

**Exemption in full****Commercial interests.**

43. (1) Information is exempt information if it constitutes a trade secret.
- (2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).
- (3) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice the interests mentioned in subsection (2).

**Section 43 Public Interest Test**

<b><i>Factors for disclosure</i></b>	<b><i>Factors for withholding</i></b>
<ul style="list-style-type: none"> <li>• Disclosure would give transparency to the information being held by us</li> <li>• There is a public interest in being able to see a break down of the theory test fee and that we are offering value for money.</li> </ul>	<ul style="list-style-type: none"> <li>• We are to re-tender the theory test contract in May 2012, with it being awarded in 2013. To release the information requested would reveal how much of the test fee we currently give Pearson to deliver each theory test. This would put us in a weaker position when negotiating with those companies that are applying to deliver the theory test contract on how much of the test fee they would receive to deliver the theory test and could result in the fee for theory testing to be raised to cover higher costs</li> <li>• If higher costs were incurred as a result of disclosing this information and we were not able to increase the fee charged to the candidate, the cost would have to be met by DSA and as we are a trading fund with no tax payer support, we would have to reduce costs and functions within the Agency leading to a decrease in customer service</li> <li>• Our relationship with Pearson could be damaged if we were to release information on how much of the theory test fee they receive to deliver the service</li> <li>• The release of this information could be used against our current theory test contractor should they wish to re-tender for the contract</li> </ul>
<b><i>Reasons why public interest favours withholding information</i></b>	
<p>On consideration of the arguments for and against disclosure, it is concluded that releasing the information would be against the public interest because it would commercially prejudice DSA and could lead to higher test fees being introduced.</p>	

