

The following is extracts from the documents referred to in the email exchanges below sent by civil servants to Ministers. It is provided as an extract because the documents contain other information not related to your request, so outwith the scope:

- Due to the coronavirus crisis, it is clearly not be possible to organise and hold an independence referendum that is beyond legal challenge before the end of the current Parliamentary term next year.
- The Scottish Government now plans to publish, before the end of this Parliament, a draft bill for an independence referendum – setting out the terms of a future referendum clearly and unambiguously to the people of Scotland.
- The draft bill will set out the question to be asked, subject to appropriate testing by the Electoral Commission, and the timescale in which, within the next term of Parliament, we consider the referendum should be held.
- Timing of an independence referendum will take account of the development of the COVID-19 pandemic at the time of publication of the draft bill, and will ensure the flexibilities to respond to any further restrictions caused by it.
- If there is majority support for the bill in the Scottish Parliament in the next term, there could then be no moral or democratic justification whatsoever for any UK government to ignore the rights of the people of Scotland to choose our own future.
- Other work to prepare for an independence referendum has been paused for the time being as the Scottish Government is focused on responding to the current COVID-19 pandemic and we will return to the issue when it is appropriate to do so.
- Opinion polls now show consistent majority support for independence as more and more people want decisions about Scotland to be taken by the people who live here.
- The UK Government's Brexit policy, its reckless refusal to request an extension to the Brexit transition period despite the pandemic and its refusal to agree even modest additional borrowing powers for the Scottish Parliament all demonstrate why Westminster control over Scotland is so damaging.
- Independence will give Scotland the powers we need to grow our economy and invest in our people and public services to create a fairer and more sustainable country.
- Of course, GERS represents Scotland's fiscal position under current constitutional arrangements. A significant amount of the spending (40%) and revenue (70%) in GERS is reserved and outside of the control of the Scottish Government.
- Countries around the world have borrowed unprecedented amounts to resource their additional health and economic spending in response to COVID and an independent Scotland would be no different.
- As an EU member we would also have had access to the EU's €750 billion recovery fund

The opportunities of independence stand in stark contrast to the economic damage posed by Brexit

- We now face the hardest of Brexits, exiting the transition period at the end of this year with either no trade deal at all, or instead what is likely to be a very bad deal – either of which threaten to be disastrous for Scotland.

Public Finances

Independence provides the opportunity to pursue priorities tailored to Scotland's needs

- Independence would allow Scotland to make the public spending choices best suited to Scotland's interests – such as not investing hundreds of billions of pounds on the Trident missile programme.
- Independence will give Scotland the powers we need to grow our economy and invest in our people and public services to create a fairer and wealthier country.

The GERS numbers show Scotland's position within the UK and not as an independent nation.

- Scotland's fiscal position under independence would depend on a number of factors – including the policy choices made by future Scottish Governments, growth seen in advance of independence and the level of spending Scotland chose to allocate to areas such as defence.

Hi [Redacted S.38(i)(b)],

As [Redacted S.38(i)(b)] says, the Independence brief includes top lines on GERS, so should be sufficient. However, if of use I have attached the more detailed GERS FMQ as well.

[Redacted S.38(i)(b)]

From: [Redacted S.38(i)(b)] **On Behalf Of** Cabinet Secretary for Constitution, Europe and External Affairs

Sent: 21 October 2020 09:48

To: [Redacted S.38(i)(b)] Cabinet Secretary for Constitution, Europe and External Affairs <CabSecCEAEA@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>;

Subject: RE: MEDIA BID - The Nine - Independence

That's great thanks very much [Redacted S.38(i)(b)]

[Redacted S.38(i)(b)]

From: [Redacted S.38(i)(b)]

Sent: 21 October 2020 09:47

To: Cabinet Secretary for Constitution, Europe and External Affairs <CabSecCEAEA@gov.scot>; [Redacted S.38(i)(b)] Rogers D (David) (Constitution and Cabinet Director)

<David.Rogers@gov.scot>;

Subject: RE: MEDIA BID - The Nine - Independence

Morning [Redacted S.38(i)(b)],

Copying OCEA colleagues in who lead on lines for GERS figures. Also attaching the latest Independence FMQ Brief which my team and OCEA lead on. It has GERS lines and others which may be helpful.

