

ANNEX

An exemption under section 38(1)(b) of FOISA applies to a small amount of the information you have 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 Article 5(1) of the General Data Protection Regulation and in section 34(1) of the Data Protection Act 2018. 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.

An exemption under section 33(1)(b) of FOISA applies to some of the information you have requested. Section 33(1)(b) applies when disclosure of the information would, or would be likely to, prejudice substantially the commercial interests of any person. Some of the information you requested contains cost data, manufacturing capability, production volumes, and operational metrics relating to pladis' UK business, the release of which could give its competitors an advantage and prejudice the commercial interests of pladis.

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.

While we recognise that there is a general public interest in a high profile potential factory closure such as this, there is a greater public interest in protecting the integrity of the closure process and the commercial interests of the company while that process remains ongoing.

An exemption under 30 (b)(1) (free and frank provision of advice) applies to some of the information you have requested. This exemption recognises the need for officials to have a private space within which to provide free and frank advice to other officials before the Scottish Government reaches a settled public view. Disclosing the content of free and frank advice on ongoing policy issues will substantially inhibit the provision of such advice in the future, particularly because these discussions are still ongoing and decisions have not been taken.

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 a private space within which officials can provide full and frank advice to other officials, as part of the process of exploring and refining the Government's policy position on the administration of funding for training until the Government as a whole can adopt a decision that is sound and likely to be effective. This private thinking space is essential to enable all options to be properly considered, based on the best available advice, so that good policy decisions can be taken.

Premature disclosure is likely to undermine the full and frank discussion of issues between Ministers and officials, which in turn will undermine the quality of the decision making process, which would not be in the public interest.