

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 28 March 2019

**Public Authority:** Electoral Office for Northern Ireland

**Address:** Electoral Office Headquarters  
St Anne's House  
15 Church Street  
Belfast BT1 1ER

#### **Decision (including any steps ordered)**

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1. The complainant has requested information relating to a recall petition. The Electoral Office for Northern Ireland refused the request, citing the exemption for prohibitions on disclosure (section 44(1)(a)).
2. The Commissioner's decision is that the Electoral Office for Northern Ireland has correctly applied section 44(1)(a) to withhold the requested information.
3. The Commissioner does not require the public authority to take any steps.

## Request and response

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4. On 29 September 2018, the complainant wrote to the Electoral Office for Northern Ireland (EONI) and requested information in the following terms:

*"Please provide me with an electronic PDF copy of the proof for the signing papers (both sides) used in the recent recall petition."*

5. EONI responded on 17 October 2018. It stated that it was refusing to provide the information, stating that it *"...must be kept secret under Regulation 12."*
6. Following an internal review EONI wrote to the complainant on 13 November 2018. It stated that it was refusing the request under the exemption for prohibitions on disclosure – section 44(1)(a) of the FOIA.

## Scope of the case

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7. On 13 November 2018 the complainant contacted the Commissioner to complain about the way their request for information had been handled.
8. The Commissioner confirmed with the complainant that her investigation would consider whether EONI had correctly withheld the information under section 44(1)(a) of the FOIA.

## Reasons for decision

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9. Information is exempt from disclosure on the basis of section 44(1)(a) if its disclosure is prohibited by or under any enactment.
10. EONA has stated that disclosure of the information is prohibited by regulation 12(2) of the Recall of MPs Act 2015 (Recall Petition) Regulations 2016, which states:

*(in relation to the Official Mark)*

**"12.—(1)** *Every signing sheet must contain an appropriate security marking ("the official mark").*

*(2) The official mark must be kept secret, and an interval of not less than seven years must intervene between the use of the same official mark at a petition for the same constituency.*

*(3) The petition officer may use a different official mark for different purposes at the same petition.”<sup>1</sup>*

11. EONI has advised the Commissioner that the statutory prohibition requires it to ensure the secrecy of the ballot and ensure a free and fair electoral process. It has confirmed that the statutory prohibition requires it to keep the official mark secret.
12. Having considered EONI’s position and the focus of the request, the Commissioner is satisfied that the information in question constitutes the ‘official mark’ referenced in 12(2) of the Recall of MPs Act 2015 (Recall Petition) Regulations 2016. She is further satisfied that this statute clearly states that the information should be kept secret.
13. The Commissioner therefore finds that EONI was entitled to withhold the requested information on the basis of section 44(1)(a) of the FOIA.
14. For the avoidance of doubt, the Commissioner considered the complainant’s submissions before making her decision. However, she considers that the submissions do not challenge the authority of the statutory prohibition and its application in relation to requests made under the FOIA.

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<sup>1</sup> <https://www.legislation.gov.uk/ukxi/2016/295/regulation/12/made>

**Right of appeal**

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15. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504  
Fax: 0870 739 5836  
Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

16. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.

17. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**