

## **ANNEX A REASONS FOR NOT PROVIDING INFORMATION**

### **Exemptions apply, subject to the public interest test**

1. An exemption under section 29(1)(b) of FOISA (Ministerial communications) applies to some of the information requested because it relates to communications between Scottish Ministers.

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 allowing Ministers a private space within which policy positions can be explored and refined, until the Government as a whole can adopt a policy that is sound and likely to be effective. This private thinking space also allows for all options to be properly considered, so that good policy decisions can be taken. Premature disclosure is likely to undermine the full and frank discussion of issues between Ministers, which in turn will undermine the quality of the policy making process.

2. 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 development of the Scottish Government's policy on the Addressing Depopulation Action Plan.

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 candour in doing so will be affected by their assessment of whether the discussions on the Addressing Depopulation Action Plan will be disclosed in the near future, when it may undermine or constrain the Government's view on that policy while it is still under discussion and development.

3. An exemption applies under section 12(1) of FOISA - Complying will exceed the upper cost limit.

Whilst the majority of the information requested as part of this FOI has been provided, some of it has not been due to the costs of locating, retrieving and providing a specific category of correspondence which would exceed the upper cost limit of £600.

On announcement of the Islands Bond scheme, many media outlets ran articles covering the proposed policy, including a number of international news organisations. This prompted a significant influx of speculative emails from individuals from countries out with the UK, asking for more information on migration to the UK and how to access this fund. While our aim is to provide information whenever possible, in this instance the costs of locating, retrieving and providing this information would exceed the upper cost limit of £600. Under section 12 of FOISA public authorities are not required to comply with a request for information if the authority estimates that the cost of complying would exceed the upper cost limit, which is currently set at £600 by Regulations made under section 12.

In this instance, rather than classing the entire FOI request as out with the cost limit, we have provided information within the scope of the FOI but not those that fall into the speculative email category as explained above.