



Guidance

Health or safety of individual exemption (section 22)

Table of Contents

USING THE EXEMPTION GUIDANCES	3
In brief: the health or safety exemption	4
Steps to follow when applying the health or safety exemption	5
Health or safety – section 22	6
Understanding the harm test for the health or safety exemption	7
Questions to consider when applying the health or safety exemption.....	13
The public interest test: in the health or safety context	15
More information	17
APPENDICES	18

USING THE EXEMPTION GUIDANCES

This is one of a series of Guidances by the Information Commissioner's Office that offers an overview of the Information Commissioner's understanding of the exemptions in the Public Access to Information (PATI) Act. The Guidances are a reference tool to help decision makers—Information Officers, heads of public authorities and those assisting them—understand when and how to apply the exemptions.

The Guidances provide our general recommended approach and the issues the Information Commissioner will likely consider when deciding an application for review. The Guidances do not replace the need to obtain training on the PATI process and the operation of the exemptions. It may also be necessary for public authorities to obtain legal advice on the interpretation and application of the exemptions.

Each Guidance discusses a specific exemption provision. It provides background and the applicable tests for each exemption, along with examples of questions designed to assist your decision making. The questions may help you identify the issues to consider when applying an exemption in the context of a specific request. It is essential that decision makers are able to explain the factual and reasoned basis for relying on an exemption. The Guidances are designed to support this good practice.

The exemptions limit the new right to access public records and, because of this, should be understood narrowly. This is consistent with the PATI Act's purpose to provide the greatest access as possible to public records.

It is recommended that Guidances are read together when more than one exemption could apply to a record. Decision makers should also refer to our *Guidance: the public interest test* as a companion when applying exemptions that require you to weigh the public interest.

Currently, the use of the exemptions under the PATI Act, a new statutory regime, has not been tested and settled under Bermuda law.

For this reason, these first ICO Guidances are based upon the language and purposes of the PATI Act and Regulations, as well as any related local law. The Guidances are also informed by the guidelines, decisions and legal judgments from the UK and other appropriate Commonwealth countries with comparable exemption provisions. References to other jurisdictions are provided for illustration purposes and to give examples of how those exemptions have been interpreted.

The Guidances are subject to a planned review and may undergo ad hoc revisions to incorporate new Information Commissioner decisions, court judgments, or legislative changes.

Information Commissioner
September 2016

In brief: the health or safety exemption

1. Section 22(1) of the PATI Act exempts information from the right of access that, if disclosed, would or would be likely to endanger the physical or mental health or safety of an individual. This can include one individual or a group of individuals, as well as the broader public health or safety.
2. Endangering physical health generally refers to an adverse physical impact as a result of injury, illness or disease. Endangering mental health implies causing or aggravating a psychological disorder or mental illness. Endangering safety means having an adverse impact upon the condition or state of being protected from harm.
3. The exemption for health or safety requires that the disclosure will cause the particular harm described in the exemption: endangerment to physical or mental health or safety. The 'harm test' for this exemption requires you to consider three things: the nature of the stated harm, how disclosure would cause this harm and the likelihood it will occur.
4. In general, this exemption should not be used to withhold information that an authority considers distasteful, on the basis that one or more members of the public would likely be distressed by its disclosure. Similarly, this exemption should not usually be used on the grounds that disclosure would be likely to cause worry, distress, or stress.
5. If you are considering withholding information under section 22(1), you must offer supporting evidence that is appropriate under the circumstances of your case. For example, you may need to consider obtaining an opinion from a mental health professional confirming that disclosure of the information would be likely to endanger the mental health of an individual or group of individuals. In other cases, you may need to show objective, not subjective, evidence of the anticipated harm.
6. The exemption in section 22(1) is a qualified exemption, i.e., it is subject to the public interest test. This means that if you find that the exemption applies, you must then go on to apply the public interest test before deciding whether or not to disclose the record. Despite the exemption, the record must be disclosed unless the public interest in withholding it outweighs the public interest in disclosing the record.
7. There is also potential for overlap with other exemptions depending on the circumstances of the specific request. Other exemptions which may apply include personal information (sections 23 and 24) and law enforcement (section 34). It may be useful for you to read our Guidances on these other exemptions as well (see Appendix 1: Resources).
8. The PATI Act is retrospective. It applies to records created at any time.

