

FOI 202300348899 – FOR RELEASE

**Document**

**From:** [redacted]@gov.scot >  
**Sent:** 16 December 2022 15:42  
**To:** Morrison A (Alan) <[Alan.Morrison@gov.scot](mailto:Alan.Morrison@gov.scot)>; [redacted]@gov.scot >  
**Subject:** RE: FOI - TRIAGE - HSC - Freedom of Information request Best use of Public Services and early PFI - 202200331936

[OUT OF SCOPE]

**From:** Morrison A (Alan) <[Alan.Morrison@gov.scot](mailto:Alan.Morrison@gov.scot)>  
**Sent:** 16 December 2022 15:35  
**To:** [redacted]@gov.scot; [redacted]@gov.scot  
**Subject:** RE: FOI - TRIAGE - HSC - Freedom of Information request Best use of Public Services and early PFI - 202200331936

[Redacted: Section 38(1)(b)]  
Thanks for this. I have just tweaked the 'get in touch with me' line, but other than that, it looks fine to me. [Redacted: Section 30(b)]

[OUT OF SCOPE]

Alan

**From:** [redacted]@gov.scot  
**Sent:** 16 December 2022 12:02  
**To:** Morrison A (Alan) <[Alan.Morrison@gov.scot](mailto:Alan.Morrison@gov.scot)>; [redacted]@gov.scot >  
**Subject:** FW: FOI - TRIAGE - HSC - Freedom of Information request Best use of Public Services and early PFI - 202200331936

Hi Alan,  
That's great thanks. I've drafted the response here: Click on the link to open 'Draft FOI Response to Correspondent - 202200331936 - 16 December 2022' - <https://erdm.scotland.gov.uk/documents/A41883106/details>

[OUT OF SCOPE]

If you'd like to see the summary of the search results and statement of compliance, here is the doc: Click on the link to open 'Searches Template and Statement of Compliance - 16 December 2022' - <https://erdm.scotland.gov.uk/documents/A41882895/details>

Lastly - I don't need a quick reply to this, I'm here until next Thursday so can issue it anytime until then.

Thanks

[Redacted: Section 38(1)(b)]

**From:** Morrison A (Alan) <[Alan.Morrison@gov.scot](mailto:Alan.Morrison@gov.scot)>  
**Sent:** 13 December 2022 17:18

**To:** [redacted]@gov.scot;[redacted]@gov.scot >

**Subject:** RE: FOI - TRIAGE - HSC - Freedom of Information request Best use of Public Services and early PFI - 202200331936

[Redacted: Section 38(1)(b)]

Keen to not miss the deadline, so happy with this proposed approach. Could we just say, what do you want and we can see if we can help them? The obvious thing is to send them the business case, but if you want to offer my email and say 'get in touch with him', I would be ok with that.

Thanks for dealing with this.

alan

**From:** [redacted]@gov.scot >

**Sent:** 13 December 2022 17:10

**To:** Morrison A (Alan) <[Alan.Morrison@gov.scot](mailto:Alan.Morrison@gov.scot)>; [redacted]@gov.scot >

**Subject:** FW: FOI - TRIAGE - HSC - Freedom of Information request Best use of Public Services and early PFI - 202200331936

Hi Alan/[Redacted: Section 38(1)(b)]

[Redacted: Section 30(b)]

Would you be content with me taking the approach outlined above – cost exemption and advice on how to find a more successful search and results – and proceeding with a response to the requester?

Thanks

[Redacted: Section 38(1)(b)]

**From:** [redacted]@gov.scot >

**Sent:** 30 November 2022 12:32

**To:** [redacted]@gov.scot >

**Subject:** FW: FOI - TRIAGE - HSC - Freedom of Information request Best use of Public Services and early PFI - 202200331936

[OUT OF SCOPE]

**From:** [redacted]@gov.scot >

**Sent:** 30 November 2022 12:15

**To:** [redacted]@gov.scot >; [redacted]@gov.scot >

**Cc:** Morrison A (Alan) <[Alan.Morrison@gov.scot](mailto:Alan.Morrison@gov.scot)>

**Subject:** RE: FOI - TRIAGE - HSC - Freedom of Information request Best use of Public Services and early PFI - 202200331936

Hi [Redacted: Section 38(1)(b)],

Suggest this goes to [Redacted: Section 38(1)(b)] please.

FOI unit can advise on interpretation of 'letters' [Redacted: Section 30(b)] – free and frank

[Redacted: Section 38(1)(b)]

**From:** [redacted]@gov.scot >

**Sent:** 30 November 2022 11:16

**To:** [redacted]@gov.scot >; [redacted]@gov.scot >

**Cc:** Morrison A (Alan) <[Alan.Morrison@gov.scot](mailto:Alan.Morrison@gov.scot)>

**Subject:** FW: FOI - TRIAGE - HSC - Freedom of Information request Best use of Public Services and early PFI - 202200331936

[Redacted: Section 38(1)(b)]/ [Redacted: Section 38(1)(b)]

Can you help with this FOI?

To request copies of all letters to any Directors associated with the buyout and Scottish Government. - [Redacted: Section 30(b)] – free and frank

[Redacted: Section 38(1)(b)], would you be able to handle this FOI on MiCase? I think Alan is only one person who may have some of the requested information.

