

Information to be enclosed:

From: [Redacted] <[Redacted]@gov.scot>

Sent: 19 September 2018 17:05

To: [Redacted] <[Redacted]@gov.scot>; Davidson S (Sarah) <Sarah.Davidson@gov.scot>; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; DG Organisational Development & Operations <DGODO@gov.scot>

Cc: First Minister <firstminister@gov.scot>; Lloyd E (Elizabeth)

<Elizabeth.Lloyd@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Permanent Secretary <PermanentSecretary@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Mackinnon J (Judith) <Judith.Mackinnon@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Richards N (Nicola) <Nicola.Richards@gov.scot>

Subject: RE: For clearance: PQ S5W-18396 and FOI responses to be issued by People Directorate

One further FOI response for DFM approval. Thank you.

[Redacted]

[Redacted] | Office of the Permanent Secretary | Room 1N 07 St Andrews House, Edinburgh | telephone 0131 244 [Redacted] | mobile [Redacted]

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

From: Deputy First Minister and Cabinet Secretary for Education and Skills <dfmcse@gov.scot>

To: Davidson S (Sarah) <sarah.davidson@gov.scot>, [Redacted] <[Redacted]@gov.scot>, Deputy First Minister and Cabinet Secretary for Education and Skills <dfmcse@gov.scot>, DG Organisational

Development & Operations <dgodo@gov.scot>

Cc: First Minister <firstminister@gov.scot>, Lloyd E (Elizabeth) <elizabeth.lloyd@gov.scot>, [Redacted]

<[Redacted]@gov.scot>, Permanent Secretary <permanentsecretary@gov.scot>,

[Redacted] <[Redacted]@gov.scot>, [Redacted] <[Redacted]@gov.scot>, Mackinnon J (Judith)

<judith.mackinnon@gov.scot>, [Redacted] <[Redacted]@gov.scot>, Richards N (Nicola)

<nicola.richards@gov.scot>, [Redacted] <[Redacted]@gov.scot>

Date: Thu, 20 Sep 2018 12:03:41 +0100

[Redacted]

DFM is content to clear.

Kind Regards

[Redacted]

[Redacted] | Deputy Private Secretary to John Swinney MSP, Deputy First Minister and Cabinet Secretary for

Education and Skills | The Scottish Government | Web: www.gov.scot |

(0300 24 [Redacted] | Mobile: 0044 (0) [Redacted] | Email: DFMCSE@gov.scot |

[Redacted]@gov.scot

5N.07 St Andrew's House | Regent Road | Edinburgh | EH1 3DG

All e-mails and attachments sent by a Ministerial Private Office to any other official on behalf of a Minister relating to a decision, request or comment made by

a Minister, or a note of a Ministerial meeting, must be filed appropriately by the recipient. Private Offices do not keep official records of such e-mails or attachments.

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

From: Davidson S (Sarah)

Sent: 20 September 2018 1 1:10

To: [Redacted]< [Redacted]@gov.scot>; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; DG Organisational Development & Operations <DGODO@gov.scot>

Cc: First Minister <firstminister@gov.scot>; Lloyd E (Elizabeth) <Elizabeth.Lloyd@gov.scot>; [Redacted]

<[Redacted]@gov.scot>; Permanent Secretary <PermanentSecretary@gov.scot>; [Redacted]< [Redacted]@gov.scot>; [Redacted]< [Redacted]@gov.scot>; Mackinnon J (Judith)<Judith.Mackinnon@gov.scot> [Redacted]< [Redacted]@gov.scot>; Richards N (Nicola)

<Nicola.Richards@gov.scot>; [Redacted]< [Redacted]@gov.scot>

Subject: RE: URGENT: For clearance: PQ S5W-18396 and FOI responses to be issued by People Directorate

Cleared by me.

Sarah

Sarah Davidson

DG Organisational Development and Operations

(4) [Redacted]- [Redacted]

I work Monday to Thursday. My mail is processed daily and your e-mail will be read within four working hours. If your message is more urgent than that, please ring my office or text me.

From: [Redacted]

Sent: 20 September 2018 10:20

To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; Davidson S (Sarah) <Sarah.Davidson@gov.scot>; DG Organisational Development & Operations <DGODO@gov.scot>

Cc: First Minister <firstminister@gov.scot>; Lloyd E (Elizabeth) <Elizabeth.Lloyd@gov.scot>; [Redacted]< [Redacted]@gov.scot>; Permanent Secretary <PermanentSecretary@gov.scot>; [Redacted]< [Redacted]@gov.scot>; [Redacted]< [Redacted]@gov.scot>; Mackinnon J (Judith) <Judith.Mackinnon@gov.scot>; [Redacted]< [Redacted]@gov.scot>; Richards N (Nicola) <Nicola.Richards@gov.scot>; [Redacted]< [Redacted]@gov.scot>

Subject: URGENT: For clearance: PQ S5W-18396 and FOI responses to be issued by People Directorate

Importance: High

DG ODO / DFM – for clearance

Perm Sec / FM – for information only

Please find attached draft FOI response for clearance. This is the final one of the 20 that are all issuing today. The other 19 have already been cleared.