9. The health or safety exemption will not last forever. It will not apply to any record that is over 30 years old.

Steps to follow when applying the health or safety exemption

10. The decision-making process to apply an exemption should always start with a presumption of disclosure. You should assess the records on a case-by-case basis depending on the subject matter, the harm identified and the public interest.
11. In most cases, your public authority will first locate and retrieve the requested records.
12. You may then decide that you should consider whether the records contain information whose disclosure would, or would be likely to, endanger health or safety and which may be exempt from disclosure. Consider taking the following actions:
 - i. Using the tests set out in this Guidance, decide if the section 22 exemption applies.
 - ii. If the exemption DOES NOT apply, the record cannot be withheld under section 22.
 - iii. If the exemption DOES apply, you must then apply the public interest test.
 - iv. If the public interest in favour of disclosing the record is equal to or outweighs that in favour of withholding it, the record (or part of the record) cannot be withheld under section 22.
 - v. If the public interest in favour of withholding the record outweighs that in favour of disclosing it, the record (or part of the record) can be withheld and a decision notice served to that effect.

Health or safety – section 22

13. Section 22(1) exempts information from the right of access if its disclosure would (or would be likely to) endanger the health or safety of an individual, unless disclosure would be in the public interest.
14. The endangerment may affect a single individual whose health or safety would likely be harmed by the disclosure of information, or it may endanger a group of people.
15. Public authorities may collect and record information, which if disclosed inappropriately, can potentially endanger an individual's physical health, mental health, or safety.
16. The list below offers examples of when certain records a public authority holds may be considered under the health or safety exemption. This list is only illustrative. It does not imply that all such records would be exempt. The examples are:
 - accident or crime scene photos of individuals who are deceased, which if disclosed would likely endanger the mental health of surviving relatives;
 - figures about how frequently motorists were caught speeding at different locations, which if disclosed would allow drivers to know where they were less likely to get caught and would likely encourage drivers to drive at excessive speeds and endanger the health or safety of road users;
 - plans related to the housing of individuals or a group of individuals, such as ex-offenders, which if disclosed, could lead to them being threatened or harassed; or
 - records revealing the location of a safe house facility for domestic abuse victims, which if disclosed would likely undermine the physical safety and security of residents and staff.
17. As the illustrations above show, the *information* itself does not have to be about health or safety. Instead, the section 22(1) exemption requires that the *disclosure* of the information would, or would be likely to, endanger health or safety.

Understanding the harm test for the health or safety exemption

18. The harm test in section 22(1) requires that disclosure ‘would, or would be likely to, endanger’ an individual’s physical or mental health, or safety. If disclosure is not likely to cause this specific harm, then the exemption is not available.
19. Working through the requirements of the harm test is an exercise of judgment. You must evaluate the nature of the identified harm, how that harm would be caused and the likelihood of it occurring. At each step, you should support your conclusion with evidence.

Specific harm: endanger an individual’s physical or mental health, or safety

20. Section 22(1) requires that disclosure would, or would be likely to, ‘endanger’ health or safety. Although section 22(1) uses the word ‘endanger’ rather than the word ‘prejudice’ that is used in other exemptions, the nature of the harm required is similar. For example, decisions of both the UK Information Commissioner and the UK Information Rights Tribunal confirm that use of the word endanger equates to prejudice—as found in other exemptions.

21. To establish endangerment, you must show that disclosure would, or would be likely to, have a detrimental effect on an individual’s health or safety. The effect must be more than trivial or insignificant.

22. You must also be able to identify the individual or a group of individuals whose health or safety would be endangered if the requested information is disclosed.