Request:

Dear Scottish Government,

Quote

There has been one PFI

contract terminated before the end of the associated contracted period. The East Ayrshire Community

Hospital PFI contract was bought out by NHS Ayrshire and Arran on 31 March 2021 in advance of the

end of the contract period of August 2025. The acquisition by NHS Ayrshire and Arran of Cumnock

SPV Limited (and Cumnock SPV Holdings Limited), the company that owned and operated the hospital

through the PFI contract since August 2000, took place in order that the health board could further

develop long term health services to best meet the needs of the those living in East Ayrshire. The

buyout was fully funded by the Scottish Government with an investment of £12 million.

End quote

To request copies of all letters to any Directors associated with the buyout and Scottish Government

Yours faithfully,

Correspondent

**From:** [redacted]@gov.scot > **On Behalf Of** Freedom of Information

**Sent:** 28 November 2022 10:41

**To:** [redacted]@gov.scot >

**Subject:** FOI - TRIAGE - HSC - Freedom of Information request Best use of Public Services and early PFI - 202200331936

Hi [Redacted: Section 38(1)(b)],

Please see the FOI request below. It looks like this may be in relation to your policy area. Please confirm this sits with you or advise us immediately if it does not; suggesting business areas that are better suited.

Please note the following:

### **Timescale**

- The response to this case should issue as soon as possible and no later than the statutory deadline which is **28/12/22**.

### **Immediate Actions**

Please:

- 'Assign to self' through the 'Case Actions' tab on MiCase: [MiCase - View Case 331936](#)
- Send the requester an **FOI specific acknowledgement letter**, following the standard template ([FOISA Request Templates](#), page 5). The acknowledgement issued by MiCase is not FOI specific and we are required to do this.
- Complete all relevant document as your case progresses, including the:
  - (i) Mandatory [Statement of Compliance](#) listing information identified as in scope and a summary of decisions made
  - (ii) [Searches Template](#) recording details of searches carried out.
- Use the **Response Wizard** contained in MiCase for ALL letters to the requester.
- All FOI/EIR responses where information is released are uploaded to the SG website. Please complete and submit a **mandatory** [Pre-publication checklist for gov.scot](#) before requesting publication.

### **Sensitivity**

- In FOISA terms we are assessing this case as **routine**. This means it should not require a Ministerial decision in terms of disclosure.  
*The sensitivity assessment can change once full searches have been completed. If after searching you consider that the response requires a Ministerial decision please engage with the FOI Unit to help us reassess the case.*

- Please ensure that decisions on disclosure are taken by officials of appropriate seniority (normally C Band or above). You may find our Submissions Templates useful here: <https://erdm.scotland.gov.uk:8443/documents/qA962816>.
- If necessary please sight your Comms team if you consider that parallel media handling is required.

### **Requests for legal advice, or requests which capture legal advice**

You should always consult the relevant team in Scottish Government Legal Directorate (SGLD) if you receive a request for/relating to legal advice or there is material from the Law Officers (the Lord Advocate and the Solicitor General). SGLD can also help in identifying any legal advice within the scope of the request.

### **Guidance**

Detailed guidance is available here [Freedom of Information \(FOI\): SharePoint: 2020-2025](#) and [SharePoint Collection](#).

### **Saving and ERDM**

Please save all correspondence and evidence of how you reached your final decision within the appropriate ERDM file - you will find this by searching for the FOI number. This will help speed up the process should the request go to review or appeal.

Many thanks,

[Redacted: Section 38(1)(b)]

[Redacted: Section 38(1)(b)] FOI Adviser (TRS) | Scottish Government | 2W St Andrew's House, Regent Road, Edinburgh EH1 3DG

[Yammer: @FOI - Community](#)

-----Original Message-----

From: Central Enquiry Unit <[CEU@gov.scot](mailto:CEU@gov.scot)>

Sent: 28 November 2022 09:53

To: Freedom of Information <[foi@gov.scot](mailto:foi@gov.scot)>

Subject: FOI - TRIAGE - HSC - Freedom of Information request Best use of Public Services and early PFI - 202200331936

-----Original Message-----

Request from correspondent [Redacted: Section 25]

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### **DOCUMENT**

From: Morrison A (Alan) <[Alan.Morrison@gov.scot](mailto:Alan.Morrison@gov.scot)>

Sent: 05 December 2022 14:14

To: [redacted]@gov.scot >

Cc: [redacted]@gov.scot >; [redacted]@gov.scot >; [redacted]@gov.scot >

Subject: RE: FOI - TRIAGE - HSC - Freedom of Information request Best use of Public Services and early PFI - 202200331936

[Redacted: Section 38(1)(b)]

Could you help [Redacted: Section 38(1)(b)] with the attached FOI and search my mailbox for any emails that include 'East Ayrshire Community Hospital', it is commonly referred to as 'EACH', though I would suggest that may be an unproductive search strategy. This was first proposed as a potential option back in December 2020 and it was all concluded by June 2021, so you can limit your search to these dates.

