From: [redact - section 38(1)(b) – personal information] **On Behalf Of** FoI SpAds PO
Sent: 09 November 2018 15:31
To: [redact - section 38(1)(b) – personal information] FoI SpAds PO <FoI.SpAdsPO@gov.scot>
Cc: Rollison R (Richard) <Richard.Rollison@gov.scot>
Subject: RE: FOI - E - REVIEW - FoI/18/02869 - [redact - section 38(1)(a) – personal information]

Hi [redact - section 38(1)(b) – personal information]

SpAds are content with the proposed response. This requires ministerial clearance before issue.

Thanks
[redact - section 38(1)(b) – personal information]

From: [redact - section 38(1)(b) – personal information]
Sent: 08 November 2018 12:14
To: FoI SpAds PO <FoI.SpAdsPO@gov.scot>
Cc: Rollison R (Richard) <Richard.Rollison@gov.scot>
Subject: FW: FOI - E - REVIEW - FoI/18/02869 - [redact - section 38(1)(a) – personal information]

Please see attached draft response for this review,

[redact - section 38(1)(b) – personal information]
Head of Entrepreneurship & Enterprise Support Policy

www.cando.scot | @candoscotland | #scotlandcando
Scottish Government | 5 Atlantic Quay | Glasgow G2 8LU
Tel: [redact - section 38(1)(b) – personal information] | Mob: [redact - section 38(1)(b) – personal information] | [redact - section 38(1)(b) – personal information]

From: [redact - section 38(1)(b) – personal information]
Sent: 25 October 2018 15:30
To: [redact - section 38(1)(b) – personal information]
Cc: [redact - section 38(1)(b) – personal information]; Economic Development Business Management Unit [redact - section 38(1)(b) – personal information]>
Subject: FW: FOI - E - REVIEW - FoI/18/02869 - [redact - section 38(1) (a) – personal information]

[redact - section 38(1)(b) – personal information]

Thanks for agreed to take on this review!! Below is a link to guidance and timeline which should help. To note, no acknowledge has been sent yet.

Link to review guidance - http://sgsharepoint/sites/freedomofinformation/FOIEIR%20Wiki/ReviewsIndex.aspx

Reference	Owner	Requester	Summary	Decision*	Date Received / Referred	Draft created Day 1-5
FoI/18/02869	[redact - section 38(1)(b) – personal information]	[redact - section 38(1) (a) – personal information]	All correspondence between Cab Sec Finance and the Finance Committee from 1 January 2016 to 14 September 2018 that relates to (A) loans or loan facilites (B) equity investments proposed or made by SG to third party organisations		23/10/2018	30/10/2018

Many thanks in advance.

[redact - section 38(1)(b) – personal information]
Business Support Officer to Deputy Director, Richard Rollison
Innovation, Industries and Investment Division
Scottish Government
T: [redact - section 38(1)(b) – personal information]
E[redact - section 38(1)(b) – personal information]

5 Atlantic Quay | 150 Broomielaw | Glasgow | G2 8LU

-----Original Message-----
From: [redact - section 38(1)(b) – personal information]
Sent: 24 October 2018 22:56
To: [redact - section 38(1)(b) – personal information]>
Cc: [redact - section 38(1)(b) – personal information]
Subject: RE: FOI - E - REVIEW - Correspondence with Finance & Constitution Committee: Loans and Equity Investments - [redact - section 38(1) (a) – personal information]

Yes - we should accept the review.

-----Original Message-----
From: [redact - section 38(1)(b) – personal information]
Sent: 24 October 2018 19:12
To: [redact - section 38(1)(b) – personal information]
Subject: FW: FOI - E - REVIEW - Correspondence with Finance & Constitution Committee: Loans and Equity Investments - [redact - section 38(1) (a) – personal information]

Importance: High

Hi [redact - section 38(1)(b) – personal information]

Can you confirm we can accept this review? If so I will allocate it.

Many thanks in advance.