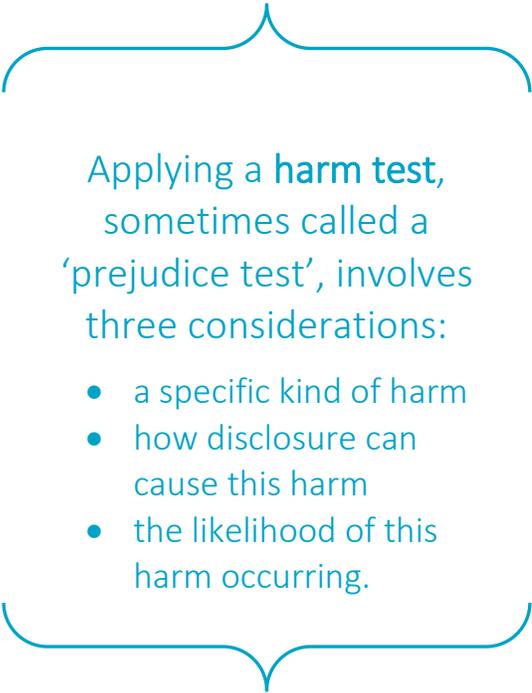
23. Physical health, mental health and safety each refer to different matters, as outlined below:

- **Physical health**

Endangering physical health will usually refer to an adverse physical impact and involve medical matters. Endangerment to physical health could mean endangering someone as a result of physical injury, illness or disease.

- **Mental health**

Endangering mental health will usually imply that the disclosure would, or would be likely to, cause or aggravate a psychological disorder or mental illness. The effect must be greater than stress, worry, or distress.



Applying a harm test, sometimes called a ‘prejudice test’, involves three considerations:

- a specific kind of harm
- how disclosure can cause this harm
- the likelihood of this harm occurring.

- **Safety**

Safety should be given its plain meaning: the condition of being protected from harm. Physical health and safety are also related ideas. You can think of safety as referring to an individual's risk of accidents or to their security.

24. Information that could endanger an individual's safety could also endanger their physical or mental health. When this is the case, arguments to support both the safety and the health parts of the exemption may be relied upon.

How disclosure can cause that harm

25. You must be able to explain how disclosure will cause the harm; it cannot simply be a remote or hypothetical possibility. This requires explaining how the claimed harm is at least possible. You must describe the possible circumstances, or events, arising from disclosure that can lead to the harm.

26. The evidence offered to show how the disclosure will cause the harm must be appropriate for the circumstances of your case.

27. Determining whether disclosure will endanger physical health or safety is not likely to be a particularly technical inquiry.

28. Risks to mental health, however, may be more difficult to show without the assistance of a mental health professional, but this will depend on the particular case.

29. Endangerment to mental health is not the same as a risk of causing emotional distress, worry, or stress. Endangerment to mental health implies that disclosure might lead to or worsen an existing mental illness or psychological disorder.

Example:

In *Cruelty Free International v Information Commissioner and Imperial College London*, the First Tier Tribunal: Information Rights considered the refusal to disclose the hours when care staff were present at an animal research lab, which would also disclose when the lab did not have care staff present. Other staff, such as researchers or administrators, might be working after hours, however, during the time care staff were absent. The staff at the research lab at Imperial College London (ICL) had previously been ‘spied on’ by an animal rights activist who infiltrated the animal care staff and the lab had been the target of a campaign against the College’s work. ICL asserted that there was a ‘risk of an adverse impact on the mental health of staff, which the College [said] could result from a perception of vulnerability arising from the disclosure of’ care staff working hours and an increased chance of unauthorised entry from animal rights extremists and an unexpected confrontation with staff members.

The Tribunal concluded that:

We can well understand that, after all that has happened, staff in the department may feel beleaguered and stressed But we see no sufficient basis in the open or closed evidence provided by ICL for a finding that staff would reasonably anticipate and fear an increased likelihood of intrusion, to a degree which would be likely to endanger the mental health of any person of ordinary robustness, simply from the disclosure of the working hours of care staff.

30. This leads to some obvious challenges for Information Officers and heads of authorities when deciding whether it is justified to rely upon this part of the exemption. You may not have any medical training, or any particular knowledge of the individual whose mental health might be endangered by a disclosure. These challenges are not however, insurmountable. Depending on the circumstances of the case, you may need to consider obtaining the professional opinion from a mental health practitioner to support the use of the exemption.

Example:

A public authority receives a request for crime scene photographs from a fatal road traffic collision. The public authority may fear that disclosure would be likely to endanger the mental health of the deceased's spouse who was not involved in the incident.

The authority first considers whether it holds any information about the surviving spouse and, if so, whether it has any particular information which would lead it to think there was a risk to the mental health of the surviving spouse. The information might take the form of medical or social work reports obtained by the Family Liaison Officer.