Regards

Alan

## **DOCUMENT**

**From:** Morrison A (Alan)

**Sent:** 07 February 2023 12:36

**To:** [redacted]@gov.scot >

**Subject:** FW: Request confidential (s) - transparencies

[OUT OF SCOPE]

Background is they asked for details of the East Ayrshire Community Hospital PFI buy out, but because of the volume of documents it exceeded the £600 limit. [OUT OF SCOPE]

[OUT OF SCOPE]

Alan

[OUT OF SCOPE]

## **DOCUMENT**

**From:** Morrison A (Alan)

**Sent:** 24 February 2023 09:01

**To:** [redacted]@gov.scot >; [redacted]@gov.scot >

**Subject:** RE: FOI - Review of best use of Public Services and early PFI - original case 202200331936 - review 202300342978

[Redacted: Section 38(1)(b)]

Thanks for picking this up. There might be an element of duplication in the attached, but that is every email both received and sent about this FOI. [OUT OF SCOPE] In terms of your three specific questions:

- Was advice sought from the FOI unit/others on the final response (including addition of Alan as a contact)? – No that was my bright idea thinking that it might be helpful. The FOI were approached afterwards, but not in relation to including me as a contact.
- Were SPADs and Comms sent the response for info ahead of issue? – No. I determined that there was no need to involve SpAds or Ministers and I remain of that view.
- What correspondence has taken place with the requester since the original response was issued (20 December 2022)? And can it be forwarded onto me? – See attached.

Speak to you later.

Alan

**From:** [redacted]@gov.scot >

**Sent:** 23 February 2023 13:38

**To:** Morrison A (Alan) <[Alan.Morrison@gov.scot](mailto:Alan.Morrison@gov.scot)>; [redacted]@gov.scot >

**Subject:** FW: FOI - Review of best use of Public Services and early PFI - original case 202200331936 - review 202300342978

Good afternoon both,

Was looking to get in touch with you as part of the below FOI Review. I've added some time in our diaries tomorrow @ 15:00 to discuss, let me know if the slot is not suitable.

I've been reviewing the original case file ([202200331936 - Objective ECM \(scotland.gov.uk\)](https://www.scotland.gov.uk)) to look at the background and in the meantime have added some bullets below of some of the questions I was looking to discuss with you:

- Was advice sought from the FOI unit/others on the final response (including addition of Alan as a contact)?
- Were SPADs and Comms sent the response for info ahead of issue?
- What correspondence has taken place with the requester since the original response was issued (20 December 2022)? And can it be forwarded onto me?

Many thanks,

[Redacted: Section 38(1)(b)]

[Redacted: Section 38(1)(b)] [Redacted: Section 38(1)(b)] External Financial Performance and Improvement | Scottish Government

E: [redacted]@gov.scot | M: [Redacted: Section 38(1)(b)]



### Attachments

[Redacted: Section 25];[OUT OF SCOPE]

### Document

**From:** Morrison A (Alan)

**Sent:** 14 February 2023 22:18

**To:** McCallum R (Richard) <[Richard.McCallum@gov.scot](mailto:Richard.McCallum@gov.scot)>; [redacted]@gov.scot >

**Subject:** RE: FOI - Review of best use of Public Services and early PFI - original case 202200331936 - review 202300342978

It asked about the buyout of the East Ayrshire Community Hospital, but it poorly phrased and not well targeted, so it was going to exceed the cost limit. I thought it would be a good idea to add a line in our response that basically said, contact me and I might be able to help you. [OUT OF SCOPE]

alan

**From:** McCallum R (Richard) <[Richard.McCallum@gov.scot](mailto:Richard.McCallum@gov.scot)>

**Sent:** 14 February 2023 18:06

**To:** [redacted]@gov.scot >; Morrison A (Alan) <[Alan.Morrison@gov.scot](mailto:Alan.Morrison@gov.scot)>

**Subject:** FW: FOI - Review of best use of Public Services and early PFI - original case 202200331936 - review 202300342978

[Redacted: Section 38(1)(b)]

Who did the FOI originally come to and what's the nature of it?

R

## **Document**

**From:** [redacted]@gov.scot

**Sent:** 07 December 2022 15:38

**To:** McCallum R (Richard) <[Richard.McCallum@gov.scot](mailto:Richard.McCallum@gov.scot)>; [shiree.donnelly@gov.scot](mailto:shiree.donnelly@gov.scot); Bennett F (Fiona) (Health Finance) <[Fiona.Bennett@gov.scot](mailto:Fiona.Bennett@gov.scot)>

**Cc:** Morrison A (Alan) <[Alan.Morrison@gov.scot](mailto:Alan.Morrison@gov.scot)>; [redacted]@gov.scot >; [redacted]@gov.scot >

**Subject:** FOI Contribution Request - Responses by COP 13 December

**To:** Director of Health Finance and Governance

Deputy Director, Health and Social Care Financial Management and Planning

Interim Deputy Director, NHS, Integration & Social Care Finance

**Cc:** Interim Deputy Director, Health Infrastructure, Investment and PPE (for awareness only as information already provided)

Dear All,

We've received an FOI request regarding the buyout of the East Ayrshire Community Hospital PFI contract. Please see the background information to the request below:

"There has been one PFI contract terminated before the end of the associated contracted period. The East Ayrshire Community Hospital PFI contract was bought out by NHS Ayrshire and Arran on 31 March 2021 in advance of the end of the contract period of August 2025. The acquisition by NHS Ayrshire and Arran of Cumnock SPV Limited (and Cumnock SPV Holdings Limited), the company that owned and operated the hospital through the PFI contract since August 2000, took place in order that the health board could further develop long term health services to best meet the needs of the those living in East Ayrshire. The buyout was fully funded by the Scottish Government with an investment of £12 million."

