

**[Redacted]**

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**From:** [Redacted]  
**Sent:** 20 August 2018 08:19  
**To:** [Redacted]  
**Subject:** FW: Fol/17/02950

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**From:** [Redacted]  
**Sent:** 05 January 2018 15:20  
**To:** [Redacted]  
**Subject:** Fol/17/02950

[Redacted]

As discussed, here is a link to the guidance on the upper cost limit:

<http://sgsharepoint/sites/freedomofinformation/FOIEIR%20Wiki/Applying%20the%20upper%20cost%20limit.aspx>

It covers time spent redacting (amongst other elements that contribute to the cost).

I also attach a link to the template for replying where the upper cost limit would be reached:

<http://sgsharepoint/sites/freedomofinformation/Guidance/FOISA%20Request%20Templates/FOISA%20Response%20when%20complying%20with%20request%20will%20exceed%20upper%20cost%20limit.doc>

Regards

[Redacted]

**[Redacted]**

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**From:** [Redacted] on behalf of Freedom of Information  
**Sent:** 12 January 2018 13:42  
**To:** [Redacted]  
**Subject:** FW: FOI Draft for [Redacted]  
**Attachments:** FW: FOI - TS - internal ferries - [Redacted] OIC SIC Internal Ferries

Hi [Redacted]

Hope today is going okay.

I have a wee question about this one. When applying the upper cost limit is it in relation to answering the whole of the request or to each individual part. So essentially if the three separate parts did not breach the upper limit on their own but would collectively can the exemption still be applied? I am assuming that when responding they should also direct the requester to the Parliament FOI unit for the last two points.

Cheers  
[Redacted]

*[Redacted]  
Freedom of Information Unit  
Scottish Government | 2W St Andrews House | Regent Road | Edinburgh | EH1 3DG | Tel [Redacted]*

*See our FOI SharePoint site at: <http://sgsharepoint/sites/freedomofinformation>  
Please note I work from home on a Friday*

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**From:** [Redacted]  
**Sent:** 12 January 2018 10:51  
**To:** Freedom of Information  
**Cc:** [Redacted]  
**Subject:** FW: FOI Draft for [Redacted]

Good morning

I am looking for some clarification and a for some guidance on how to proceed with an answer to an FOI case.

As you can see from the trail below after checking the sharepoint site and looking at guidance and seeking internal advice we've received conflicting advice with respect to how to reply when responding with a reject due to reaching the upper cost limit.

I have attached the original request to this email to allow you to see what has been asked for.

We've had separate advice which contradicts one another. When applying the cost limit for this case, would it be treated 'as a whole', that is as one single request? Or would we need to break down the individual asks with the request and apply the cost limit guidance to each individual part?

We are due to respond to this request by 17 January, so with apologies for an urgent request, your early assistance would be most appreciated.

Thanks

[Redacted]



[Redacted]

**Ferries Unit – Aviation, Maritime, Freight & Canals**

Transport Scotland | Area 2F-North | Victoria Quay | Edinburgh EH6 6QQ & Buchanan House | Glasgow | G4 0HF

 [Redacted]

 [Redacted]

 [Redacted]  [www.transport.gov.scot](http://www.transport.gov.scot)

**From:** [Redacted]

**Sent:** 12 January 2018 10:25

**To:** [Redacted]

**Subject:** RE: FOI Draft for [Redacted]

[Redacted]

I spoke to [Redacted] this morning.

She was clear that the £600 limit would apply across the whole request. That is, all of the individual asks within the request taken together.

We could draft the reply and include some ways to narrow the scope of the request – separate questions, narrow the timeframe, specify in detail the correspondence.

Are you content for us to draft the ‘upper limit reject request’ reply in this fashion? [Redacted] also intimated that we need no spend time at this point on working out any formulas etc as this would all be futile work – there won’t be an appeal or reconsideration, they will simply resend the requests in a separate requests or worded differently.

Thanks

[Redacted]

[Redacted - out of scope]

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**From:** [Redacted]  
**Sent:** Friday January 12 2018 09:53  
**To:** [Redacted]  
**Subject:** RE: FOI Draft for John

See shaded text below for advice from FOI unit itself to me on a previous ferries review I did – covers the cost limit aspect (and relevant advice on advice and assistance.

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**From:** [Redacted]  
**Sent:** 07 August 2014 12:40  
**To:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** RE: FOI/14/00451, 00452 & 00453 - reviews - draft decision letters

[Redacted]

Thanks for letting us see your draft review responses. My comments on each of them are set out below.