Assuming that no information is held, or that the information held is not conclusive, the authority may consider getting advice from a mental health professional who may be able to advise you about the possible effect of disclosure. This need not be a medical opinion of someone who has treated the spouse, although in some cases that may be appropriate. It should, however, be an authoritative opinion upon which the public authority is able to rely upon for explaining its decision to the requester and to justify its decision in the event of an independent review by the Information Commissioner of the refusal of the request.

Example:

In *PETA v Information Commissioner and University of Oxford*, the Applicant argued that the exemption for endangerment to mental health was only justified when the public authority could show positive evidence of the endangerment, such as conclusions from a psychiatrist about the clinical impact upon the mental health of the affected individuals.

The First Tier Tribunal emphasised that exemptions must be considered in the circumstances of individual cases. It noted that the University had shown significant evidence of the serious nature of the physical threats in this case (life threatening incendiary devices and arson). The First Tier Tribunal concluded that:

[T]he nature of the physical threat was sufficient that on a balance of probabilities the effect upon the mental health of those involved would go beyond stress or worry and constitute an endangerment to their mental health.

In light of the evidence in this case, no clinician's report was required to support the use of the exemption.

Likelihood of harm occurring

31. The likelihood of the harm required in section 22(1) is that the disclosure 'would or would be likely to' cause the harm. If you cannot show that the harm identified would or would be likely to occur, then the exemption is unavailable. Simply speculating is insufficient to justify the exemption.
32. 'Would' means that it is more probable than not that the harm anticipated can occur. There must be a more than 50% chance of the disclosure causing the harm.
33. The lower threshold for 'would be likely' means that some significant, real risk must exist that health or safety would be endangered, even if it does not amount to being more probable than not. 'Likely' refers to a very significant and weighty chance that the identified harm will occur. It has also been described as a risk that there 'may very well' be harm to the identified interests, even when the risk falls short of being more probable than not. It must, however, be substantially more than a remote possibility.

34. When disclosure of information would, or would be likely to, endanger the physical or mental health or the safety of an individual, the Information Commissioner would clearly wish to safeguard against that eventuality. The Information Commissioner will require you to show, not just that this eventuality is within the bounds of possibility, but that this eventuality would, or would be likely to, occur.
35. In some cases, you may need to show objective evidence to support the likelihood of the anticipated danger. A subjective fear held by the affected individual that is not supported by external facts may not be sufficient to sustain the health or safety exemption.

Example:

In response to a request for records related to the denial of a license, a public authority refuses access under section 22(1) because it asserts that disclosure would be likely to endanger the physical health or safety of the staff who worked on the license. The public authority states that its staff fear the requester because the requester made an angry phone call to the authority after receiving the license denial. The staff are afraid that the requester will target them for violence.

The exemption is found not to apply because the only evidence supporting it is the staff members' subjective fears and the requester's angry phone call. No objective evidence is offered that the requester has a history of violence or that the staff are, in reality, at physical risk. The public authority has robust physical safety measures in place that would prevent an intruder from entering. Based upon the staff fears, the danger to health or safety can only be considered a remote possibility and not a real chance. The public authority has not sufficiently justified its use of section 22(1).

36. The wider the group that you claim is endangered, the more difficult it may be to show sufficient evidence of the likelihood of harm. You must show concrete and specific evidence to support an assertion that disclosure would endanger the health or safety of a large group of individuals. This is particularly the case when dealing with endangerment to mental health, which in most cases will involve one individual or a group of closely-related individuals, i.e., a family or a work team.

Questions to consider when applying the health or safety exemption

37. When deciding if the health or safety exemption applies to a requested record (or part of a record), you may also want to consider the following examples of the type of questions that the Information Commissioner may consider during a review.

Note:

These examples of questions presented here may help you think through what you need to ask yourself as you decide if an exemption is appropriate.

Not all of the questions will apply in every case and they are not an exhaustive list of every issue that might arise. You will need to decide what issues are relevant to the specific request you have.

Can you identify the individual, or group of individuals, who are at risk from the disclosure?

- If you identify a large group of individuals at risk, your supporting evidence of harm must be sufficient to support the risk of harm to such a large group. This may not present a challenge with a risk to physical safety. When considering endangerment to mental health, it may be more challenging to show sufficient evidence of potential harm to the mental health of many, unrelated people.