We are aiming to issue all of these FOI responses at 2.30pm so if clearance could be provided by 13.30 at the latest that would be extremely helpful.

[Redacted]

From: [Redacted] **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills

Sent: 19 September 2018 17:20

To: [Redacted][Redacted]@gov.scot>; Davidson S (Sarah) <Sarah.Davidson@gov.scot>;

Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>;
DG Organisational

Development & Operations <DGODO@gov.scot>

Cc: First Minister <firstminister@gov.scot>; Lloyd E (Elizabeth) <Elizabeth.Lloyd@gov.scot>; [Redacted] <[\[Redacted\]@gov.scot](mailto:[Redacted]@gov.scot)>; Permanent Secretary <PermanentSecretary@gov.scot>; [Redacted] <[\[Redacted\]@gov.scot](mailto:[Redacted]@gov.scot)>; [Redacted] <[\[Redacted\]@gov.scot](mailto:[Redacted]@gov.scot)>; Mackinnon J (Judith) <Judith.Mackinnon@gov.scot>; [Redacted] <[\[Redacted\]@gov.scot](mailto:[Redacted]@gov.scot)>; Richards N (Nicola) <Nicola.Richards@gov.scot>

Subject: RE: For clearance: PQ S5W-18396 and FOI responses to be issued by People Directorate

[Redacted],

The DFM is content for the FOIs to be issued.

Thanks

[Redacted]

[Redacted] Deputy Private Secretary to John Swinney MSP, Deputy First Minister and Cabinet Secretary for

Education and Skills | The Scottish Government | Web: www.gov.scot | Tel: 0131 244

[Redacted] Mob: [Redacted] Email: DFMCSE@gov.scot

From: [Redacted]

Sent: 18 September 2018 16:48

To: Davidson S (Sarah) <Sarah.Davidson@gov.scot>; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; DG Organisational Development & Operations <DGODO@gov.scot>

Cc: First Minister <firstminister@gov.scot>; Lloyd E (Elizabeth) <Elizabeth.Lloyd@gov.scot>; [Redacted] <[\[Redacted\]@gov.scot](mailto:[Redacted]@gov.scot)>; Permanent Secretary <PermanentSecretary@gov.scot>; [Redacted] <[\[Redacted\]@gov.scot](mailto:[Redacted]@gov.scot)>; [Redacted] <[\[Redacted\]@gov.scot](mailto:[Redacted]@gov.scot)>; Mackinnon J (Judith) <Judith.Mackinnon@gov.scot>; [Redacted] <[\[Redacted\]@gov.scot](mailto:[Redacted]@gov.scot)>; Richards N (Nicola) <Nicola.Richards@gov.scot>

Subject: For clearance: PQ S5W-18396 and FOI responses to be issued by People Directorate

Importance: High

DG ODO / DFM – for clearance

Perm Sec / FM – for information only

Please find attached a revised draft response to PQ s5W-18396 from Monica Lennon for clearance. As previously discussed, once cleared, the response will be added to the PQ system for response by Mr Dey. The PQ answer is to be published by Thursday lunchtime to coincide with issue of responses to the range of FOIs received on these issues.

Also attached for clearance are draft responses to four FOIs that will issue from People Directorate on Thursday. These have been cleared by SpAds and [Redacted].

I would be grateful for a response by lunchtime tomorrow.

[Redacted]



[Redacted] | Head of Employee Relations, Reward and HR Policy | Tel: 0131 244

[Redacted] | [Redacted]

I work flexibly across locations, mostly in Saughton and from home on a Friday

Supporting the People Strategy by partnership working

HR Help can help if you can't find what you need on saltire - 0131 244 8500



FOI/17/02680

Our ref: FOI/17/02680
22 November 2017

Dear [Redacted]

Thank you for your request dated 2 November 2017 under the Freedom of Information (Scotland) Act 2002 (FOISA).

Your request

Please provide me with details of any complaints against Scottish government ministers for sexual harassment since 2007.

Response to your request

While our aim is to provide information whenever possible, in this instance the Scottish Government does not hold the information you have requested.

The Scottish Government have not received any complaints against Scottish Government Ministers regarding sexual harassment since 2007.

This is a formal notice under section 17(1) of FOISA that the Scottish Government does not have the information you have requested.

Your right to request a review

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to Barbara Allison, Director, Communication and Ministerial Support Directorate, St Andrews House, Regent Road, Edinburgh. EH1 3DG or e-mail DirectorCMSF@gov.scot

Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the date when you received this letter. We will complete the review and tell you the result, within 20 working days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your appeal rights is available on the Commissioner's website at:

<http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>.

Yours sincerely,
[Redacted]

FOI/18/01851

Our ref: Fol/18/01851
20th September 2018

Dear [Redacted]

REQUEST UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 (FOISA)

Thank you for your request dated 02 July 2018 under the Freedom of Information (Scotland) Act 2002 (FOISA).

