

Schedule of Information Redacted

Redacted Information – Assembly Commission Paper AC1707	Exemption
Appendix A, Paragraph 75, pages 19 - 20	Section 42
Appendix B (i) Page 2	Section 40

Legal Professional Privilege – section 42 FOIA

Section 42(1) of the Freedom of Information Act 2000 (FOIA) provides that:

“Information in respect of which a claim to legal professional privilege or, in Scotland, to confidentiality of communications could be maintained in legal proceedings is exempt information”.

Section 42 FOIA provides an exemption from disclosure for information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Legal professional privilege provides for the special protection from disclosure of communications between legal advisers and their clients, protecting the confidentiality of communications and exchanges on legal matters between client and legal adviser.

Information will attract legal professional privilege if it is comprised of confidential communications between the client and legal adviser made for the dominant purpose of seeking or giving legal advice.

The requested information attracts legal professional privilege and so the exemption provided for in section 42(1) FOIA is engaged. The exemption under section 42(1) is a qualified exemption and is subject to the public interest test provided for in section 2(2)(b) of the FOIA.

Therefore, the information must be disclosed unless, in all the circumstances of the case, the public interest in disclosure is outweighed by the public interest in maintaining the exemption.

The Northern Ireland Assembly Commission (the Commission) has considered the application of the public interest test to determine if, in all the circumstances

of this case, the public interest in maintaining the exemption under section 42(1) FOIA outweighs the public interest in disclosing the information.

The Commission has considered the public interest in disclosure. The Commission has considered the strong public interest in transparency and openness and the very significant public interest in facilitating public understanding of the work of the Assembly.

The Commission has considered the public interest in maintaining the exemption. The Commission recognises that freely seeking and obtaining frank legal advice is crucial to a public authority's ability to make informed and legally supported decisions and that there is a need for confidentiality between legal advisers and their clients so that legal advice can be given freely, frankly, and without fear of intrusion.

The Commission recognises the inherent public interest in maintaining legal professional privilege and has considered the public interest in ensuring that the Assembly may obtain candid and confidential legal advice as to its legal rights and obligations.

Having considered the public interest in disclosure and the public interest in maintaining the exemption under section 42(1) FOIA, the Commission is satisfied that, in all of the circumstances of this case, the public interest in disclosing the information is outweighed by the public interest in maintaining the exemption provided for under section 42(1) FOIA.

Personal Information – section 40(2) FOIA

Please note, a signature has been redacted from the information provided as this information is personal data, as defined by section 3(2) of the Data Protection Act 2018. The information is personal data as it relates to an individual who is living. To process the information by disclosing it to you would contravene the First Data Protection Principle. This information is therefore exempt from disclosure under section 40(2) of the FOIA.