



# Consulting third parties

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Sections [32](#) and [33](#) of the FOI Act together provide that an agency is not to give access to a document that contains:

- personal information about an individual;
- information concerning the trade secrets of a person;
- information (other than trade secrets) that has a commercial value to a person; or
- information concerning the business, professional, commercial or financial affairs of a person;

**unless it has taken such steps as are reasonably practicable to seek the views of the third party** as to whether that information is exempt under clause 3 (personal information) or clause 4 (trade secrets, commercial or business information) of [Schedule 1](#) to the FOI Act.

There is **no requirement to 'consult'** if:

- the agency does not propose to grant access; or
- the agency releases the document with the relevant personal, commercial or business information deleted from the document (under [section 24](#)).

If an agency 'takes such steps as are reasonably practicable' and does not receive a response from a third party, the agency must go ahead and make its decision on access based on the information and facts before it.

If the views of a third party are obtained, and the third party objects to disclosure, the onus remains with the agency's decision-maker to decide whether the information is actually exempt. A third party's objection to disclosure is not sufficient of itself to justify an exemption claim. A third party does not have a power of veto over an agency's decision to release documents.

However, a third party does have review rights if the agency decides to give access to documents contrary to the third party's claims that the document or information is exempt ([section 34](#)).

If you have any general enquiries about the FOI process, please see our website or contact our office.

**Note:** This Information Sheet is intended as a general guide only and should not be viewed as legal advice. The Information Commissioner considers each complaint on its merits and according to the relevant circumstances.

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