

From: [redacted]
Sent: 08 June 2021 18:39
To: [redacted]; Internal Communications <InternalCommunications@gov.scot>
Cc: Freedom of Information <foi@gov.scot>; Curtis PS (Penelope) <Penelope.Curtis@gov.scot>; [redacted]; Data protection and information assets Mailbox <dpa@gov.scot>; [redacted]
Subject: RE: Conor Matchett FOIs

Thank you very much, [redacted]

From: [redacted]
Sent: 08 June 2021 18:36
To: [redacted]; Internal Communications <InternalCommunications@gov.scot>
Cc: Freedom of Information <foi@gov.scot>; Curtis PS (Penelope) <Penelope.Curtis@gov.scot>; [redacted]; Data protection and information assets Mailbox <dpa@gov.scot>; [redacted]>
Subject: RE: Conor Matchett FOIs

All

I have sent the attached.

[redacted]

From: [redacted]
Sent: 08 June 2021 17:56
To: [redacted]; Internal Communications <InternalCommunications@gov.scot>
Cc: Freedom of Information <foi@gov.scot>; Curtis PS (Penelope) <Penelope.Curtis@gov.scot>; [redacted]; Data protection and information assets Mailbox <dpa@gov.scot>; [redacted] >
Subject: RE: Conor Matchett FOIs

[redacted]– I think it would be better if you could explain the process underway to Conor. If it leads to a media query, that will be for comms colleagues to handle but it seems this is more about procedural clarification.

I also think it would underline that the advice he is receiving is consistent, and there's not a lot of merit in putting his asks about the procedure to multiple SG contacts – because the information, rightly, comes from your unit as the experts here.

Hope that makes sense – and thank you,

[redacted]



[redacted]
Internal Communications Team Leader
Marketing, [redacted]
| Pronouns: she / her

From: [redacted]
Sent: 08 June 2021 17:50
To: [redacted] >; Internal Communications <InternalCommunications@gov.scot>
Cc: Freedom of Information <foi@gov.scot>; Curtis PS (Penelope) <Penelope.Curtis@gov.scot>; [redacted] >; Data protection and information assets Mailbox <dpa@gov.scot>; [redacted]>
Subject: RE: Conor Matchett FOIs

I have no problem replying to him if that seems best. However, as we have already been emailing him directly and he bypassed us to go to Comms, I wonder if it would be better coming from Internal?

[redacted]

From: [redacted]
Sent: 08 June 2021 17:39
To: [redacted] >; Internal Communications <InternalCommunications@gov.scot>
Cc: Freedom of Information <foi@gov.scot>; Curtis PS (Penelope) <Penelope.Curtis@gov.scot>; [redacted] >; Data protection and information assets Mailbox <dpa@gov.scot>; [redacted]
Subject: RE: Conor Matchett FOIs

Thanks [redacted] and [redacted] for the advice, much appreciated.

I don't think this would be for News to reply to so grateful if FOI or Internal can pick up with him directly.

Best,

[redacted]

[redacted] | Communications: News (Environment, Climate Change and Energy)
Senior Media Manager
Scottish Government, St Andrew's House
e: [redacted]

From: [redacted]
Sent: 07 June 2021 18:33
To: [redacted] >; Internal Communications <InternalCommunications@gov.scot>
Cc: Freedom of Information <foi@gov.scot>; Curtis PS (Penelope) <Penelope.Curtis@gov.scot>; [redacted] >; Data protection and information assets Mailbox <dpa@gov.scot>; [redacted] >
Subject: RE: Conor Matchett FOIs

[redacted]

You can tell Mr Matchett that we have not responded to the requests yet, but when we do, we will do so in accordance with FOISA and with Data Protection legislation and will keep him informed. In the meantime (and before we respond to the requests), we are engaging with the Scottish Government's Data Protection team to consider his view that this is personal information.

For what it's worth, I do not consider the information being requested to be 'personal'. It relates to requests he has made in his capacity as a journalist, so they relate to his work (and of course, he chooses to publish information about them in the Scotsman).

We have received requests about James McEnaney too (he has agreed that we can publish his name) and a new one about Mark McLaughlin (we haven't contacted him yet) and have also received - and published responses to - similar requests before: [FOI Requests received from Scottish Journalists/News Organisations: FOI release - gov.scot \(www.gov.scot\)](http://www.gov.scot)

Happy to discuss.

