

Confidential advice to government work sheet

Important note

This summary work sheet will help you to decide whether there is good reason to withhold official information under section 9(2)(f)(iv) of the OIA, in order to maintain the constitutional convention protecting the confidentiality of advice tendered by Ministers and officials. Detailed guidance on this withholding ground is found in our guide: [Confidential advice to government.](#)

1. Does section 9(2)(f)(iv) apply to the information?	<ul style="list-style-type: none">• What has been requested?• Does it comprise:<ul style="list-style-type: none">- advice related to executive government decision making processes;- that has or will be tendered to Ministers or Cabinet;- by Ministers or officials;- where disclosure would harm the orderly and effective conduct of the relevant decision making process?
2. Assess the need to withhold	<ul style="list-style-type: none">• Consider the content of the information:<ul style="list-style-type: none">- Is it of an advisory nature? Does it contain any 'FYI' or noting information that can be released without harm?- Is it of a confidential nature? Does it contain any information that is already known or publicly available that can be released without harm?- Does it contain any factual or background material, or information about bare options that can be released without harm?- Are there any other factors, like the sensitivity or controversy of the subject matter, that heighten the risk of prejudice to the orderly and effective conduct of the relevant decision making process?• Consider the context of the information:<ul style="list-style-type: none">- What is the relevant decision making process and how does the information relate to that process?- What stage is that process at:<ul style="list-style-type: none">› Has the decision maker seen the advice?

	<ul style="list-style-type: none"> › Has the decision making process concluded? › Are political consultations or negotiations required, and if so, what stage are those consultations or negotiations at? - What will be the impact on that process if the information is released at this time?
3. Consider partial release	<ul style="list-style-type: none"> • Can some of the information be disclosed eg, information that is already known or publicly available, background or factual material, information about bare options?
4. Apply the public interest test	<ul style="list-style-type: none"> • See <u>Public interest—A guide to the public interest test in section 9(1) of the OIA and section 7(1) of the LGOIMA.</u> • Can other information be released in order to address the public interest in accountability and transparency eg, background or discussion papers, research papers, options papers? • Can the requester be referred to other publicly available information that will address the public interest in accountability or transparency?
5. Consider later release	<ul style="list-style-type: none"> • If the information can't be released now, consider releasing it proactively later and giving an indication of when that might be.
6. Consider whether to refuse the request	<ul style="list-style-type: none"> • If withholding is necessary to protect the orderly and effective conduct of the relevant decision making process, and the need to withhold is not outweighed by the public interest in release, then it is open to the agency to refuse the request. • Explain how the agency has applied the public interest test in this case. Say what information will be provided and when in order to address the public interest in accountability and participation. Detail any opportunities for public participation, and how the agency will ensure this will take place on an informed basis. • Use our <u>template letter 6</u> to communicate your decision on the request.