[Redacted S.38(i)(b)]

From: [Redacted S.38(i)(b)]> **On Behalf Of** Cabinet Secretary for Constitution, Europe and External Affairs

Sent: 21 October 2020 09:41

To: [Redacted S.38(i)(b)] Rogers D (David) (Constitution and Cabinet Director)

<David.Rogers@gov.scot>;

Cc: Cabinet Secretary for Constitution, Europe and External Affairs <CabSecCEAEA@gov.scot>

Subject: MEDIA BID - The Nine - Independence

Good morning all

Mr Russell has been asked for an interview this evening with The Nine to discuss independence. Spads will provide some political lines but have requested the latest brief on the GERS figures. Would this be something your teams would be able to assist with?

Kind regards

[Redacted S.38(i)(b)]

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[Redacted S.38(i)(b)].

Thanks,

[Redacted S.38(i)(b)]

#SCOTLAND|SNOW



From: [Redacted S.38(i)(b)]

Sent: 21 October 2020 17:15

To: Cabinet Secretary for Constitution, Europe and External Affairs <CabSecCEAEA@gov.scot>;

[Redacted S.38(i)(b)]

Cc: [Redacted S.38(i)(b)]>; Communications Brexit & Constitution

<CommunicationsBrexit&Constitution@gov.scot>; Communications First Minister

<CommunicationsFirstMinister@gov.scot>;

Subject: RE: MEDIA BID - The Nine - Independence

Can I confirm one more thing please, what should the location on the screen say for Cab Sec's interview?

From: [Redacted S.38(i)(b)]

Sent: 21 October 2020 14:44

To: [Redacted S.38(i)(b)]

Cc: [Redacted S.38(i)(b)]

Subject: RE: MEDIA BID - The Nine - Independence

Thanks [Redacted S.38(i)(b)], BBC will dial Cab Sec on Skype at 6pm as agreed.

From: [Redacted S.38(i)(b)] **On Behalf Of** Cabinet Secretary for Constitution, Europe and External Affairs

Sent: 21 October 2020 08:45

To: [Redacted S.38(i)(b)] Cabinet Secretary for Constitution, Europe and External Affairs

<CabSecCEAEA@gov.scot>

Cc: [Redacted S.38(i)(b)] Communications Brexit & Constitution

<CommunicationsBrexit&Constitution@gov.scot>; Communications First Minister

<CommunicationsFirstMinister@gov.scot>;

Subject: RE: MEDIA BID - The Nine - Independence

Morning [Redacted S.38(i)(b)],

Thanks for this. Yes Skype is Mr Russell's preference and that's his handle.

Thanks again,

[Redacted S.38(i)(b)]

#SCOTLAND|SNOW



From: [Redacted S.38(i)(b)]

Sent: 21 October 2020 08:44

To: [Redacted S.38(i)(b)] Cabinet Secretary for Constitution, Europe and External Affairs

<CabSecCEAEA@gov.scot>

Cc: [Redacted S.38(i)(b)]>; Communications Brexit & Constitution

<CommunicationsBrexit&Constitution@gov.scot>; Communications First Minister

<CommunicationsFirstMinister@gov.scot>;

Subject: RE: MEDIA BID - The Nine - Independence

[Redacted S.38(i)(b)],

The Nine have also asked me to pass the attached information on for the Cab Sec's benefit ahead of the interview.

If you can confirm Skype is the Cab Sec's preference I will finalise logistics with the Nine. The Skype address I have on file for the Cab Sec is [Redacted S.38(i)(b)] can you also confirm this is correct?

Thanks,

[Redacted S.38(i)(b)]

From: [Redacted S.38(i)(b)]
Sent: 20 October 2020 17:00
To: [Redacted S.38(i)(b)] Cabinet Secretary for Constitution, Europe and External Affairs
<CabSecCEAEA@gov.scot>
Cc: [Redacted S.38(i)(b)] Communications Brexit & Constitution
<CommunicationsBrexit&Constitution@gov.scot>; Communications First Minister
<CommunicationsFirstMinister@gov.scot>;
Subject: RE: MEDIA BID - The Nine - Independence

For briefing purposes.

Tomorrow marks the second instalment in a series of three in-depth pieces on 'Scotland's Future' by James Cook. Tonight's looks primarily at Brexit (and is followed by an interview with Douglas Ross); tomorrow's looks at the economy; the following day's at the pandemic.

