

**From:** Richards N (Nicola) <Nicola.Richards@gov.scot>  
**Sent:** 17 January 2019 16:25  
**To:** McGregor R (Rachel) <Rachel.McGregor@gov.scot>; Bruce MG (Maureen) <Maureen.Bruce@gov.scot>; [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Fol/18/02676 - Review Response

Hi Rachel

I think you may be on the move.

Sorry I realise that an email I'd drafted this morning was still sitting there.

I think we should issue today, use 'less than 5' and Maureen's configuration around "have reached this decision because having reviewed the evidence we judge that there is real risk of individuals being identified or distressed".

People know that [REDACTED] cases are in the public domain so this makes it very exposed and even just the wider speculation that arises is harmful to staff.

[REDACTED]

Cheers  
N

**From:** McGregor R (Rachel) <Rachel.McGregor@gov.scot>  
**Sent:** 16 January 2019 11:00  
**To:** Richards N (Nicola) <Nicola.Richards@gov.scot>; Bruce MG (Maureen) <Maureen.Bruce@gov.scot>; [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Fol/18/02676 - Review Response

Hi Nicky

[REDACTED]

I think I would prefer Maureen's option but [REDACTED] has said that

To take the example given by [REDACTED], if we wish to argue that this information, taken together with information released in relation to other FOIs, gives rise to a realistic prospect of identification [REDACTED]

[REDACTED]

My advice would be that we are not quite there yet in terms of applying the exemption, given the need for a realistic (rather than hypothetical) prospect of identification. If however we can establish the realistic causal link then I'm very happy to consider how to rework the letter to explain the application of the exemption.

██████████ – happy to discuss if that is easier.

Thanks  
Rachel

Rachel McGregor |HR Business Partner| DG Education, Communities and Justice|Scottish Government|1W.09A|St Andrew's House|Ext 44407| Blackberry: 07780492410

**From:** Richards N (Nicola) <Nicola.Richards@gov.scot>  
**Sent:** 15 January 2019 19:05  
**To:** Bruce MG (Maureen) <Maureen.Bruce@gov.scot>; ██████████; McGregor R (Rachel) <Rachel.McGregor@gov.scot>  
**Cc:** ██████████  
**Subject:** RE: Fol/18/02676 - Review Response

Hi there – given this is overdue already I think we should just issue.

Nicky

**From:** Bruce MG (Maureen) <Maureen.Bruce@gov.scot>  
**Sent:** 15 January 2019 12:24  
**To:** Richards N (Nicola) <Nicola.Richards@gov.scot>; ██████████ McGregor R (Rachel) <Rachel.McGregor@gov.scot>  
**Cc:** ██████████  
**Subject:** RE: Fol/18/02676 - Review Response

Thinking through to the response does that mean that instead of saying that we are not providing the information because there are less than 5, we should take the response up a level and say we have reached this decision because we have reviewed the evidence and made a judgement that there is real risk of individuals being identified?

I think ██████████ is trying to help us to set the response tightly against the provisions of the Act.

Maureen

**From:** Richards N (Nicola) <Nicola.Richards@gov.scot>  
**Sent:** 14 January 2019 18:51  
**To:** ██████████ McGregor R (Rachel) <Rachel.McGregor@gov.scot>  
**Cc:** ██████████; Bruce MG (Maureen) <Maureen.Bruce@gov.scot>  
**Subject:** RE: Fol/18/02676 - Review Response

Thanks ██████████

I would agree with your amendments and think that this should be our response. I conclude that given the intensity of media interest there is a risk of disclosure – and a narrowing down which could put yet more distress on individuals.

Cheers  
Nicky

**From:** ██████████  
**Sent:** 14 January 2019 18:47

**To:** McGregor R (Rachel) <Rachel.McGregor@gov.scot>; Richards N (Nicola) <Nicola.Richards@gov.scot>  
**Cc:** [REDACTED] Bruce MG (Maureen) <Maureen.Bruce@gov.scot>  
**Subject:** RE: FoI/18/02676 - Review Response

Hi Rachel

I was working on a slight tweak to your response when this came in – see attached. This is just to make the distinction that these are formal cases and we don't record informal approaches to HR.

