

REASONS FOR NOT RELEASING INFORMATION

Section 32(1)(a)(i) – substantial prejudice to international relations

An exemption under section 32(1)(a)(i) of FOISA (international relations) applies to some of the information requested. This exemption applies because disclosure would, or would be likely to, prejudice substantially relations between the United Kingdom and the Government of Australia. The effective conduct of international relations depends upon maintaining trust and confidence between the UK Government and other States. In this case, the free and frank discussions in relation to the bilateral relationship between Australia and Scotland were entered in to with the Scottish Government on the understanding that it would be treated as being in confidence.

If the Scottish Government does not respect this confidence, the UK Government's relations with other states and its ability to protect and promote UK interests will be substantially prejudiced. States such as the Government of Australia are likely to be more reluctant to enter in to discussions with Scotland or other parts of the United Kingdom in future, which would reduce both the frequency and openness of communications with the UK.

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 ensuring that the UK Government is able to maintain good relations with States, in order to protect and promote UK interests abroad. There is also vital public interest in allowing Scottish Ministers and officials a private space within which to engage in full and frank discussions with their counterparts in other states. Such discussion makes for better quality and better informed policies and decisions on issues with an international dimension, and aids the protection and promotion of UK interests abroad.

Section 32(1)(a)(ii) – substantial prejudice to international relations

An exemption under section 32(1)(a)(ii) of FOISA (international relations) applies to some of the information requested. This exemption applies because disclosure would, or would be likely to, prejudice substantially relations between the United Kingdom and international multilateral organisations.

The effective conduct of international relations depends upon maintaining trust and confidence between the UK Government and international organisations. In this case, discussions relating to Scotland's future relations with multilateral organisations were entered in to on the understanding that it would be treated as being in confidence.

If the Scottish Government does not respect this confidence, the UK Government's relations with international multilateral organisations and its ability to protect and promote UK interests will be substantially prejudiced. Organisations are likely to be more reluctant to engage, with Scotland or other parts of the United Kingdom in future, which would reduce both the frequency and openness of communications with the UK.

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 ensuring that the UK Government is able to maintain good relations with international multilateral organisations, in order to protect and promote UK interests abroad.

An exemption applies, which is not subject to the public interest test

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 a small amount of the information requested because it is personal data of a third party, ie names of individuals 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.

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