The correspondent is seeking the following information:

- 1. "To request copies of all letters to any Directors associated with the buyout and Scottish Government."**

I would appreciate your help in carrying out the searches for relevant documents in your mailboxes e.g. letters attached within an email. If you consider other Directors and Deputy Directors would have information regarding this I'd be grateful if you could forward this email on. I'll search eRDM for relevant results.

From my understanding the buy-out was first proposed as a potential option back in December 2020 and it was all concluded by June 2021, so you can limit your search to these dates.

I would be grateful if you could **please complete the search template attached** and then **provide the schedule of information** (any letters) that your policy unit holds that fall within the scope of the request. Please note that you should identify and highlight areas that your policy feel should be redacted.

Please also advise of a nil return as soon as possible.  
I'd be grateful if you could provide a response to myself by close of play on **Tuesday 13 December 2022**.

Thanks

[Redacted: Section 38(1)(b)]

[Redacted: Section 38(1)(b)]

Health Facilities and Environmental Sustainability  
Health Finance, Corporate Governance and Value Directorate

Attachment

## FOI/EIR REQUEST – SEARCHES CARRIED OUT

### FOI case reference number:

Please complete the table below where applicable and add any other relevant information regarding searches or other work carried out to locate information within the scope of the request.

Save a copy of this in the request's casefile.

eRDM searches (including searches carried out for you by other teams)

<b>Keywords searched</b> (individual keywords or combinations)	<b>Comments on findings</b> – e.g. number of documents found, if reading through showed none/some of these documents were in scope
<b>eRDM files searched*</b>	<b>Comments on findings</b> – e.g. number of documents found, if reading through showed none/some of these documents were in scope

\* - if individual files were reviewed in full as well as or instead of keyword searches

Inbox searches

Names of staff/teams asked to carry out searches	Date you asked them to search	Comments on feedback from them (e.g. nothing found, no response, provided docs x and y)

Details of keywords used in your own/your team's inbox searches

Keywords searched (individual keywords or combinations)	Comments on findings – e.g. number of documents found, if reading through showed none/some of these documents were in scope

Details of any other searches carried out (including by other teams)

e.g. information held in hard copy, SG and other websites, non-eRDM databases, files held by [NRS](#) or paper files, or personal devices and accounts (such as WhatsApp, text messages etc).

**Statement of Compliance – Initial Request**

FOI reference number:

**Document**

**From:** [redacted]@gov.scot  
**Sent:** 07 December 2022 15:49  
**To:** [redacted]@gov.scot >  
**Subject:** RE: FOI Contribution Request - Responses by COP 13 December

[OUT OF SCOPE]

**From:** [redacted]@gov.scot >  
**Sent:** 07 December 2022 15:48  
**To:** [redacted]@gov.scot >  
**Subject:** RE: FOI Contribution Request - Responses by COP 13 December

Hi [Redacted: Section 38(1)(b)],

Alasdair Black would have been HF DD in that time so could you send to him too please. He's left HF but still with SG.

[Redacted: Section 38(1)(b)]

**Document**

**[OUT OF SCOPE]**

**From:** [redacted]@gov.scot >  
**Sent:** 07 December 2022 15:53  
**To:** Black A (Alasdair) <[Alasdair.Black@gov.scot](mailto:Alasdair.Black@gov.scot)>  
**Cc:** [redacted]@gov.scot >  
**Subject:** FW: FOI Contribution Request - Responses by COP 13 December

Hi Alasdair,

I have an FOI request about the buyout of the East Ayrshire Community Hospital PFI contract (please see my commissioning email below for the attention of Richard McCallum and DD's within Health Finance).

As you were previously a DD in the Directorate, could you please complete a search for the FOI too please?

Thanks

[Redacted: Section 38(1)(b)]  
[Redacted: Section 38(1)(b)]  
Health Facilities and Environmental Sustainability  
Health Finance, Corporate Governance and Value Directorate

### **Document**

**[OUT OF SCOPE]**

### **Document**

**From:** [redacted]@gov.scot  
**Sent:** 13 December 2022 17:24  
**To:** Morrison A (Alan) <[Alan.Morrison@gov.scot](mailto:Alan.Morrison@gov.scot)>; [redacted]@gov.scot >  
**Subject:** RE: FOI - TRIAGE - HSC - Freedom of Information request Best use of Public Services and early PFI - 202200331936

That's great thanks Alan, I'll draft a response tomorrow.

Thanks

[Redacted: Section 38(1)(b)]

### **Document**

**From:** [redacted]@gov.scot >  
**Sent:** 14 February 2023 12:31  
**To:** McCallum R (Richard) <[Richard.McCallum@gov.scot](mailto:Richard.McCallum@gov.scot)>  
**Cc:** Bennett F (Fiona) (Health Finance) <[Fiona.Bennett@gov.scot](mailto:Fiona.Bennett@gov.scot)>; [redacted]@gov.scot  
**Subject:** RE: FOI - Review of best use of Public Services and early PFI - original case 202200331936 - review 202300342978

Hi [Redacted: Section 38(1)(b)]

Could this be allocated to [Redacted: Section 38(1)(b)] please?

[Redacted: Section 38(1)(b)]- once you have this and have got up to speed, happy to have a chat through next steps.

