

## Section 23 Absolutely exempt communications with the Crown

### Introduction

This document is drafted as practical guidance to assist public authorities in applying the section 23 absolute exemption for communications with the Crown. It is not intended to be a comprehensive assessment of the law in this area and a public authority is required to assess each request on the basis of its own individual facts.

A public authority can only rely on the exemption if the information falls within it. There is no prejudice test or public interest test.

A public authority should consider whether other exemptions, in addition to this one, may also apply to the requested information, bearing in mind that other exemptions might be more appropriate (see other exemptions guidance). Different exemptions may apply to different aspects of the requested information, although only one exemption needs to be engaged for information to be withheld.

A public authority may also need to consider whether to neither confirm nor deny that the information is held, if to do so would, in itself, be absolutely exempt under this section.<sup>1</sup>

### About the exemption

*Information as absolutely exempt information if it relates to communications with –*

- (a) *the Queen;*
- (b) *the heir to, or the person who is for the time being second in line of succession to the Throne;*
- (c) *a person who has subsequently acceded to the Throne or become heir to, or second in line of succession to, the Throne; or*
- (d) *the Lieutenant Governor.*

| <b>Has there been a direct communication with one of the following?</b>  |  |
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| <ul style="list-style-type: none"> <li>• the Queen;</li> <li>• the heir to, or the person who is for the time being second in line of succession to the Throne;</li> <li>• a person who has subsequently acceded to the Throne or become heir to, or second in line of succession to, the Throne; or</li> <li>• the Lieutenant Governor</li> </ul> |  |
| If the request is for this communication then the information is absolutely exempt.  |  |
| If the communication is with another member of the Royal Family or the Royal Household or  |  |

<sup>1</sup> s19 of the Act and further guidance on NCND

made or received on behalf of the Queen, the heir to, or the person who is for the time being second in line of succession to the Throne or a person who has subsequently acceded to the Throne or become heir to, or second in line of succession to, the Throne then this information does not fall within the absolute exemption but may be qualified exempt information. See guidance on s38 qualified exempt communications with the Crown.

**Does the request for information “relate” to a communication with any of the persons named above?**

Examples of information that “relates” to communications includes (but is not limited to):

- Drafts of letters (whether sent or not)
- An internal memo on the content of a direct communication

If the information requested relates to the communication then the information is absolutely exempt.

**Further Information**

The Information Commissioner has published guidance on the application of this exemption.  
[https://www.inforights.im/media/1156/exempt23a\\_crown.pdf](https://www.inforights.im/media/1156/exempt23a_crown.pdf)