[FOI/14/00451](#)

Overall, I think your conclusions are right but I’d present them a little differently, ie:

- Maintain the application of the cost limit only for items 1.2 and 2.2. To meet our duty to advise and assist, you’ll need to provide some advice on how to reduce the scope of these requests to bring them within the cost limit, eg narrow the timeframe or be more specific about the information they’re looking for – see template at Step 14 of the [Step-by-Step Guide to Handling FOI/EIRs Requests](#). This is something which the original response should have done and it would be worth apologising for this oversight;
- In relation to 1.1 and 2.1, I’d say that while it was correct to apply the cost limit at the time of the original response, the information has now been published and so you’re applying the section 25 exemption (info already accessible) – see relevant para of [FOISA – main response template](#);
- In relation to 3, your explanation is fine but again I’d apply section 25.

FOI/14/00452

- See first bullet of FOI/14/00451 re providing advice and assistance.

FOI/14/00453

- See first bullet of FOI/14/00451 re providing advice and assistance;
- When applying the cost limit we must consider each individual question in a request separately, unless they're so interconnected that they should be treated as one. In this case, while the questions are on the same broad subject, ie the Northern Isles ferry services operated by Serco, each one is about a separate specific point and so they're not really 'interconnected'. However, as you point out, most of them are so broad in scope that on their own they exceed the cost limit. As you've noted, questions 2.3 and 4 are narrower in scope and could be answered within the cost limit. This means you'll need to either provide the information sought by these two questions or apply relevant exemption(s).

I hope this helps and am happy to discuss.

Regards

[Redacted]

FOI Unit  
Ext [Redacted]

**[Redacted]**  
[Redacted]  
Ferries Unit  
Aviation, Maritime, Freight and Canals  
T: [Redacted]  
BlackBerry: [Redacted]  
[Redacted]

Transport Scotland, Area 2FN, Victoria Quay, Edinburgh, EH6 6QQ



Transport Scotland, the national transport agency  
*Còmhdaill Alba, buidheann nàiseanta na còmhdaill*

\*Our logo may not display properly on some computer systems

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**From:** [Redacted]  
**Sent:** 11 January 2018 17:37  
**To:** [Redacted]  
**Subject:** Re: FOI Draft for [Redacted]

[Redacted]

I picked this up differently. I thought that [Redacted] confirmed that we should take the request as a whole (dealing with all questions together) and apply the £600 test to processing all information. The response letter would however suggest narrowing the scope of the questions and/or splitting them up. [Redacted]- grateful if you could consider by checking guidance and confirm with [Redacted] please.

**[Redacted]**

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**From:** [Redacted]  
**Sent:** 20 August 2018 10:23  
**To:** [Redacted]  
**Subject:** FW: FOI/17/02877 and FOI/17/02780

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**From:** [Redacted]  
**Sent:** 23 January 2018 13:46  
**To:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** RE: FOI/17/02877 and FOI/17/02780

Thanks [Redacted]

Totally agree with the cost limit – if the correspondence was capable of being considered as part of the review process, they should simply move onto considering whether that information can be released or not?

Even if the cost limit could be justified, they would have to have assisted her in narrowing the request and advising what she could have had within the limit? But as you say I don't think the cost limit can be relied upon here and fully expect Commissioner would come to that conclusion on appeal.

[Redacted]

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[Redacted - out of scope]

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**From:** [Redacted]  
**Sent:** 23 January 2018 13:10  
**To:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** RE: FOI/17/02877 and FOI/17/02780

[Redacted]

[Redacted]– I have copied you into these [Redacted] reviews given you have been involved in some of the discussion in relation to the volume of communications.

[Redacted] – just for awareness in case [Redacted] calls you back re progress.

Given these are due today, I am going to come back on the cases separately. I will start with FOI/17/02877.

I think you are correct in your thinking that the review would need to either uphold the section 12 response in part 3 or provide the information along with the review. They could uphold the exemption and by way of trying to be helpful note that some of the information which would fall within the scope of this part is being prepared for publication but this would be additional information rather than in response to this part of the request.

[Redacted - out of scope]

At initial request stage there was a cost limit calculation completed, which I have detailed below:

Files Searched

- Support for disabled students: Advice and policy: Student finance: 2005- **(327 documents)**
- Support for disabled students: Advice and policy: Student Finance: 2011-2016 **(138 documents)**
- Review of Disabled Students Allowance (DSA): Correspondence and Working Papers: 2007 **(210 documents)**
- Review of Disabled Students Allowance (DSA):Correspondence and Working Papers: 2013-2018 **(57 documents)**
- Review of Disabled Students Allowance (DSA): Consultation Responses: 2013-2018 **(90 documents)**
- SAAS: operational policy – Disabled Students Allowance (DSA): 2014-2019 **(92 documents)**
- Disabled Students Stakeholder Group – Toolkit of Quality Indicators Administration Folder: 2009-2014 **(115 documents)**

**Total: 1029 documents**

**Estimated Cost of locating and retrieving information**

**8 days B3 time (1 day searching objective to identify folders; 5 days retrieving over 1,000 documents from these folders; 2 days collating all the information and redacting names etc..)**

**B3 44.4 hours @ £15.00 / hour = £666**  
**A3 14.8 hours @ £11.46 / hour = £169.60**  
**£835.60**

Where documents are held electronically the cost and time associated with locating and retrieving the documents is in effect the same as additional retrieval costs/time would only be appropriate where we are required to retrieve files from a store etc. In addition the Commissioner would not accept that it would take a B3 a full day to identify 7 electronic files/folders from a key word search. The Commissioner would be more likely to expect this to take 1-2 mins per key word search – he would be likely to consider 1 hour to be generous.

