

Reference: 02116871

Information Requests
information.requests@ofcom.org.uk

17 December 2025

Freedom of Information request: Right to know request

Thank you for your request for information concerning an Electromagnetic Compatibility Guidance document, in follow up to case # 02094406.

We received this request on 19 November 2025 and have considered your request under the Freedom of Information Act 2000 ("the FOI Act").

Your request & our response

There is apparently a specific guidance document issued to your team or teams dealing with EMC investigations resulting from complaints of interference to radio systems. Can you please confirm that this written guidance to your teams exists and forward me a copy of this specific guidance.

We can confirm that we do hold information within scope of your request. However, we are unable to disclose this correspondence as we consider that this information is exempt from disclosure under section 36 of the FOI Act. In particular, sections 36(2)(b)(ii) and (c) of the FOI Act provide that information held by a public authority is exempt from disclosure if, in the reasonable opinion of a qualified person, disclosure of the information -

- Would, or would be likely to, inhibit the free and frank exchange of views for the purposes of deliberation, and
- Would otherwise prejudice, or would be likely to otherwise to prejudice, the effective conduct of public affairs.

Section 36 is a qualified exemption, which means that Ofcom is required to consider whether or not the public interest in disclosing the information you have requested outweighs the public interest in withholding the information. In this case, we consider that the public interest favours withholding the information for the reasons set out in Annex B to this letter. In Annex A of this letter, the qualified person, the Corporation Secretary for Ofcom, has confirmed that the exemption applies.

Yours sincerely,

Information Requests

Request an internal review

If you are unhappy with the response you have received to your request for information, or think that your request was refused without a reason valid under the law, you may ask for an internal review. If you do, it will be subject to an independent review within Ofcom. We will either uphold the original decision, or reverse or modify it.

If you would like to ask us to carry out an internal review, you should get in touch within two months of the date of this letter. There is no statutory deadline for us to complete our internal review, and the time it takes will depend on the complexity of the request. But we will try to complete the review within 20 working days (or no more than 40 working days in exceptional cases) and keep you informed of our progress. Please email the Information Requests team (information.requests@ofcom.org.uk) to request an internal review.

Taking it further

If you are unhappy with the outcome of our internal review, then you have the right to [complain to the Information Commissioner's Office](#).

Annex A

Freedom of Information: Right to know request

Section 36 exemption

The information we hold that falls within the scope of your request is being withheld as it falls under the exemption in section 36 of the Freedom of Information Act 2000 (the Act). I am a "qualified person" as referred to section 36(2) of the Act and duly authorised by a Minister of the Crown for the purposes of that section.

In my reasonable opinion, disclosure of the information requested would, or would be likely to, inhibit the free and frank exchange of views for the purposes of deliberation. In applying this exemption, I have had to balance the public interest in withholding the information against the public interest in disclosing the information.

I have set out in Annex B the exemption in full, as well as the factors I considered when deciding where the public interest lay in relation to the information concerned.

If you have any queries about his letter, please contact information.requests@ofcom.org.uk.

Date: 17 December 2025

Corporation Secretary

Annex B

Section 36: Prejudice to effective conduct of public affairs

Section 36 exempts information whose disclosure would, or would be likely to, have any of the following effects:

- inhibit the free and frank provision of advice,
- inhibit the free and frank exchange of views for the purposes of deliberation, or
- otherwise prejudice the effective conduct of public affairs.

Key points:

- Section 36 can only be used if, in the reasonable view of a "qualified person", disclosure of the requested information would have one of the specified effects.
- In this case, it is considered that disclosure would:
 - inhibit the free and frank exchange of views for the purposes of deliberation, and
- The application of section 36 is subject to a public interest balancing test.

Factors for disclosure	Factors for withholding
<ul style="list-style-type: none"> • Ofcom recognises that its approach to its duties under the Electromagnetic Compatibility (EMC) Regulations 2016 is a matter of interest to the wider public. Releasing such information could be said to increase transparency in our work and allow for discussion in a public forum. 	<ul style="list-style-type: none"> • The documentation in relation to which the exemption is claimed encompasses internal guidance notes regarding Ofcom’s EMC investigation policies and strategies. The disclosure of these documents would or would be likely to impact Ofcom’s ability to give effective and open guidance and training information to employees going forward, and therefore impact Ofcom’s ability to be transparent in its investigations and enforcement actions. • To fulfil its regulatory functions effectively, Ofcom teams need to be able to engage in free and frank discussions internally, and exchange opinions and recommendations in order for policy positions and regulatory actions to be clearly explained to the public. • Ofcom has also published various information setting out our approach to spectrum investigations and enforcement, which can be found on our website. • Given the above, disclosing such internal guidance would also likely prejudice the effective conduct of public affairs.

Reasons why the public interest favours withholding information

- Ofcom is withholding the requested information. The public interest test has been applied based on disclosing information which would reveal internal guidance given to Ofcom employees regarding investigations and enforcement actions.
- We consider that the disclosure of this information is likely to prejudice the effective conduct of public affairs, as it would affect Ofcom’s ability to freely and effectively discuss and deliberate on such matters.
- Whilst there may be some weight attached to the public interest in disclosure to enable the public to understand how Ofcom is carrying out its regulatory functions, we consider that prejudice would be caused by such a disclosure.