[redact - section 38(1)(b) – personal information]
Business Support Officer to Deputy Director, Richard Rollison Innovation, Industries and Investment Division Scottish Government
T: [redact - section 38(1)(b) – personal information]
E: [redact - section 38(1)(b) – personal information]

5 Atlantic Quay | 150 Broomielaw | Glasgow | G2 8LU

-----Original Message-----
From: [redact - section 38(1)(b) – personal information]
Sent: 23 October 2018 16:25
To: [redact - section 38(1)(b) – personal information]
Cc: Economic Development Business Management Unit [redact - section 38(1)(b) – personal information]
Subject: FW: FOI - E - REVIEW - Correspondence with Finance & Constitution Committee: Loans and Equity Investments - [redact - section 38(1) (a) – personal information]

[redact - section 38(1)(b) – personal information] - might you check with [redact - section 38(1)(b) – personal information]
about the content of this FOI and find a reviewer, please?

Many thanks

[redact - section 38(1)(b) – personal information]

[redact - section 38(1)(b) – personal information]| Head of Director's Office | Economic Development Directorate | Scottish Government | 3rd Floor | 5 Atlantic Quay | Glasgow G2 8LU | tel: [redact - section 38(1)(b) – personal information] | ext: [redact - section 38(1)(b) – personal information] | mobile: [redact - section 38(1)(b) – personal information]

-----Original Message-----
From: Central Enquiry Unit
Sent: 23 October 2018 16:23
To: McAllan M (Mary) <Mary.McAllan@gov.scot>
Subject: FOI - E - REVIEW - Correspondence with Finance & Constitution Committee: Loans and Equity Investments - [redact - section 38(1) (a) – personal information]

Good afternoon Mary

The email enquiry below was received at the Central Enquiry Unit today.

I would be grateful if you would deal with this or forward it to the appropriate person / area of business.

You may wish to acknowledge receipt of this email to the enquirer.

Thank you
[redact - section 38(1)(b) – personal information]

Reminder: If this email contains a request for information please remember that the Scottish Government is required to respond to all requests for information including e-mails, within 20 working days of receipt in accordance with the Freedom of Information (Scotland) Act. Please refer to the FOI Guidance. All FOI requests received must be registered on the FOI Tracker.

All FOI responses where information is released must be emailed to the FOI Unit immediately after issue, with 'FOI/EIRs TO PUBLISH' in the subject line

If the request is sensitive, it will require Ministerial clearance. Guidance on this is available at Steps 33 and 34 of the Step-by-Step Guide to Handling FOI/EIRs Requests.

If the request is from a journalist, responses should be issued by the relevant communications team Please consider the environment before printing this e-mail

[redact - section 38(1)(b) – personal information]
| iTECS: Central Enquiry Unit | Digital Directorate | Scottish Government | Ext: [redact - section 38(1)(b) – personal information]
| [redact - section 38(1)(b) – personal information]
| Email: [redact - section 38(1)(b) – personal information]

-----Original Message-----
From: [redact - section 38(1) (a) – personal information]
Sent: 23 October 2018 16:20
To: Central Enquiry Unit <CEU@gov.scot>
Subject: Internal review of Freedom of Information request - Correspondence with Finance & Constitution Committee: Loans and Equity Investments

Dear Scottish Ministers,

For the attention of Mary McAllan, Director of Economic Development

Freedom of Information request: 18/02869

Request for internal review

The response to my FOI request ref 18/02869 is unsatisfactory. Scottish Ministers failed to properly consider the public interest arguments for disclosure. I request full disclosure in the public interest of transparency and accountability. The public interest arguments for disclosure are overwhelming. I highlight the following matters:

1. Public interest argument for full disclosure: Maintaining and increasing public confidence in public institutions - such as the government and parliament.

Subjecting public money to scrutiny builds public confidence in public institutions such as governments and parliaments. Scrutiny - by parliament and by the general public - reduces both the possibility and public perception of corruption or other wrong-doing in government decision-making. It encourages both the efficient and effective use of public resources and supports collective learning by experience. It helps protect both public ministers and private contractors through processes which are seen to be above board. Conversely, secrecy with public funds damages and in the long-term undermines public confidence in public institutions. The case for these loans have not been debated in the Scottish Parliament even in private session (See Scottish Government's response to FOI reference: FOI/18/01836).