Your request

In your request you have asked for the following information:

1. How many internal harassment and/or bullying claims have (a) Scottish Government directorates and (b) Scottish Government executive non departmental public bodies (NDPBs) received in each of the last five years.
2. How many internal grievance cases are currently live within (a) Scottish Government directorates and (b) Scottish Government executive NDPBs.
3. How much money have (a) Scottish Government directorates and (b) Scottish Government executive NDPBs spent on the services of external law firms to deal with internal employment disputes/complaints in each of the last five financial years.
4. Which law firms have (a) Scottish Government directorates and (b) Scottish Government executive NDPBs employed to deal with internal employment disputes/complaints in each of the last five years.

Response to your request

Part of the information you have requested was provided in response to a recent Parliamentary Question. I have provided a copy of this at Annex A for information.

Our response below covers Scottish Government directorates. It does not cover Scottish Government Executive Non Departmental Public Bodies (NDPBs). If you wish to request staffing information about NDPBs you will need to contact those NDPBs directly.

Due to small numbers and to avoid possible disclosure of personal data under section 38 (1) (b) of FOISA (personal information), it is not possible to break down the number of internal harassment and/or bullying claims for the past five years in the manner you have requested.

Managers in the Scottish Government are encouraged to deal with concerns about internal harassment and/or bullying at an early stage, on an informal basis under the Fairness at Work Policy, where appropriate. There is no requirement to report informal action to HR and therefore no information is held centrally about cases that have been dealt with informally.

Information about the number of formal cases is set out below, reflecting information at the date of your request:

- In 2013 there were fewer than 5 cases of internal harassment and/or bullying.
- In 2014 there were fewer than 5 cases of internal harassment and/or bullying.
- In 2015 there were 9 cases of internal harassment and/or bullying.
- In 2016 there were 10 cases of internal harassment and/or bullying.
- In 2017 there were 7 cases of internal harassment and/or bullying.
- In 2018 there have been 7 cases of internal harassment and/or bullying.

2. At the date of your request there were 7 live internal harassment and/or bullying cases.
3. Legal advice on internal employment disputes and complaints is provided in house by Scottish Government Legal Directorate. We understand “internal employment disputes and complaints” to refer to matters dealt with under the Scottish Government’s internal processes and procedures rather than external legal proceedings such as the employment tribunal. Although advice on internal matters is given by in house solicitors, there have been a few occasions when advice has been given by an external firm on internal matters. The cost of this advice has been £686.20.
4. Which law firms have (a) Scottish Government directorates and (b) Scottish Government executive NDPBs employed to deal with internal employment disputes/complaints in each of the last five years.

As noted, law firms are not generally used to deal with internal employment disputes/complaints. The Scottish Government has a framework for the provision of legal services. The current provider firm for employment law advice is Morton Fraser, who have held the contract since June 2016. Prior to that, the provider firm for employment law advice was Anderson Strathern.

Your right to request a review

If you are unhappy with this response to your request, you may ask us to carry out an internal review of the response, by writing to Nicola Richards, E1 Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD. Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the date when you received this letter. We will complete the review and tell you the result within 20 working days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your appeal rights is available on the Commissioner’s website at:

<http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>.

Yours sincerely,
[Redacted]
Head of Employee Relations, Reward and HR Policy

[FOI/18/01851] ANNEX A

Question

S5W-18396 Monica Lennon: To ask the Scottish Government whether it will provide the information that it holds on how many complaints it has received relating to sexual assault or sexual harassment by (a) Ministers, (b) Special Advisers and (c) its staff since 1999; how many complaints have been upheld; how many cases have been referred to the police, and whether anyone has been disciplined or dismissed following these complaints.

Answer

As an employer, the Scottish Government does not make determinations about whether the nature of a complaint constitutes a sexual assault as that is rightly a matter for Police Scotland to determine. We do not therefore have a record of any complaints that have been recorded as “sexual assault”.

In response to part (a) between 1999 and the end of 2017 the Scottish Government holds no recorded complaints of this nature against Ministers.

In January 2018, the Scottish Government received two harassment complaints relating to the former First Minister, Alex Salmond. These complaints were considered under a Scottish Government procedure for Handling Harassment Complaints Involving Current or Former Ministers <https://beta.gov.scot/publications/handling-of-harassment-complaints-involving-current-or-former-ministers/>. For legal reasons the Scottish Government cannot provide further information.

In response to part (b) a system to report aggregated data about formal employee relations cases and complaints was introduced in 2007. The Scottish Government has no recorded complaints in relation to Special Advisers in the period from 2007 to the present.

In response to part (c) a system to report aggregated data about complaints recorded against employees was introduced in 2007. Since 2007, a total of 11 formal complaints of this nature have been received by the Scottish Government. Given the statistically low number, the supplementary information requested cannot be provided as this may risk disclosing personal information. However we can confirm that these cases were dealt with in line with the relevant internal procedures.

Note:

This covers staff employed on Scottish Government Main and Scottish Government Marine terms and conditions of employment and senior civil servants in the following areas:

- Scottish Government Core Directorates
- Accountancy in Bankruptcy
- Disclosure Scotland
- Education Scotland
- National Records of Scotland
- Office of Scottish Charity Regulator
- Scottish Housing Regulator
- Transport Scotland