What is the nature of the endangerment? Does it endanger the individual's physical or mental health or their safety?

- Identify whether the harm would be endangerment to physical health, mental health, or safety. Would disclosure present a risk to all three, or a combination of these? If so, each risk of endangerment must be discussed and supported separately and more than one part of the exemption may be relied upon.
- In addition to the category of harm, you should be able to describe the specific endangerment (i.e., a risk of physical harm from physical attacks, disease, or accident; or a risk of aggravating an existing, identified mental health condition, etc.).

- Ensure that you have sufficiently described the detrimental effect and that it is significant. Vague, generalised, or insignificant harms may be insufficient to justify the exemption. As noted above, for example, stress or worry does not rise to a level of endangering mental health.

How would this harm occur? How would disclosure cause it?

- If disclosure were made, how would the harm (described above) happen as a result? Can you explain what circumstances or events will lead to the harm occurring?
- If you are asserting a risk of endangerment to mental health, what circumstances create this risk? Would these circumstances make it obvious that the affected individual's mental health would be endangered? If not, do you need the supportive evidence from a mental health or related professional to justify the exemption?

What is the likelihood that the identified harm will occur?

- Are you relying on the assertion that endangerment 'would' occur or 'would be likely to occur'? As discussed below, this may later have an impact on where the balance of the public interest lies.
- Can you show more than a hypothetical assertion? What real, concrete and substantial evidence do you have to support this assertion? Can you show objective evidence that the anticipated danger would, or would be likely to, occur?
- Is your supporting evidence appropriate for the size of the affected group? The larger the affected group, the more difficult it might be to show the likelihood of harm.

38. If you decide that disclosure of the requested record would not be likely to endanger an individual's physical or mental health, or safety, then the exemption for health or safety is unavailable.

39. If you decide, instead, that disclosure of the requested record would, or would be likely to, endanger an individual's physical or mental health, or safety, then the health or safety exemption is available. You must then consider the public interest test to determine whether the information must be disclosed.

40. Applying the public interest test in the context of the health or safety exemptions is discussed below.

The public interest test: in the health or safety context

41. The public interest test applies to the health or safety exemption. This means that even if you find that the health or safety exemption applies, you must go on to apply the public interest test to decide whether the record should still be disclosed. The public interest test is set out in section 21 of the PATI Act and regulation 2 of the PATI Regulations.

42. Under the public interest test, the information contained in a record must be released unless the public interest in maintaining the exemption outweighs the public interest in disclosing it.

43. In the context of this exemption, there is clearly a significant public interest in protecting individuals' health or safety. A significant public interest in favour of disclosing a record would be needed to outweigh the public interest in withholding a record which would endanger health or safety. The test must be applied on a case-by-case basis.

The public interest is not the same as 'what interests the public'.

44. Note that the decision whether endangerment 'would' occur or 'would be likely to' occur is relevant to the public interest test. The choice between the two affects the balance of factors in the public interest test.

45. The greater the likelihood that the endangerment would occur, the stronger the public interest is in not disclosing the information and vice versa.

46. For example, if the endangerment to physical safety, such as a risk of serious physical injury, is nearly certain to occur, there would be a strong public interest in preventing that risk of injury. A very weighty public interest in favour of disclosure would be required to overcome the public interest in withholding the information and protecting an individuals' physical safety.

Example:

In *British Union for the Abolition of Vivisection vs Information Commissioner and Newcastle University*, the First-Tier Tribunal stated:

[T]he public interest in maintaining the [health and safety exemption], where it is engaged, is also strong. Self-evidently, there would need to be very weighty countervailing considerations to outweigh a risk to health and safety which was of sufficient severity to engage [the health and safety exemption].