In support of the public interest, I wish to draw your attention to criticism of and calls for greater transparency of these loan arrangements made by Audit Scotland, "Reporting of government accounts should be 'more transparent'" dated 27 September 2018. Please note the explicit reference to Ferguson Marine Engineering Limited:

http://www.audit-scotland.gov.uk/news/reporting-of-government-accounts-should-be-more-transparent

2. Public disclosure standards are a necessary part of contracting with the public sector

The Scottish Government should not lower its disclosure standards to those of commercial enterprises as this may be seen as a method of hiding information from public and political scrutiny. Instead, the Scottish Government should set expectations when contracting with third parties that public disclosure standards are to be upheld. If commercial organisations seeking commercial loans are unwilling to accept such standards then they should seek alternative arrangements with private sector organisations.

3. Information is already in the public domain / false use of section 33 (1) (b) (commercial interests)

As information about the loans is already in the public domain, disclosure of information that I have requested can not prejudice the commercial interests of the parties concerned. It is now in the public domain that the Scottish Government granted a loan of £15 million to Ferguson Marine Engineering Limited in September 2017 (see Scottish Government's response to Freedom of Information request FOI/18/01889) and subsequently a loan of £30 million in June 2018. The interest rate of 15% on the first loan has been publicly released by Jim McColl, director and ultimate controlling party of Ferguson Marine Engineering Limited in an article in The Times, "Tycoon Jim McColl says he will sue CMAL over 'albatross' ferry deal as storm rages over £45m loan" published 23 September 2018.

Please review all the information publicly available on the Scottish Government's website, released in other FOI requests, regarding loans to Ferguson Marine Engineering Limited.

4. The correspondence itself is not confidential

Whilst it may be argued that the correspondence contains certain information that may be redacted under FOISA, the letters themselves are not confidential. Information contained within the letters is not confidential – such as date of the letter, addressees, subject, amount of loans, nature of loans etc.. As a result, I insist that you publish the letters.

Please acknowledge my request for internal review

Yours faithfully,

[redact - section 38(1) (a) – personal information]

Please use this email address for all replies to this request:
[redact - section 38(1) (a) – personal information]

Disclaimer: This message and any reply that you make will be published on the internet. Our privacy and copyright policies:
https://www.whatdotheyknow.com/help/officers

For more detailed guidance on safely disclosing information, read the latest advice from the ICO:
https://www.whatdotheyknow.com/help/ico-guidance-for-authorities

Please note that in some cases publication of requests and responses will be delayed.

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

_____
This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit http://www.symanteccloud.com

Email Attachment

Reminder: always send your review response to the FOI Unit for clearance (see step 22 of the step-by-step guide to reviews)

Response to request for review of original response (to be sent by reviewer)

Further to my letter of 1 November 2018, I have now completed my review of our response to your request under the Freedom of Information (Scotland) Act 2002 (FOISA) for;

'All correspondence between Cab Sec Finance and the Finance Committee from 1 January 2016 to 14 September 2018 that relates to (A) loans or loan facilites (B) equity investments proposed or made by SG to third party organisations'.

I have concluded that the original decision should be confirmed, without modifications.

The four points that you have raised do not alter the previous finding on the balance of public interest. Points 1 & 2 are non-specific, point 3 does not alter the specific information held by the Scottish Government and point 4 relates to information already in the public domain or rightly exempted in the original request.

As such an exemption under section 33 (1(b)) of FOISA applies to the information that you have requested because it relates to commercial information that may prejudice the company.

If you are unhappy with the outcome of this review you have the right to appeal to the Scottish Information Commissioner about our decision within 6 months of receiving this letter. Information on how to make an appeal, along with an application form, is available on the Commissioner's website at: http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx. You can also contact the Commissioner at:

The Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS

E-mail: enquiries@itspublicknowledge.info
Telephone: 01334 464610

Should you then wish to appeal against the Commissioner's decision, there is a right of appeal to the Court of Session on a point of law only.