[redacted]

From: [redacted]

Sent: 07 June 2021 18:20

To: [redacted]; Internal Communications <InternalCommunications@gov.scot>

Cc: [redacted] >; Freedom of Information <foi@gov.scot>

Subject: RE: Conor Matchett FOIs

Thanks **[redacted]**

It's a bit of both.

He doesn't believe it is correct for the information to be released and he will write a story in the Scotsman if it is.

Best,

[redacted]

[redacted] | Communications: News (Environment, Climate Change and Energy)

Senior Media Manager

Scottish Government, St Andrew's House

e: [redacted]

From: [redacted]

Sent: 07 June 2021 18:15

To: [redacted] >; Internal Communications <InternalCommunications@gov.scot>

Cc: [redacted]>; Freedom of Information <foi@gov.scot>
Subject: RE: Conor Matchett FOIs

Hi [redacted]– is this a media query or is Conor seeking reassurances about the process? It is not clear from the information below.

In any case I am looping in [redacted] who heads up the FOI unit and is likely to be able to offer you some advice.

Thanks,

[redacted]



[redacted]

Internal Communications Team Leader

Marketing, Insight, Brand Scotland and Internal Communications | Scottish Government

[redacted] Pronouns: she / her

From: [redacted]

Sent: 07 June 2021 17:51

To: [redacted]; Internal Communications <InternalCommunications@gov.scot>

Subject: Conor Matchett FOIs

Hello all,

Apologies for emailing you all – wasn't sure where this would sit and thought it was worth flagging as a risk.

Someone has put in an FOI asking how many FOIs the Scotsman's Conor Matchett has made.

The FOI team has contacted him to say they intend on issuing this information, but offering to redact his name.

He considers the release of this information to be a breach of the Data Protection Act.

He would like clarity on how we intend to proceed – see below.

Best,

[redacted]

[redacted] Communications: News (Environment, Climate Change and Energy)

Senior Media Manager

Scottish Government, St Andrew's House
e: [redacted]

From: [redacted]
Sent: 07 June 2021 17:33
To: [redacted]
Subject: FOI shenanigans

Hi [redacted],

Hope you're well - good to chat earlier.

As discussed, I'm concerned that the Scottish Government is set to or already has released information I consider to be personal information and therefore a potential breach of the Data Protection Act.

Attached is an email chain from one of your FOI Advisers asking me for permission for my name to be published alongside a response to a FOI request that expressly names me in it.

Due to the fact I am named in the FOI, any release of information requested in it would constitute the release of personal information without my consent. I'm concerned this has already happened. The DPA is clear, personal information includes information relating to an identified individual.

I'm not sure it is in the best interests of the Scottish Government to be publishing my personal information without my consent. If I could have some clarity on what exactly the Scottish Government intends to do with this FOI request, that would be greatly appreciated.

Best wishes,
Conor Matchett

--

Best wishes,
Conor Matchett

Politics Reporter
The Scotsman
[redacted]

*JPIMedia Publishing Limited Registered in England and Wales no. 11499982
Registered Office: Ohs Secretaries Limited, 107 Cheapside, London, EC2V 6DN*

From: [redacted]
Sent: 14/06/2021 16:33
To: [redacted]
Re: Conor Matchett FOIs

Hi [redacted]

Thank you very much for letting me know. I appreciate your hard work and considered thought on this matter, do let me know if there is an appeal.

Best wishes,
Conor

On Mon, 14 Jun 2021 at 16:20, < [redacted] wrote:

Conor

On balance, we have concluded that we will not release the information requested in this instance.

We consider there may be a legitimate public interest in the volume of requests being made by individuals, such as journalists. However, we also recognise that individuals may be less likely to make requests if their personal information were to be disclosed and there is a competing public interest in ensuring that we do not act in ways that discourage people from making use of FOISA.

It is finely balanced, but in this instance, and taking into account your objection to the information being disclosed, we have concluded that the balance favours not disclosing the information.

Clearly, the requester may seek a review of this decision, particularly as another 2 journalists have raised no objections, and if so we will need to give this further consideration. However, if that does happen, we will, of course, keep you informed.

Regards

[redacted]
Scottish Government | Head of FOI Unit

From: [redacted]
Sent: 09 June 2021 18:05
To: [redacted]
Subject: Re: Conor Matchett FOIs

Hi [redacted] ,

Thanks for the update - do keep me posted.

