

Explanation of exemption applied

Section 31 of the Freedom of Information Act 2000 (FOIA) ('Law enforcement') provides that information held by a public authority is exempt if its disclosure would or would be likely to prejudice the exercise of a public authority of its functions including "the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise" (s.31(2)(c)).

The identity of operators who are non-compliant in regards to licence conditions falls into this category. We use information regarding non-compliance to inform our regulatory approach and to determine where action is necessary.

Section 31 is a qualified exemption so we are required to consider whether maintaining the exemption is in the public interest.

In favour of disclosure

- there is a legitimate public interest in promoting the accountability and transparency of public authorities
- there is an interest in highlighting instances of non-compliance within the industry in order to promote compliance from other operators

In favour of maintaining the exemption

- the Commission publishes information on regulatory sanctions that it imposes
- highlighting instances of minor non-compliance would have a disproportionate effect on operators and would not be in keeping with regulatory best practice or the Commission's approach to highlighting regulatory non-compliance

Weighing the balance

Having considered the balance of the public interest, the Commission is of the view that identifying operators that are non-compliant with a requirement outside of our agreed approach would have a disproportionate impact on operators and there would not be a public interest in doing so.

This type of compliance work remains confidential to the Commission and the licensed operator. The Commission publishes statistics on licence reviews in its annual report and issues details of regulatory sanctions that are issued.

We consider it likely to damage the overall effectiveness of the regulatory regime if we were to reveal details of every interaction with operators as this would prejudice the relationship of free and frank engagement that we seek to create.