



## Application to prevent information being made public

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Version	Date	Change
V1	25/11/20	
V2	06/04/22	
V3	18/03/25	



## Application to prevent information being made public

An application under Regulation 4 to make certain information in relation to a person (the subject) unavailable for public inspection should be made by the nominated person. The application can be made:

1. Upon incorporation / registration of an entity
2. When doing an update associated parties submission
3. At any time before the information is made public.

In exceptional circumstances, a person who is not the nominated person may make an application. This must be done in writing and sent to [registrys supervision@jerseyfsc.org](mailto:registrys supervision@jerseyfsc.org).

### When an application will be granted

An application will only be granted if the circumstances meet the strict criteria set out below:

- if the subject considers there is a serious risk that they, or someone who lives with them or a relative, will be subjected to violence, intimidation or physical or mental harm as a result of the information being public;
- if the subject considers there is a serious risk of damage or threat to property as a result of the information being public;
- if the information relates to an individual who lacks capacity to manage their own affairs; or
- if there are exceptional circumstances.

An individual's residential address is not ordinarily made public (unless they choose to use this as their correspondence address) so there is no need to make an application to prevent the residential address being public.

In deciding if the application is justified, the Registrar will consider risks which relate specifically to the person or more generic risks due to a person's employment, profession, or status.

For example, a person who has been the victim of previous violence or threats of violence by another person and who has taken steps to conceal their whereabouts from that person, may be at serious risk of being found at their place of work by their name being linked to the relevant entity on the public register.

Another example might be where a person may consider that, because of the nature of the entity's activities, there is a serious risk of violence, intimidation or harm (or of damage to property) if they are linked to the entity. Examples of this might include where the entity:

- is of a type that has been targeted by activists\*;
- is active in the defence industry;
- is an easily traceable supplier of one of these organisations.

\*Examples of this might include where an entity is involved in: publications expressing anti-extremist religious or political views; animal experimentation of a type that attracts anti-vivisection attacks; activity of a type that attracts pro-life attacks.

Each case will depend on the individual circumstances. The “serious risk” arising from publication of the information on the register. If publication of the information would do nothing to increase pre-existing risks, then an application would not be granted. We will consider whether there is in fact a serious risk.

The fact that an individual is of very high net worth or occupies a prominent position and has general safety concerns will not, of itself, be sufficient grounds for granting an application. In general, you would need to explain why the individual being on the public register or the link between the individual and the entity would lead to serious risk of harm as set out above.

If the information is available from any other public source, we will not grant the application.

‘Exceptional’ circumstances means just that and we will consider applications on a case by case basis. The grounds for withholding disclosure under Regulation 4 are narrower than those permitted under the Freedom of Information (Jersey) Law 2011 and there is no “commercial interests” ground. The existence of an “exceptional circumstances” caveat allows for flexibility in unforeseen cases. However, the harm would have to be of a comparable level to that contemplated in the criteria in Regulation 4(1), and be of a type that is similarly objectionable, an example might be where there is a risk to national security if the information were in the public domain.

### **Information to be made unavailable to the public**

Regulation 4 applications relate only to material to be made available for public inspection under the new law (Financial Services (Disclosure and Provision of Information) (Jersey) Law 2020). It does not apply retrospectively so any information which has already been made available on the public register will not be removed or redacted, for example previous annual returns.

### **Making an application**

To complete the application you will need the following information:

- The grounds for the application and evidence to support this
- The name (and any former names) of the subject
- An address for correspondence in respect of the application
- The information the subject intends to be made unavailable
- The name and registered number of the entity to which the subject is connected.

The application [form](#) should be sent by email to [registrysupervision@jerseyfsc.org](mailto:registrysupervision@jerseyfsc.org) or uploaded in myRegistry.

It should explain and give details of the grounds. A simple statement such as “the subject considers there is a serious risk of intimidation” without further explanation will not be sufficient.

Examples of supporting evidence would include: a police report, court order, judgment, medical or delegate’s evidence in relation to lack of capacity, or evidence of working for an organisation whose activities put you at risk (such as an intelligence service).

Whilst an application is being considered, we will not make the information available to the public.



As soon as reasonably practicable, we will notify you of our decision. We will either grant the application or refuse it. The notice will confirm the information that will be made unavailable for public inspection.

If the application is refused, we will explain the reasons for our decision. We will also give notice of the subject's right of appeal against the decision.

Upon refusal of an application, we will not make the information available to the public until 28 days after the decision has been made. This is to allow for notification of any appeal.

If an appeal is made, we will not make the information available to the public until the outcome of the appeal is known.

## **Searching capabilities of the Obligated Entity Beneficial Owner register**

The personal data of individuals who have been granted approval pursuant to regulation 4 of the Financial Services (Disclosure and Provision of Information) (Jersey) Regulations 2020 will be available to an accessing party on the basis that the access to that information is not made available to the public, and must only be used by the obliged entity for specific purposes. There are criminal penalties of a fine and a period of imprisonment for any breach of the DPI Law.

## **Appeals**

You have the right to appeal to the Royal Court if there are grounds that the decision was unreasonable having regard to all the circumstances of the case. This is the only ground on which an appeal will be considered. When you receive notice of our decision, you have 28 days in which to appeal.

You may do this by serving us with a notice of appeal. This must be done through the Viscount. Within 2 days of serving the notice on us, you must provide a copy to the Greffier of the Royal Court with a copy of the Viscount's record of service. You must also apply to the Bailiff's Secretary for a day to be fixed for the hearing of the appeal. The [Royal Court Rules](#) contain details of these steps.

On hearing an appeal the Royal Court may:

- Confirm our decision;
- Reverse our decision; or
- Vary our decision

The Court may also make an order as to the costs of the appeal if it thinks it is appropriate.