47. The content and the context of the information will be relevant when balancing the public interests and determining the appropriate weight to be given to the benefits and harmful effects of disclosure.
48. Public interest considerations to take into account in the health or safety context may include the size or scope of the risk; the likelihood of it occurring and the ability of means to reduce or manage that risk if the records are disclosed; the nature and seriousness of the harm to health or safety; and whether disclosure would protect the health or safety of other individuals.
49. Some factors in favour of disclosure that may be particularly relevant in the health or safety context may include:
- furthering understanding and participation in public debate;
 - promoting accountability and transparency by public authorities for their decision making;
 - promoting accountability and transparency in public spending;
 - furthering the understanding of individuals, companies and other entities about public authorities' decisions that affect their lives;
 - revealing information affecting public health and safety; and
 - circumstances when disclosure would reduce potential danger to individuals by making them aware of various risks and allowing them to take appropriate actions.
50. Some factors that favour withholding information may include:
- disclosure of information that would undermine the functioning of a system established to protect public health or safety, for example: information about the use and monitoring of CCTV cameras, undercover police operations and security protocols to protect public officials; or

- disclosure of information that would provide intelligence allowing known individuals to be targeted, for example: a safe house for domestic violence victims.

51. The Information Commissioner has issued a separate Guidance to assist with applying the public interest test in general and determining where the balance of public interest lies, *Guidance: The public interest test (section 21)*. You can find a link to copies on our website, www.ico.bm.

More information

52. Appendix 1 lists select resources and cases from other jurisdictions. They are provided for illustration and are not intended to be a statement of law in Bermuda, or to replicate independent legal advice.
53. Appendix 2 cites the exemption as it appears in the Public Access to Information (PATI) Act 2010 at the time of this Guidance's publication. A complete and up-to-date version of the PATI Act is available at www.bermudalaws.bm.
54. If you need any more information about this Guidance or have an inquiry about any other aspect of the PATI Act, or public access to information generally, please contact us:



Valerie T. Scott Building
60 Reid Street
Hamilton, HM12
Bermuda

(441) 294-9181 | info@ico.bm | www.ico.bm

APPENDICES

Appendix 1: Select resources

Other related ICO Exemption Guidances

Personal information (sections 23 and 24)

Law enforcement (section 34)

The public interest test (section 21)

These, and other, Information Commissioner’s Guidances are available on our website, www.ico.bm, as they are published. Hardcopies are available from our office, Valerie T. Scott Building, 60 Reid Street, Hamilton HM 12.

Illustrative decisions from other jurisdictions

Decisions by Information Commissioners, Information Rights Tribunals and the Courts of other Commonwealth jurisdictions are not binding in Bermuda (although some may be viewed as persuasive). There are also differences between the PATI Act and the freedom of information laws in other countries. As a result, the decisions summarised below are not directly applicable here, but provide an illustration of how public access to information laws—and exemptions in particular—operate.

Reference	Parties	Citation	Summary
Endangerment to health or safety; balancing the public interest	<i>PETA v Information Commissioner and University of Oxford</i>	EA/2009/0076 (13 April 2010) (UK First Tier Tribunal: Information Rights)	<p>The applicant sought records about scientific experiments to be done on a particular primate (‘Felix’) featured in a documentary related to animal testing.</p> <p>The University provided significant evidence of the risk of serious physical threat (infliction of life threatening incendiary devices and arson) based upon past acts of violence or attempted violence. Based on this, the First Tier Tribunal did not require a clinician’s report to establish endangerment to mental health because the nature of the physical threat was so severe that the effect would go beyond stress and worry and would rise to an endangerment of their mental health.</p> <p>The First Tier Tribunal also engaged in a lengthy discussion of the public interest test and found that the balance favoured maintaining the exemption.</p>