[REDACTED]

[REDACTED]

**From:** McGregor R (Rachel)  
**Sent:** 14 January 2019 18:32  
**To:** Richards N (Nicola)  
**Cc:** [REDACTED]; Bruce MG (Maureen)  
**Subject:** FW: FoI/18/02676 - Review Response

Hi Nicky

To see the response from the FOI unit to your less than 5 suggestion.

Thanks  
Rachel

Rachel McGregor |HR Business Partner| DG Education, Communities and Justice|Scottish Government|1W.09A|St Andrew's House|Ext 44407| Blackberry: 07780492410

**From:** [REDACTED]  
**Sent:** 14 January 2019 15:12  
**To:** McGregor R (Rachel) <Rachel.McGregor@gov.scot>  
**Subject:** RE: FoI/18/02676 - Review Response

Rachel,

As discussed, we can't take a blanket approach. We either answer the question asked, or we have to apply an exemption (in this case, we're looking at section 38(1)(b) (personal information). In order for us to apply that exemption, we will have to say why releasing the number in this case would give rise to the realistic prospect of an individual being identified as a result of releasing that information. As previously advised, while we can take into account information in the hands of third parties, there must be a realistic causal chain between the disclosure and identification.

[REDACTED]

Happy to discuss.

[REDACTED]

[REDACTED] | Head of Policy | Freedom of Information Unit

[REDACTED]

**From:** McGregor R (Rachel) <Rachel.McGregor@gov.scot>  
**Sent:** 14 January 2019 14:53  
**To:** [REDACTED]  
**Subject:** FW: Fol/18/02676 - Review Response

Hi [REDACTED]

See Nicky's email. Do you have any issues with this?

Thanks  
Rachel

Rachel McGregor |HR Business Partner| DG Education, Communities and Justice|Scottish Government|1W.09A|St Andrew's House|Ext 44407| Blackberry: 07780492410

**From:** Richards N (Nicola) <Nicola.Richards@gov.scot>  
**Sent:** 14 January 2019 10:03  
**To:** Bruce MG (Maureen) <Maureen.Bruce@gov.scot>; McGregor R (Rachel) <Rachel.McGregor@gov.scot>  
**Cc:** [REDACTED]  
**Subject:** RE: Fol/18/02676 - Review Response

Hi there

Just to add on this – unless there's a strong reason not to I think we should amend to 'less than 5' which is our usual configuration when there are small numbers of cases. If we don't do that for [REDACTED] then we'll be in a position where we need to specify [REDACTED] which could lead to people being identified.

Can we keep Comms involved around the release – [REDACTED] would be able to advise on who needs to be aware.

I think that's fine in terms of clearance.

Cheers  
Nicky

**From:** Richards N (Nicola)  
**Sent:** 11 January 2019 15:44  
**To:** Bruce MG (Maureen) <Maureen.Bruce@gov.scot>; McGregor R (Rachel) <Rachel.McGregor@gov.scot>  
**Cc:** [REDACTED]  
**Subject:** RE: Fol/18/02676 - Review Response

Thanks for that

[REDACTED]

I'll come back to you about further clearance.

Cheers  
Nicky

**From:** Bruce MG (Maureen) <Maureen.Bruce@gov.scot>  
**Sent:** 11 January 2019 08:36  
**To:** McGregor R (Rachel) <Rachel.McGregor@gov.scot>; Richards N (Nicola) <Nicola.Richards@gov.scot>  
**Cc:** [REDACTED]  
**Subject:** RE: Fol/18/02676 - Review Response

Hi Rachel

Thanks for persevering with this. I have looked at it and made one small edit to tidy up the text and also highlighted a bit of text that doesn't seem quite right ( "at Scottish Government...")

Other than that I am happy with this.  
Maureen

**From:** McGregor R (Rachel) <Rachel.McGregor@gov.scot>  
**Sent:** 10 January 2019 20:30  
**To:** Richards N (Nicola) <Nicola.Richards@gov.scot>  
**Cc:** [REDACTED]  
**Subject:** Fol/18/02676 - Review Response

Hi Nicky

Attached is the completed review response for FOI Fol/18/02676. It has been cleared by the FOI unit. Are you content to clear it? Does it need to be cleared by anyone else.

Thanks  
Rachel

Rachel McGregor |**HR Business Partner**| DG Education, Communities and Justice|Scottish Government|1W.09A|St Andrew's House|Ext 44407| Blackberry: 07780492410