Thanks

[Redacted: Section 38(1)(b)]

## **Document**

[OUT OF SCOPE]

**From:** [redacted]@gov.scot > **On Behalf Of** McCallum R (Richard)

**Sent:** 14 February 2023 12:36

**To:** [redacted]@gov.scot >

**Cc:** Morrison A (Alan) <[Alan.Morrison@gov.scot](mailto:Alan.Morrison@gov.scot)>

**Subject:** RE: FOI - Review of best use of Public Services and early PFI - original case 202200331936 - review 202300342978

To add that [Redacted: Section 38(1)(b)] is [Redacted: Section 38(1)(b)]'s Branch will take forward the review.

[Redacted: Section 38(1)(b)]

PA to Richard McCallum, Director of Health Finance and Governance  
1E.05

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

[Redacted: Section 38(1)(b)]

[redacted]@gov.scot

[OUT OF SCOPE]

**From:** [redacted]@gov.scot > **On Behalf Of** McCallum R (Richard)

**Sent:** 14 February 2023 12:20

**To:** [redacted]@gov.scot >

**Cc:** Bennett F (Fiona) (Health Finance) <[Fiona.Bennett@gov.scot](mailto:Fiona.Bennett@gov.scot)>

**Subject:** FW: FOI - Review of best use of Public Services and early PFI - original case 202200331936 - review 202300342978

Hola [Redacted: Section 38(1)(b)]

Further to the review request below, relating to a case that [Redacted: Section 38(1)(b)] dealt with, grateful for a name of someone in your Branch by 11:00 tomorrow to take forward the review.

[OUT OF SCOPE]

[Redacted: Section 38(1)(b)]

[Redacted: Section 38(1)(b)]

PA to Richard McCallum, Director of Health Finance and Governance  
1E.05  
St. Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

[Redacted: Section 38(1)(b)]

[redacted]@gov.scot

## **DOCUMENT**

**From:** [redacted]@gov.scot

**Sent:** 27 February 2023 17:09

**To:** Freedom of Information <foi@gov.scot>

**Subject:** RE: FOI - Review of best use of Public Services and early PFI - original case 202200331936 - review 202300342978

Hello [Redacted: Section 38(1)(b)],

Thank you for getting back to me. I have since had a meeting with the original case handlers who provided more information and correspondence from the original case.

[OUT OF SCOPE]

**Signposting** – Alan added his details as thought might be helpful if the correspondent could narrow down the search. It was not possible to identify exactly what information the requester was looking for, despite multiple requests to clarify.

[Redacted: Section 30(b)(i)]

### **Situation:**

- FOI Response was issued with a s12(excessive cost of compliance) response and Alan Morrison's email was noted to be helpful, however this looks to have caused confusion with the correspondent getting in touch about separate FOI queries/not being clear about what it was they were looking for.
- [OUT OF SCOPE]
- From reviewing the direct correspondence (second attached) I believe that the correspondent was looking for direction on how to bring the costs of the request below the £600 threshold, but was not clear on what it was they wanted to know so advice could not be given on how to narrow down their query.
- [Redacted: Section 30(b)(i)]

## Summary of review response approach:

[Redacted: Section 30(b)(i)]

The response will therefore look to:

1. Uphold the original response and s12 exemption as the searches template from the original case outlines the cost implications.
2. Highlight that the response to the original FOI was responded to on time and in accordance with FOISA.
3. Reiterate the signposting from original response to reduce the scope of the request to bring costs below £600. Would also look to acknowledge that the direct correspondence about this was handled as general correspondence, not subject to timescales and signpost helpful links to aid in narrowing down their search.
4. Highlight official channels for queries for information.
5. Signpost the Scottish Information Commissioner should they wish to appeal the review.

## Next Steps:

Given the additional context and background, do you think the response approach outlined is appropriate?

I think we would be keen to address the direct correspondence so can consider it answered. To that end, re point 3 above, do you know of any guidance that is used to advise on how to bring requests under £600/make them more narrow? (I was going to signpost: [Briefings and guidance | Scottish Information Commissioner \(itspublicknowledge.info\)](#) and reiterate the example given in the original response specifying the name of the Director(s) they are interested in or restrict the request to a specific business area of the Scottish Government ([Directorates - gov.scot \(www.gov.scot\)](#)). Is there any stock language about us not being able to provide members of the public with questions for them to ask us, they have to outline what they are looking for?

Let me know if it would be easier to discuss with you.

Many thanks,

[Redacted: Section 38(1)(b)]

[Redacted: Section 38(1)(b)] [Redacted: Section 38(1)(b)] External Financial Performance and Improvement | Scottish Government

E: [redacted]@gov.scot | M: [Redacted: Section 38(1)(b)]



**DOCUMENT**

**From:** [redacted]@gov.scot

**Sent:** 28 February 2023 11:19

**To:** [redacted]@gov.scot >

**Subject:** RE: FOI - Review of best use of Public Services and early PFI - original case 202200331936 - review 202300342978

Hello [Redacted: Section 38(1)(b)],

Please see a draft response to the FOI review in the below document: [202300342978 - Response Outline - DRAFT details - Objective ECM \(scotland.gov.uk\)](#)

The draft response is on p7, the rest of the contents include the FOI review checklist and supporting information. Grateful if you could review to see if have any comments would like amendments to be made. Let me know if it would be easier to have a chat through.

Alan noted that he determined that there was no need to involve SPADs or Ministers and remains of that view, the requirement to clear through SPADs has therefore been removed from the timeline.

