

SAR Exemptions: References and Exams

A confidential reference and an unmarked exam script share the same underlying problem: disclosing them too early, or to the wrong party, undermines the process that produced them. These exemptions do not remove a person's right to their own assessment forever, they adjust the source you can be asked to disclose from, or the timing of when you must respond.

1. Two different problems, two different protections

Confidential references

A reference given in confidence for the purposes of education, training, employment, appointment to office, or the provision of a service is exempt from the access right, but only in the hands of the controller who gave it. Once a prospective employer or institution receives the reference, it becomes their personal data and this exemption no longer applies to their copy. If a candidate asks the referee for the reference it wrote about them, that copy is exempt; if the candidate asks the organisation that received it, the receiving organisation cannot rely on this exemption to withhold it.

Exam scripts

Personal data consisting of a candidate's answers recorded during an academic, professional or other examination is exempt outright from the right of access. There is no proportionality test to apply: a candidate has no subject access right to their answer script, though many awarding bodies offer a separate review or remarking route outside the DPA 2018.

Exam marks

Marks or other information processed to determine an exam result, or arising from one, are not exempt outright, but the usual one month response deadline is extended. The exam authority must comply before the end of whichever period ends first: five months beginning with the day the request is received, or 40 days beginning with the day the results are announced.

TWO LIMBS, TWO DIFFERENT RULES

Exam scripts are always exempt outright. Exam marks are only ever delayed, never withheld. Treating the two the same, or assuming a mark request can simply wait the full five months, is the most common error in this group.

2. The pitfall to avoid

The extended deadline for exam marks is a maximum, not a default, and the two limbs of the test do not run independently of each other.

THE PITFALL

Applying the full five month period as standard practice for every exam marks request, regardless of when results are actually announced.

THE REMEDY

Track both deadlines from the date the request is received. Calculate the 40 day point from the actual results announcement date and diary it, since it will often fall well before the five month limit.

Conclusion: prioritise accuracy, timing and process integrity

A reference and an exam mark are both judgements formed about a person during a process, and these exemptions exist to let that process finish properly rather than to keep the outcome permanently hidden. Know which of the three protections you are relying on, apply the correct deadline logic to exam marks, and remember that a reference stops being exempt the moment it lands with the organisation that received it.

New: DSAR redaction, included in your subscription

Separating a confidential reference you hold from the rest of a candidate's file, or flagging which limb of an exam records request applies, is exactly the kind of precise handling the ProvePrivacy platform's DSAR Redaction tool is built for. Ask your account manager for a walkthrough.