We would be able to include the time it would take to open each document to identify whether it was within the scope of the request, however this would not include the time take to consider the information in detail or whether exemptions would be likely to apply etc. As the documents would vary in size we would use an average calculation generally of about 15-20 seconds per document (some may be extensive, but others would be 1 or 2 pages. As part of the estimate we would have to give an indication of how many of the 1029 documents would fall within the scope and therefore need to be considered further. This would equate to 1029 documents @ approx. 20 seconds per document which would be just under 6 hours.

We would also be able to include the time and cost of physically completing the redactions and (but not the thinking time in determining whether the exemption applies providing the information. Again it would be beneficial to have an estimate of the number of documents likely to require redaction and estimate an average time to complete the redactions. This calculation above indicates that this would be likely to take an A4 two days (14.8 hours).

Although I appreciate that there is a substantial volume of documents, I think we would need to consider the cost calculation in much more, given the points above, the points raised by the requester and the elements which we can legitimately charge for when completing an FOI response. If every document is likely to contain sensitive information and require redaction then we may be able to argue that this task would be significantly burdensome but given the age of some of the information this is unlikely to be the case.

Let me know if you are content to go back to [Redacted] (or if you would prefer I did) or if you want to discuss the case further.

I will look at the other case after lunch.

Thanks  
[Redacted]

[Redacted] Freedom of Information Unit | Scottish Government | 2W | St Andrews House | Regent Road | Edinburgh | EH1 3DG | [Redacted] | Ext [Redacted]

You can find the most recent information on FOI on the [FOI SharePoint site](#). It contains detailed guidance on all aspects of FOI, as well as step-by-step guides to answering a request and doing an internal review, response templates and sample reasons.

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**From:** [Redacted] **On Behalf Of** Freedom of Information  
**Sent:** 23 January 2018 08:50  
**To:** [Redacted]  
**Subject:** FW: FOI/17/02877 and FOI/17/02780  
**Importance:** High

[Redacted]

Please see the attached draft review response. There are a couple of things I am not sure about with either of them.

FOI/17/02877 – they are confirming with modification. I have made a couple of tracked changes but I am mostly concerned that they are confirming that the cost exemption was correctly applied however they are identifying core policy documents, preparing them for release and will make them available as soon as possible. If they are doing this, should they not provide the documents with the review response?? Or if they are planning on publishing them (they haven't said if this is the case should they be applying section 27(1

[Redacted - out of scope]

Happy to have a chat about these

[Redacted]

*[Redacted]*

*Freedom of Information Unit*

*Scottish Government | 2W St Andrews House | Regent Road | Edinburgh | EH1 3DG | Tel [Redacted]*

*See our FOI SharePoint site at: <http://sgsharepoint/sites/freedomofinformation>*

*Please note I work from home on a Friday*

[Redacted - out of scope]

**[Redacted]**

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**From:** [Redacted]  
**Sent:** 20 August 2018 08:30  
**To:** [Redacted]  
**Subject:** FW: Freedom of Information request from [Redacted]: contempt of court for failure to obey contact orders.

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**From:** [Redacted]  
**Sent:** 26 January 2018 14:00  
**To:** [Redacted]  
**Cc:** [Redacted] Rennick NS (Neil) <Neil.Rennick@gov.scot>; [Redacted]; Freedom of Information <foi@gov.scot>  
**Subject:** RE: Freedom of Information request from [Redacted]: contempt of court for failure to obey contact orders.

[Redacted]

I agree that the request is wide-ranging (also in terms of timescale, given it covers 19 years) and not absolutely clear. It also appears to me that in its present form, it might well exceed the £600 cost limit and so might end up being rejected under Section 12 (excessive cost of compliance).

Your approach should be helpful in enabling her to narrow the request so that it is less likely to be refused on cost grounds. Assuming you agree (you will have a better understanding if my assumption seems correct), it might also be useful, in asking for clarification, to note that we believe the cost of complying with the request, as currently framed, may exceed the £600 limit and as we would not be required to comply with such a request, narrowing it would reduce the likelihood of this.

[Redacted - out of scope]

Hope this is helpful, but happy to discuss.

[Redacted]

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[Redacted - out of scope]