[Redacted: Section 30(b)]

## Summary of response approach:

1. Uphold the original response and s12 exemption as the searches template from the original case outlines the cost implications.
2. Highlight that the response to the original FOI was responded to on time and in accordance with FOISA.
3. Reiterate the signposting from original response to reduce the scope of the request to bring costs below £600. Would also look to acknowledge that the direct correspondence about this was handled as general correspondence, not subject to timescales and signpost helpful links to aid in narrowing down their search.
4. Highlight official channels for queries for information.
5. Signpost the Scottish Information Commissioner should they wish to appeal the review.

Many thanks,

[Redacted: Section 38(1)(b)]

[Redacted: Section 38(1)(b)] | [Redacted: Section 38(1)(b)] | External Financial Performance and Improvement | Scottish Government

E: [redacted]@gov.scot | M: [Redacted: Section 38(1)(b)]



**From:** [redacted]@gov.scot

**Sent:** 23 February 2023 17:14

**To:** [redacted]@gov.scot >

**Subject:** RE: FOI - Review of best use of Public Services and early PFI - original case 202200331936 - review 202300342978

Hello [Redacted: Section 38(1)(b)],

Please see below an outline of the current position of the FOI review for case 202200331936 for info:

### **Background:**

An acknowledgement has been sent to the requester and I have reviewed the background/handling of the case. From the evidence on the [casefile](#) and consulting relevant [Guidance](#), I agree that the s12 exemption was appropriate. [OUT OF SCOPE]

It is noted that SPADs had asked to see original response before issue for info, not for clearance ([FOIU SpAds awareness email details - Objective ECM \(scotland.gov.uk\)](#)) I'm awaiting conversation tomorrow with [Redacted: Section 38(1)(b)] to find out if this changed or the response was sent up.

### **Approach:**

Whilst the review request is due to after a '*number of prompts to the person named in asking to assist with a response did not appear a reply*', I am not treating the review as a 'failure to respond to the request' as the original FOI was responded to on time. (Clarifying with FOI Unit)

Based on whether the original response was sent to SPADs/Comms for info, I will get in touch with them so they are aware of the review and to see whether they would like to also be sent the review response for info.

At the moment, the response will look to:

- Uphold the original response and s12 exemption.
- Reiterate the signposting from original response to reduce the scope of the request to bring costs below £600.
- Provide assurance that a comprehensive review has been made.
- Highlight official channels for queries for additional information (I don't think we should include that signposting a direct contact is not usual practice).
- Signpost the Scottish Information Commissioner should they wish to appeal the review.

TBC based on feedback from the FOI Unit and original case handlers:

- Awaiting confirmation from the FOI Unit on how the direct enquiries to Alan are to be treated. Based on what they advise, may be required to acknowledge/answer them via the response. It may also be the case that we need to seek clarification from the requester via a holding response.

### **Timelines:**

Due to leave/capacity pressures, I've added some timelines below:

Send to [Redacted: Section 38(1)(b)] for Initial Review	27.03.2023	
Send to Fiona Bennett for Clearance	02.03.2023	
Send to FOI Unit for Clearance	03.03.2023	FOI unit recommend 3 working days for review.
Send to SPADs/Comms for info	08.03.2023	TBC – see above under background
Aimed for Response Deadline	08.03.2023	I'm on leave 9,10 & 13
Final Response Deadline	13.03.2023	

I've been liaising with the FOI unit regarding the response and therefore hopeful that there shouldn't be any issues with clearing the final response.

Let me know if you would like to discuss or have any views on the handling of the review.

Many thanks,

[Redacted: Section 38(1)(b)]

[Redacted: Section 38(1)(b)] [Redacted: Section 38(1)(b)] External Financial Performance and Improvement | Scottish Government

E: [redacted]@gov.scot | M: [Redacted: Section 38(1)(b)]



**From:** [redacted]@gov.scot

**Sent:** 14 February 2023 12:47

**To:** [redacted]@gov.scot >; McCallum R (Richard) <[Richard.McCallum@gov.scot](mailto:Richard.McCallum@gov.scot)>

**Cc:** Bennett F (Fiona) (Health Finance) <[Fiona.Bennett@gov.scot](mailto:Fiona.Bennett@gov.scot)>

**Subject:** RE: FOI - Review of best use of Public Services and early PFI - original case 202200331936 - review 202300342978

Hello [Redacted: Section 38(1)(b)],

I have had a quick review and allocated the case to myself on the system – [Redacted: Section 38(1)(b)], no need to allocate it to me thanks.

Thank you for the offer to chat through, will liaise with you re a suggested approach and next steps when have an outline together.

Best wishes,

[Redacted: Section 38(1)(b)]

[Redacted: Section 38(1)(b)] [Redacted: Section 38(1)(b)] External Financial Performance and Improvement | Scottish Government

E: [redacted]@gov.scot | M: [Redacted: Section 38(1)(b)]

## **DOCUMENT**

**From:** [redacted]@gov.scot >  
**Sent:** 28 February 2023 15:18  
**To:** [redacted]@gov.scot >  
**Subject:** RE: FOI - Review of best use of Public Services and early PFI - original case 202200331936 - review 202300342978

Hi [Redacted: Section 38(1)(b)],

No, sorry I didn't send an acknowledgement, I just proceeded with the response.

