

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 formulation of the Scottish Government's cooperation agreement with the Scottish Green Party Parliamentary Group.

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 future candour in doing so will be affected by their assessment of whether the discussions on the cooperation agreement will be disclosed, when it may undermine or constrain the Government's view on that policy while it is still under discussion and development. While the final cooperation agreement documentation has been published and the agreement is now in place, disclosing early iterations of the documents, showing how the final position was reached, could undermine the final agreement, which is intended to provide stable Government for the parliamentary term. The agreement contains a degree of ongoing cooperation and collaboration and disclosing this information could undermine the process of collaboration in future, which is not in the public interest.

Section 38(1)(b) - personal information

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 (i.e. names/contact details of individuals), and disclosing it would contravene the data protection principles in Schedule 1 to the Data Protection Act 1998. 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.