

Penny Curtis
Deputy Director
Elections and FOI Division
12 July 2019

First Minister

**FREEDOM OF INFORMATION (SCOTLAND) ACT 2002
APPEAL TO SCOTTISH INFORMATION COMMISSIONER
FURTHER INFORMATION WITHIN SCOPE OF REQUEST**

Purpose

1. To make you aware of further information that has been discovered that falls within the scope of a Freedom of Information request by [REDACTED]
2. To seek your views on how to proceed in relation to that further information.

Priority

3. Urgent. The Scottish Information Commissioner has allowed a final extension of time for submissions which expires on Wednesday 17 July 2019. A response on **Tuesday 16 July** would enable us to meet that deadline.

Background

4. In August 2018 [REDACTED] made an FOI request for “details of any briefings by civil servants or documents provided to ministers in 2017 or 2018 on the topic of a second independence referendum.” One document was disclosed in response to the original request.
5. Following a review, [REDACTED] appealed to the Scottish Information Commissioner in November 2018 and we made our final submissions in February 2019. At the same time, we disclosed (with redactions) seven documents that fell within the scope of the request.
6. In the course of his investigation, the Commissioner raised a supplementary query on 27 June 2019. [REDACTED] minute of 3 July 2019 sets out how we dealt with that query (withholding [REDACTED] and releasing some of the covering email) and a copy is enclosed for ease of reference.
7. In dealing with that query, which arose very late in the appeal process, colleagues discovered a further document that falls within the scope of the request. The document is a minute (and covering email) dated 29 March 2017 from the Permanent Secretary to you. The minute sets out the support that the civil service would provide in delivering the Scottish Government’s then policy intention to hold an independence referendum by Spring 2019, after Parliament approved the motion to seek the relevant power to do so. A copy of the minute is enclosed.

Discussion

8. As the minute falls within the scope of the request, we have shared it with the Commissioner and now need to consider whether the information should be disclosed to [REDACTED] or if any exemption applies to it. [REDACTED].
9. [REDACTED].

10. [REDACTED]
11. [REDACTED]
12. [REDACTED].
13. [REDACTED].
14. [REDACTED].

Recommendation

15. You are invited to indicate whether you wish to withhold the highlighted information on the basis of our proposed reasoning, or to disclose it to the requester.

PENNY CURTIS
Deputy Director
Elections and FOI Division
X[REDACTED]

12 July 2019

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Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Deputy First Minister and Cabinet Secretary for Education and Skills					X
Cabinet Secretary for Government Business and Constitutional Relations			X		
Minister for Parliamentary Business and Veterans			X		
Lord Advocate					X
Solicitor General					X

Permanent Secretary David Rogers [REDACTED] [REDACTED] [REDACTED] James Hynd Solicitor to the Scottish Government Colin Troup Liz Lloyd PS/Special Advisers
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Annex A – [REDACTED]

[REDACTED].

[REDACTED].

[REDACTED].

[REDACTED].

Annex B – [REDACTED]

[REDACTED].

[REDACTED].

[REDACTED].