Thanks

[Redacted: Section 38(1)(b)]  
**From:** [redacted]@gov.scot >  
**Sent:** 27 February 2023 17:37  
**To:** [redacted]@gov.scot >  
**Subject:** FW: FOI - Review of best use of Public Services and early PFI - original case 202200331936 - review 202300342978

Hello [Redacted: Section 38(1)(b)],

Following on from our catch-up last week regarding the handling of FOI 202200331936, I was wondering whether a FOI specific acknowledgement letter had been sent in addition to the automated Micase acknowledgement? Apologies if I've missed it on the casefile.

Highlighting the below from the original FOI unit correspondence when assigning a case:

- Send the requester an **FOI specific acknowledgement letter**, following the standard template ([FOISA Request Templates](#), page 5). The acknowledgement issued by MiCase is not FOI specific and we are required to do this.

Many thanks,

[Redacted: Section 38(1)(b)]

[Redacted: Section 38(1)(b)] | [Redacted: Section 38(1)(b)] External Financial Performance and Improvement | Scottish Government

E: [redacted]@gov.scot | M: [Redacted: Section 38(1)(b)]

## **DOCUMENT**

**From:** [redacted]@gov.scot > **On Behalf Of** Freedom of Information

**Sent:** 03 March 2023 11:08

**To:** [redacted]@gov.scot >

**Subject:** RE: FOI - Review of best use of Public Services and early PFI - original case 202200331936 - review 202300342978

Thanks [Redacted: Section 38(1)(b)],

I will try to look at this today

[Redacted: Section 38(1)(b)]

[Redacted: Section 38(1)(b)] | FOI Adviser | Freedom of Information Unit



**Yammer:** [@FOI - Community](#)

**FOI guidance:** [Explore](#) | [SG Thrive \(learn.link\)](#)

**From:** [redacted]@gov.scot >

**Sent:** 02 March 2023 13:09

**To:** Freedom of Information <[foi@gov.scot](mailto:foi@gov.scot)>

**Subject:** RE: FOI - Review of best use of Public Services and early PFI - original case 202200331936 - review 202300342978

Hello [Redacted: Section 38(1)(b)],

Thank you for providing a comprehensive response in regards to the email thread and our discussion.

I've incorporated your guidance into the review response which has been drafted to align with the reviews template you have highlighted. Am due to send the draft response to the FOI Unit for appropriate review shortly.

Best wishes,

[Redacted: Section 38(1)(b)]

[Redacted: Section 38(1)(b)] | [Redacted: Section 38(1)(b)] | External Financial Performance and Improvement | Scottish Government

E[redacted]@gov.scot | M: [Redacted: Section 38(1)(b)]



**From:** [redacted]@gov.scot > **On Behalf Of** Freedom of Information

**Sent:** 01 March 2023 15:37

**To:** [redacted]@gov.scot >

**Subject:** RE: FOI - Review of best use of Public Services and early PFI - original case 202200331936 - review 202300342978

Hi [Redacted: Section 38(1)(b)],

Thanks for the background below and for your call earlier. I agree with the approach you are taking and in relation to the acknowledgment query, this doesn't need to be included in your response, as mentioned it is good practice to send a specific acknowledgment with the template on initial allocation, but this doesn't need to be discussed in the review.

There is no specific guidance on how to narrow the scope, as advised on the call it would be specific to the policy area who would be familiar with the info to know how to narrow it for example date range, specify subject matter for the correspondence, a specific business area of the Scottish Government, specific Director/Directorate which has already been mentioned to the requester – the section 12 template in our [FOI templates](#) includes a link to Commissioners guidance - *“You may also find it helpful to look at the Scottish Information Commissioner’s ‘Tips for requesting information under FOI and the EIRs’ at:*

[I think in your review response aswell as advising what has already been given in narrowing the scope, we should also include a section asking that when requesting information that the requester is clear on what it is she is requesting/what information she is wanting, under section 15 of FOISA Public authorities have a duty to provide reasonable advice and assistance to anyone who proposes to make, or has made, an information request to it, to allow us to do this the requester needs to be clear on what information it is they want. Authorities must provide appropriate advice and assistance to enable applicants to describe clearly the information they require – which I think we have in the response and in your review response will provide additional advice also, we can only advise as best we can.](http://www.itspublicknowledge.info/YourRights/Tipsforrequesters.aspx.”</a> - Which was already provided to the requester in the response, although was included after the mention of Alan, so you could reiterate this in your response.</p></div><div data-bbox=)

As mentioned the FOI Unit should clear reviews before sending to your DD, ive linked the reviews template in my triage guidance below, this template can also be accessed on MiCase when you click on the response wizard then click on final response

Thanks,

[Redacted: Section 38(1)(b)]

[Redacted: Section 38(1)(b)] | FOI Adviser | Freedom of Information Unit



[Yammer: @FOI - Community](#)

[FOI guidance: Explore | SG Thrive \(learn.link\)](#)

**From:** [redacted]@gov.scot >

**Sent:** 27 February 2023 17:09

**To:** Freedom of Information <[foi@gov.scot](mailto:foi@gov.scot)>

**Subject:** RE: FOI - Review of best use of Public Services and early PFI - original case 202200331936 - review 202300342978

Hello [Redacted: Section 38(1)(b)],

Thank you for getting back to me. I have since had a meeting with the original case handlers who provided more information and correspondence from the original case.

**New FOI/General Correspondence** – please see first attachment. FOI unit advice was sought at the time to discern whether the follow up correspondence needed to be treated as a separate FOI. Advice noted that it was to be treated as general correspondence.