Best wishes,
Conor

On Tue, 8 Jun 2021 at 18:35, **[redacted]** wrote:

Mr Matchett

[redacted], from our Comms Team, passed me your query about how we plan to respond to the FOI requests we have received asking for details of FOI requests you have made to the Scottish Government since May, last year.

I can assure you that we have not responded to the requests yet, and when we do, we will do so in accordance with both FOISA and with Data Protection legislation. In the meantime, we are engaging with the Scottish Government's Data Protection Team to consider your view that this is your personal information. This will inform how we respond to the requests.

We will keep you updated and, if we are advised that they do not constitute your personal information and so we need to release the details, will again give you the option of having your name redacted from the published responses.

Yours sincerely

[redacted]
Scottish Government | Head of FOI Unit

From: **[redacted]**
Sent: 07 June 2021 17:33
To: **[redacted]**
Subject: FOI shenanigans

Hi **[redacted]**

Hope you're well - good to chat earlier.

As discussed, I'm concerned that the Scottish Government is set to or already has released information I consider to be personal information and therefore a potential breach of the Data Protection Act.

Attached is an email chain from one of your FOI Advisers asking me for permission for my name to be published alongside a response to a FOI request that expressly names me in it.

Due to the fact I am named in the FOI, any release of information requested in it would constitute the release of personal information without my consent. I'm concerned this has already happened. The DPA is clear, personal information includes information relating to an identified individual.

I'm not sure it is in the best interests of the Scottish Government to be publishing my personal information without my consent. If I could have some clarity on what exactly

the Scottish Government intends to do with this FOI request, that would be greatly appreciated.

Best wishes,
Conor Matchett

--

Best wishes,
Conor Matchett

Politics Reporter
The Scotsman

[redacted]

*JPIMedia Publishing Limited Registered in England and Wales no. 11499982
Registered Office: Ohs Secretaries Limited, 107 Cheapside, London, EC2V 6DN*

--

From: [redacted]

To: Curtis PS (Penelope) <Penelope.Curtis@gov.scot>; [redacted]

RE: FOI requests - 202100202671 & 202100208816 - legal advice - data protection

Penny

Will do.

[redacted] is the only outstanding request on this topic (for now). You may recall, the McEnaney ones have gone.

[redacted]

From: Curtis PS (Penelope) <Penelope.Curtis@gov.scot>

Sent: 14 June 2021 18:40

To: [redacted]>

Subject: RE: FOI requests - 202100202671 & 202100208816 - legal advice - data protection

Thanks [redacted], I'm broadly content. [redacted under 36(1)].

We should also cross-check it against the response to the FOIs that we are releasing the information to [redacted]. I'll look at the one that sent me and respond to say it will need a cross-check. They aren't as time critical though.

Penny

Penny Curtis

Deputy Director Elections and FOI

Directorate for Constitution and Cabinet

Scottish Government

| St Andrew's House | Regent Road | Edinburgh | EH1 3DG

[redacted]

From: [redacted]

Sent: 14 June 2021 18:35

To: Curtis PS (Penelope) <Penelope.Curtis@gov.scot>; [redacted]

Subject: RE: FOI requests - 202100202671 & 202100208816 - legal advice - data protection

Penny

Updated draft, reflecting our conclusion, for your consideration.

[redacted]

From: Curtis PS (Penelope) <Penelope.Curtis@gov.scot>

Sent: 14 June 2021 15:15

To: [redacted]

Subject: RE: FOI requests - 202100202671 & 202100208816 - legal advice - data protection

[redacted]

This is helpful. It ultimately appears to come down to balancing whether the public interest is better served by disclosing or not disclosing the information. My judgement at this stage is that the balance is for not disclosing where consent has not been provided:

- People (including journalists) should not be pressured into limiting their use of FOISA because they are concerned that this information will be made public.
- The argument that over-use of the act by an individual is not a good use of public funds is fair, so there may be a public interest in knowing that. However, if we are concerned about that situation we can consider the use of exemptions on vexatious requests.
- It would be possible to request information on the use of FOISA by organisation (as has happened previously).

What else would you play into the reasons for/against?

Penny

Penny Curtis
Deputy Director Elections and FOI
Directorate for Constitution and Cabinet
Scottish Government
St Andrew's House | Regent Road | Edinburgh | EH1 3DG

[redacted]