

**Section 27(1) – information intended for future publication**

An exemption under section 27(1) of FOISA applies to some of the information requested because we intend to publish that information within the next 12 weeks of the date of your request. We consider that it is reasonable to withhold the information until that date, rather than release all of this information before the planned publication date.

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 some public interest in its release and this will be met by our planned publication. In the meantime, there is a greater public interest in taking the time necessary to ensure the information has been properly collated and checked before it is published as planned. Also, we see no public interest in disrupting our programme of work to release the information ahead of the intended publication date. As indicated above publication of the Children (Equal Protection from Assault) (Scotland) Act 2019 – implementation plan and task list, will be published within the next 12 weeks. This will allow changes required for the document to meet the accessibility standards for the SG website. The Act itself is coming into force on 7 November 2020

**Section 29(1)(a) – formulation or development of government policy**

An exemption under section 29(1)(a) of FOISA (formulation or development of government policy) applies to some of the information requested because it relates to the ongoing development and publication of the Scottish Government’s policy on Transgender Guidance for Schools.

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 high quality policy and decision-making, and in the properly considered implementation and development of policies and decisions. This means that Ministers and officials need to be able to consider all available options and to debate those rigorously, to fully understand their possible implications. Their candour in doing so will be affected by their assessment of whether the discussions on the publication of the Scottish Government’s guidance on Transgender for Schools will be disclosed in the near future, when it may undermine or constrain the Government’s view on that policy while it is still under discussion and development.

### **Section 38(1)(b) – applicant has asked for personal data of a third party**

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, ie name, e-mail address and contact details. Disclosing this information 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.