

ANNEX: REASONS FOR NOT PROVIDING INFORMATION

FOI 2020 00011732 [Redacted] – MEETING BETWEEN FIRST MINISTER AND BENNY HIGGINS – BUTE HOUSE, MONDAY 24 JUNE 2019

Exemptions apply

Exemptions under sections 30(b)(i) and 30(b)(ii) of FOISA (free and frank provision of advice and exchange of views for the purposes of deliberation) apply to some the information requested. These exemptions apply because disclosure would, or would be likely to, inhibit substantially the free and frank provision of advice and exchange of views for the purposes of deliberation. The exemptions recognise the need for Ministers to have a private space within which to seek advice and views from officials and discuss issues and options with external stakeholders before reaching a settled public position on flexibility around the Scotland Reserve and the operation and need for the Bank. Disclosing the content of free and frank briefing material on this matter will substantially inhibit such briefing in the future, particularly because discussions on the issue are still ongoing and final decisions have not been taken.

These exemptions are subject to the ‘public interest test’. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemptions. We have found that, on balance, the public interest lies in favour of upholding the exemptions. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable government, and to inform public debate. However, there is a greater public interest in allowing a private space within which officials can provide free and frank advice and views to Ministers and to allow them to discuss issues and options with external stakeholders as part of the process of exploring and refining the Government’s position until the Government as a whole can adopt a policy that is sound and likely to be effective. They need full and candid advice from officials to enable them to do so. Premature disclosure of this type of information is likely to undermine the full and frank discussion of issues between the Scottish Government and stakeholders which in turn will undermine the quality of the decision making process, leading to a reduction in the comprehensiveness and frankness of such advice and views in the future, which would not be in the public interest.

An exemption under section 38(1)(b) of FOISA (personal information) applies to a small amount of the information requested because it is personal data of a third party i.e. the mobile number of the official named in the briefing and disclosing it would contravene the data protection principles in Article 5(1) of the General Data Protection Regulation and in section 34(1) of the Data Protection Act 2018.

This exemption is not subject to the ‘public interest test’, so we are not required to consider if the public interest in disclosing the information outweighs the public interest in applying the exemption.