	<i>Cruelty Free International v Information Commissioner and Imperial College London</i>	EA/2015/0273 (16 May 2016) (UK First Tier Tribunal: Information Rights)	<p>The First Tier Tribunal emphasised that the nature of the evidence to establish an endangerment to mental health must be proportionate and appropriate to the facts of the case.</p> <p>The evidence of an increase in the stress of College employees in this case was insufficient to establish an endangerment to mental health.</p>
	<i>Department of Health Regulatory Services</i>	ICO Hearing Decision 47-00515 (Cayman Islands Information Commissioner) (18 September 2015)	<p>The Applicant sought records related to three complaints made against him as a medical practitioner by former employees, which resulted in a withdrawal of his medical licence. The Department and two of the third party claimants argued that the Applicant was verbally abusive and trying to contact the complainants through social media, among other wrongful behavior. The Department relied upon the health and safety exemption to withhold the records.</p> <p>The Information Commissioner rejected the use of the health and safety exemption. He recognised that there were ‘mutual ill-feelings between’ the Applicant and complainants but concluded that the Department offered no evidence to back up the claims of threatening behavior, such as ‘threatening email communications or abusive postings on social media’.</p>
	<i>Isle of Anglesey County Council</i>	Decision Notice FS50603001 (UK Information Commissioner)(32 March 2016)	<p>The Information Commissioner found the County Council correctly used the health and safety exemption to withhold an independent fire report into a residential care home. The Council argued that disclosure would lead to an increased risk of arson and this would endanger the physical or mental health as well as the safety of the residents and staff.</p> <p>Following <i>PETA v Information Commissioner and the University of Oxford</i> (above) the Information Commissioner found that, in this context, threats of serious physical harm is likely to affect individual’s mental health.</p> <p>The Information Commissioner accepted evidence that the report highlighted the particular vulnerabilities of the aged and infirmed residents as well as the vulnerability of the building in a rural area with suspected arsonists. The Information Commissioner accepted that disclosure would assist potential arsonists in targeting the vulnerabilities described in the report.</p> <p>The Information Commissioner found that balance of public interest favoured upholding the exemption because the County Council had shared details of the report with external agencies and the residents’</p>

			<p>relatives. Broader public disclosure would not further accountability and transparency and did not outweigh the risk of harm and even death, for the affected individuals.</p>
	<p><i>Greater Manchester Police</i></p>	<p>Decision Notice FS50521978 (UK Information Commissioner) (14 August 2014)</p>	<p>The Applicant had sought information about the details of the discovery of an identified woman’s body in November 2011.</p> <p>The UK Information Commissioner upheld the Greater Manchester Police’s (‘GMP’) decision to refuse to disclose whether or not records existed that reveal whether or not the victim was pregnant at the time of death. The Information Commissioner accepted that disclosure of the confirmation or denial of the very sensitive information would be likely to be upsetting to the victim’s relatives to the degree that it would endanger their mental health. Under the circumstances of this case, the Information Commissioner also found that the balance of the public interest did not obligate GMP to disclose the existence or non-existence of the information.</p>
<p>Likelihood of endangerment</p>	<p><i>Norfolk County Council</i></p>	<p>Decision Notice FS50543528 (UK Information Commissioner) (24 September 2014)</p>	<p>The applicant requested information about the level of fire and rescue coverage (number of appliances, riders, pumps, etc.) available during industrial actions. The County Council withheld the information under the health and safety exemption because it would reveal to potential criminals in the weak or low areas of Fire and Rescue coverage during future industrial actions and because it would allow those planning industrial actions to learn how to maximize disruption of services by strategically targeting future actions. Both of these would increase the risk of endangerment to the affected individuals.</p> <p>The Information Commissioner accepted the risk of endangerment and that there was a causal connection between the disclosure and threat of endangerment to the identified people.</p> <p>The Information Commissioner was not persuaded, though, that the disclosure ‘would be likely to’ cause this harm. This was because anyone could make an educated guess that services would be reduced during an industrial action; coverage details from past industrial actions are not necessarily indicative of coverage for future actions; the requested information is for Norfolk overall and is not broken down into specific areas; the causal link has many steps; and the County Council’s arguments as to likelihood are not persuasive. The Information Commissioner required the information to be disclosed.</p>

	<p><i>Chief Constable of Essex Police</i></p>	<p>Decision Notice FS50548661 (UK Information Commissioner) (1 September 2014)</p>	<p>The Applicant asked for the number of police officers on patrol during a particular 4-hour period in a specific area on a one-off date in the past.</p> <p>The Chief Constable argued that disclosure could allow a pattern of routine deployments to be identified and this would allow those with criminal intent to evade police, cause disruption in the area and put the public and police at risk. This would be likely to endanger the health and safety of the affected individuals.</p> <p>The Information Commissioner did not accept that disclosure would reveal anything meaningful about policing resources or routine deployment. The assignment of police resources that night involved an unusual response to a one-off situation and the 4-hour time period does not disclose anything about a pattern of resourcing. Any endangerment to the police or public was not likely to be a realistic risk from disclosure.</p>
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Health or safety – section 22

22 (1) Subject to subsection (2), a record is exempt from disclosure if its disclosure would, or would be likely to, endanger the physical or mental health or the safety of an individual.

(2) A record shall be disclosed if disclosure of it is in the public interest.