These pieces are looking at how changes since 2014 have impacted the indy debate, and are populated primarily by members of the public rather than people from institutions and are features rather than news pieces. So no, he wouldn't be responding directly to the package that's preceded him because it's a big picture interview rather than focusing on one particular element.

Questions will cover the themes set out above. I'd be surprised if the Cab Sec is surprised by anything we come up with.

It's [Redacted S.38(i)(b)] doing the interview.

If you need anything else from comms let us know.

Thanks,

[Redacted S.38(i)(b)]

From: [Redacted S.38(i)(b)]
Sent: 20 October 2020 16:42
To: [Redacted S.38(i)(b)] Cabinet Secretary for Constitution, Europe and External Affairs
<CabSecCEAEA@gov.scot>
Cc: [Redacted S.38(i)(b)] Communications Brexit & Constitution
<CommunicationsBrexit&Constitution@gov.scot>; Communications First Minister
<CommunicationsFirstMinister@gov.scot>;
Subject: RE: MEDIA BID - The Nine - Independence

Thanks [Redacted S.38(i)(b)],

I've asked the Nine to confirm a pre-record at 6pm virtually. I'm assuming the Cab Sec's preference would be Skype?

In terms of briefing that would be for PO to commission from policy.

[Redacted S.38(i)(b)] I've asked the Nine if there is a way to see the package in advance and if not for a read out of the top lines from it. I've also asked for more detail on the line of questioning about independence.

The interview will be around ten minutes. Editor is double checking presenters for me.

Thanks,

[Redacted S.38(i)(b)]

From: [Redacted S.38(i)(b)]

Sent: 20 October 2020 16:34

To: Cabinet Secretary for Constitution, Europe and External Affairs <CabSecCEAEA@gov.scot>;

[Redacted S.38(i)(b)]

Cc:[Redacted S.38(i)(b)] >; Communications Brexit & Constitution

<CommunicationsBrexit&Constitution@gov.scot>; Communications First Minister

<CommunicationsFirstMinister@gov.scot>;

Subject: RE: MEDIA BID - The Nine - Independence

Comms – have we got details of how long this will be; the topics likely to be covered; and who the presenters are tomorrow? And is the interview going to be preceded by a package?

[Redacted S.38(i)(b)]

Please note Scottish Ministers, Special advisers and the Permanent Secretary to the Scottish Government are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot for information.

From: [Redacted S.38(i)(b)]**On Behalf Of** Cabinet Secretary for Constitution, Europe and External Affairs

Sent: 20 October 2020 16:32

To: [Redacted S.38(i)(b)]Cabinet Secretary for Constitution, Europe and External Affairs

<CabSecCEAEA@gov.scot>

Cc:[Redacted S.38(i)(b)]>; Communications Brexit & Constitution

<CommunicationsBrexit&Constitution@gov.scot>; Communications First Minister

<CommunicationsFirstMinister@gov.scot>;

Subject: RE: MEDIA BID - The Nine - Independence

Hi [Redacted S.38(i)(b)]

Thanks for sending that on.

Mr Russell will be at home tomorrow and his preference is to pre-record the interview as close to 6pm as possible.

I would be grateful for instructions as to how this will be undertaken so I can pass on to Mr Russell. Also we will require briefing would this be comms who provide this or will you need input from policy? I would ideally have liked to have this today for Mr Russell to look over this evening?

[Redacted S.38(i)(b)]

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From: [Redacted S.38(i)(b)]
Sent: 20 October 2020 16:14
To: Cabinet Secretary for Constitution, Europe and External Affairs <CabSecCEAEA@gov.scot>
Cc: [Redacted S.38(i)(b)]< Communications Brexit & Constitution<CommunicationsBrexit&Constitution@gov.scot>; Communications First Minister <CommunicationsFirstMinister@gov.scot>;
Subject: RE: MEDIA BID - The Nine - Independence

Hi [Redacted S.38(i)(b)]

Two options for tomorrow.

There are two options:

- Live into the programme (somewhere between 21:00-21:30)
- Pre-record between 1800 and 1850 (so starting no later than 1835)

If Cab Sec is in Edinburgh tomorrow the Nine's preference is to send a camera to him for the bid. That's more difficult if the Cab Sec is at home so in that event may need to be done virtually.

Can you confirm what time Cab Sec would like to undertake this bid and where he will be?

Then we can confirm final logistics.

