



Writing a Notice of Decision

An agency must give an applicant a written notice of decision when it decides to:

- give access to a document;
- give access to an edited copy of a document;
- refuse access to a document (including on the basis that the document cannot be found or does not exist);
- refuse to deal with an access application;
- defer access under [section 25](#);
- give access to a suitably qualified person under [section 28](#); or
- impose a charge or require the payment of a deposit.

The notice of decision should outline the process of consideration and decision-making by the agency. It should enable the applicant to understand which documents are within the scope of the access application (including the number and type) and, where access is refused, all of the steps in the reasoning process involved in the agency deciding that the documents are exempt in full or in part ([section 30](#)).

An agency may provide a schedule of documents with its notice of decision. Although this is not required by the FOI Act, the use of a schedule can enable an agency to organise basic facts concerning the documents that are in issue.

Tip: Beware of inadvertently disclosing exempt matter, such as names of third parties, including in any description of documents in the schedule.

Reasons for Decision

The onus is on the agency to justify any decisions that are adverse to the applicant or third party.

If the decision is to refuse access to documents, the notice of decision must contain the reasons for that decision and the exemption that applies. The decision should set out:

- what documents are in issue, describing them as fully as possible without revealing exempt matter;
- what exemptions are claimed for individual documents or parts of documents;
- why those exemptions apply to specific documents or parts of documents;
- what is likely to happen if the information is disclosed and why those consequences could reasonably be expected to result from disclosure;

- why the expected consequences of disclosure are so important as to justify a refusal of access; and
- where applicable, the public interest factors that favour non-disclosure and why those factors were given more weight than the ones favouring disclosure.

Tip: Remember to set out the applicant's review rights in the notice of decision.

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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