

REASONS FOR NOT PROVIDING INFORMATION

Section 30(b)(ii) – Free and frank exchange of views for the purposes of deliberation

Exemptions under section 30(b)(ii) of FOISA (free and frank advice and exchange of views) apply 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 and exchange of views for the purposes of deliberation. The exemption recognises the need for Ministers to have a private space within which to seek advice and views from officials before reaching the settled public position. Disclosing the content of free and frank briefing material will substantially inhibit such briefing in the future, particularly because discussions on the issue are still ongoing and final decisions have not been taken, and these discussions relate to a sensitive or controversial issue.

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 exemptions. 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 free and frank advice and views to Ministers. Premature disclosure of this type of information could lead to a reduction in the comprehensiveness and frankness of such advice and views in the future when required meaning that Ministers would be less informed when making significant decisions, which would not be in the public interest.

Section 33(1)(b) – Commercial Interest and the Economy

An exemption under section 33(1)(b) of FOISA applies to some of the information you have requested because it is likely to prejudice substantially the commercial interests of the business. This exemption applies because disclosure of this particular information would, or would be likely to, prejudice substantially the commercial interests of the company in question. The commercially prejudicial information withheld from the release relates to the finances of the GFG Alliance and the business. If released this would likely lead to the company being negatively affected as it would give third party competitors an advantage and prejudice current ongoing commercial operations of the company.

This exemption is subject to the ‘public interest test’. Therefore, taking into 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 release to ensure full transparency. However, this is outweighed by the public interest as there is a risk to the companies commercial interests. The substantial prejudice to commercial interests that would be caused, coupled with the interests of the employees of the company being negatively affected means that the public interest test does not favour disclosure.