Thanks,

[Redacted S.38(i)(b)]

From: [Redacted S.38(i)(b)]**On Behalf Of** Cabinet Secretary for Constitution, Europe and External Affairs

Sent: 20 October 2020 15:10

To: [Redacted S.38(i)(b)]

Cc: [Redacted S.38(i)(b)]Communications Brexit & Constitution <CommunicationsBrexit&Constitution@gov.scot>; Communications First Minister <CommunicationsFirstMinister@gov.scot>; Cabinet Secretary for Constitution, Europe and External Affairs <CabSecCEAEA@gov.scot>

Subject: RE: MEDIA BID - The Nine - Independence

Good afternoon all

Sorry to chase but just wondering if anyone has had an opportunity to consider the email below regarding a potential interview with Mr Russell on The Nine tomorrow evening?

Thanks

[Redacted S.38(i)(b)]

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From: [Redacted S.38(i)(b)] **On Behalf Of** Cabinet Secretary for Constitution, Europe and External Affairs

Sent: 20 October 2020 11:09

To: [Redacted S.38(i)(b)]

Cc: [Redacted S.38(i)(b)] Communications Brexit & Constitution

<CommunicationsBrexit&Constitution@gov.scot>; Communications First Minister

<CommunicationsFirstMinister@gov.scot>; First Minister <firstminister@gov.scot>; Cabinet Secretary for Constitution, Europe and External Affairs <CabSecCEAEA@gov.scot>

Subject: RE: MEDIA BID - The Nine - Independence

Good morning all

Grateful if I could have confirmation as to whether this is still going ahead tomorrow night as Mr Russell will require briefing. We would also need some information as to the format of the interview etc.

Kind regards

[Redacted S.38(i)(b)]

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From: [Redacted S.38(i)(b)]

Sent: 19 October 2020 10:54

To: Cabinet Secretary for Constitution, Europe and External Affairs <CabSecCEAEA@gov.scot>; First Minister <firstminister@gov.scot>

Cc: [Redacted S.38(i)(b)] Communications Brexit & Constitution

<CommunicationsBrexit&Constitution@gov.scot>; Communications First Minister

<CommunicationsFirstMinister@gov.scot>

Subject: RE: MEDIA BID - The Nine - Independence

Importance: High

PO just to update this will now be broadcast on Wednesday night so the Nine are looking to move this bid to a live interview Wednesday 21 October.

Can you confirm this is a decline for FM and whether the Cabinet Secretary is content to accept?

[Redacted S.38(i)(b)]

From: [Redacted S.38(i)(b)]

Sent: 16 October 2020 10:32

To: Cabinet Secretary for Constitution, Europe and External Affairs <CabSecCEAEA@gov.scot>;
First Minister <firstminister@gov.scot>

Cc: [Redacted S.38(i)(b)]>; Communications Brexit & Constitution
<CommunicationsBrexit&Constitution@gov.scot>; Communications First Minister
<CommunicationsFirstMinister@gov.scot>

Subject: MEDIA BID - The Nine - Independence

Importance: High

REASONS FOR NOT PROVIDING INFORMATION

An exemption under section 38(1)(b) of FOISA (personal information) applies to some of the information requested because it is personal data of a third party (i.e. names/contact details of individuals), and disclosing it would contravene the data protection principles in Schedule 1 to the Data Protection Act 1998. 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.

Section 30(b)(i) – free and frank provision of advice

An exemption under section 30(b)(i) of FOISA (free and frank provision of advice) applies to some of the information requested. This exemption applies because disclosure would, or would be likely to, inhibit substantially the free and frank provision of advice. This exemption recognises the need for officials to have a private space within which to provide free and frank advice to Ministers before the Scottish Government reaches a settled public view. Disclosing the content of free and frank advice on independence policy development will substantially inhibit the provision of such advice in the future, particularly because these discussions are still ongoing and decisions have not been taken, and these discussions relate to a sensitive or controversial issue such as Scotland's constitutional future.

This exemption is 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 exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption. 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 full and frank advice to Ministers, as part of the process of exploring and refining the Government's position on independence policy development, until the Government as a whole can adopt a policy that is sound and likely to be effective. This private thinking space is essential to enable all options to be properly considered, based on the best available advice, so that good policy decisions can be taken. Premature disclosure is likely to undermine the full and frank discussion of issues between Ministers and officials, which in turn will undermine the quality of the policy making process, which would not be in the public interest.