied that, in all the circumstances of the case, the public interest in supplying the information is outweighed by the public interest in not doing so.

(3) A scheduled public authority may refuse to supply information it holds and has been requested to supply if –

- (a) a provision of Part 3 applies in respect of the request;
- (b) a fee payable under Article 15 or 16 is not paid; or
- (c) Article 16(1) applies.

10 Obligation of scheduled public authority to confirm or deny holding Information

(1) Subject to paragraph (2), if –

(a) a person makes a request for information to a scheduled public authority; and

(b) the authority does not hold the information,

it must inform the applicant accordingly.

(2) If a person makes a request for information to a scheduled public authority and –

(a) the information is absolutely exempt information or qualified exempt information; or

(b) if the authority does not hold the information, the information would be absolutely exempt information or qualified exempt information if it had held it,

the authority may refuse to inform the applicant whether or not it holds the information if it is satisfied that, in all the circumstances of the case, it is in the public interest to do so.

- (3) If a scheduled public authority so refuses –
- (a) it shall be taken for the purpose of this Law to have refused to supply the information requested on the ground that it is absolutely exempt information; and
 - (b) it need not inform the applicant of the specific ground upon which it is refusing the request or, if the authority does not hold the information, the specific ground upon which it would have refused the request had it held the information.

13 Time within which a scheduled public authority must deal with a request for information

- (1) A scheduled public authority must deal with a request for information promptly.
- (2) If it supplies the information it must do so, in any event, no later than –
- (a) the end of the period of 20 working days following the day on which it received the request; or
 - (b) if another period is prescribed by Regulations, not later than the end of that period.
- (3) However, the period mentioned in paragraph (2) does not start to run –
- (a) if the scheduled public authority has, under Article 14, sought details of the information requested, until the details are supplied; or
 - (b) if the scheduled public authority has informed the applicant that a fee is payable under Article 15 or 16, until the fee is paid.
- (4) If a scheduled public authority fails to comply with a request for information –
- (a) within the period mentioned in paragraph (2); or
 - (b) within such further period as the applicant may allow,
- the applicant may treat the failure as a decision by the authority to refuse to supply the information on the ground that it is absolutely exempt information.
- (5) In this Article “working day” means a day other than –
- (a) a Saturday, a Sunday, Christmas Day, or Good Friday; or
 - (b) a day that is a bank holiday or a public holiday under the Public Holidays and Bank Holidays (Jersey) Law 1951^[4].

16 A scheduled public authority may refuse to supply information if cost excessive

(1) A scheduled public authority that has been requested to supply information may refuse to supply the information if it estimates that the cost of doing so would exceed an amount determined in the manner prescribed by Regulations.[2]

(2) Despite paragraph (1), a scheduled public authority may still supply the information requested on payment to it of a fee determined by the authority in the manner prescribed by Regulations for the purposes of this Article.

(3) Regulations may provide that, in such circumstances as the Regulations prescribe, if two or more requests for information are made to a scheduled public authority –

(a) by one person; or

(b) by different persons who appear to the scheduled public authority to be acting in concert or in pursuance of a campaign,

the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.

18 Where a scheduled public authority refuses a request

The States may, by Regulations, prescribe the manner in which a scheduled public authority may refuse a request for information.

23 Information accessible to applicant by other means

(1) Information is absolutely exempt information if it is reasonably available to the applicant, otherwise than under this Law, whether or not free of charge.

(2) A scheduled public authority that refuses an application for information on this ground must make reasonable efforts to inform the applicant where the applicant may obtain the information.

31 Advice by the Bailiff, Deputy Bailiff or a Law Officer

Information is qualified exempt information if it is or relates to the provision of advice by the Bailiff, Deputy Bailiff or the Attorney General or the Solicitor General.

32 Legal professional privilege

Information is qualified exempt information if it is information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

35 Formulation and development of policies

Information is qualified exempt information if it relates to the formulation or development of any proposed policy by a public authority.