**Signposting** – Alan added his details as thought might be helpful if the correspondent could narrow down the search. It was not possible to identify exactly what information the requester was looking for, despite multiple requests to clarify.

[Redacted: Section 30(b)(i)]

**Situation:**

- FOI Response was issued with a s12(excessive cost of compliance) response and Alan Morrison's email was noted to be helpful, however this looks to have caused confusion with the correspondent getting in touch about separate FOI queries/not being clear about what it was they were looking for.
- After seeking clarity from the correspondent several times on their ask, the FOI unit was consulted as to whether the queries were to be treated as separate FOIs or general correspondence. It was agreed to be treated as general correspondence.
- From reviewing the direct correspondence (second attached) I believe that the correspondent was looking for direction on how to bring the costs of the request below the £600 threshold, but was not clear on what it was they wanted to know so advice could not be given on how to narrow down their query.
- The correspondent requested a review of the original FOI response before further follow up to their direct correspondence could be provided.

**Summary of review response approach:**

Whilst the review request is due to after a '*number of prompts to the person named in asking to assist with a response did not appear a reply*', I am not treating the review as a 'failure to respond to the request' as the original FOI was responded to on time . It is the direct correspondence that has caused confusion, the review has indicated that the requester views the general correspondence as linked to the original FOI timescale – ie the response they received did not stop the clock and their direct correspondence was a continuation of the original FOI.

The response will therefore look to:

6. Uphold the original response and s12 exemption as the searches template from the original case outlines the cost implications.
7. Highlight that the response to the original FOI was responded to on time and in accordance with FOISA.
8. Reiterate the signposting from original response to reduce the scope of the request to bring costs below £600. Would also look to acknowledge that the direct correspondence about this was handled as general correspondence, not subject to timescales and signpost helpful links to aid in narrowing down their search.
9. Highlight official channels for queries for information.
10. Signpost the Scottish Information Commissioner should they wish to appeal the review.

### Next Steps:

Given the additional context and background, do you think the response approach outlined is appropriate?

I think we would be keen to address the direct correspondence so can consider it answered. To that end, re point 3 above, do you know of any guidance that is used to advise on how to bring requests under £600/make them more narrow? (I was going to signpost: [Briefings and guidance | Scottish Information Commissioner \(itspublicknowledge.info\)](#) and reiterate the example given in the original response specifying the name of the Director(s) they are interested in or restrict the request to a specific business area of the Scottish Government ([Directorates - gov.scot \(www.gov.scot\)](#)). Is there any stock language about us not being able to provide members of the public with questions for them to ask us, they have to outline what they are looking for?

Let me know if it would be easier to discuss with you.

Many thanks,

[Redacted: Section 38(1)(b)]

[Redacted: Section 38(1)(b)] [Redacted: Section 38(1)(b)] External Financial Performance and Improvement | Scottish Government

E: [redacted]@gov.scot | M: [Redacted: Section 38(1)(b)]



**From:** [redacted]@gov.scot > **On Behalf Of** Freedom of Information

**Sent:** 27 February 2023 15:48

**To:** [redacted]@gov.scot >

**Subject:** RE: FOI - Review of best use of Public Services and early PFI - original case 202200331936 - review 202300342978

Hi [Redacted: Section 38(1)(b)]

I can't definitely say without seeing the correspondence but if they were new asks for information then yes they would've likely have been new FOIs. I'm quite confused as to why Alan was signposted in the response, could he not have assisted the casehandler at the time with their FOI?

Any potential FOIs/enquiries should be redirected to the FOI Unit for triage. Also I note the original FOI response was a s12(excessive cost of compliance) response, but when I look in the erdm casefile I see no note of a searches template, statement of compliance or cost calculation to justify this response. Will you be reviewing this? Have you discussed with the original casehandler their reasoning?

Thanks,

[Redacted: Section 38(1)(b)]

[Redacted: Section 38(1)(b)] | FOI Adviser | Freedom of Information Unit



[Yammer: @FOI - Community](#)

[FOI guidance: Explore | SG Thrive \(learn.link\)](#)

**From:** [redacted]@gov.scot >

**Sent:** 23 February 2023 14:57

**To:** Freedom of Information <[foi@gov.scot](mailto:foi@gov.scot)>

**Subject:** RE: FOI - Review of best use of Public Services and early PFI - original case 202200331936 - review 202300342978

Good afternoon FOI Unit,

Hope you are well. I had a query regarding the handling of FOI review 202300342978 I was wondering if you would be able to offer advice/point me in the right direction.

### **Background:**

I have reviewed the background/handling of the case and from the evidence agree that the s12 exemption was appropriate. As Gemma highlighted in the FOI Unit's original correspondence, the issue has come around due to the addition of the following line and subsequent direct correspondence from the requester to Alan:

*"Alternatively, you could contact Alan Morrison, Deputy Director of Health Infrastructure, Investment and PPE ([alan.morrison@gov.scot](mailto:alan.morrison@gov.scot)) who was involved in the process and may be able to help you identify the information you are after."*

I am liaising with Alan to discern the full background/detail of the direct correspondence with the requester. In the meantime it looks like Alan had been in touch with the requester a number of times to ask for clarity on what they were actually looking for and was following up with colleagues.

### **Query:**

Whilst the review request is due to after a *'number of prompts to the person named in asking to assist with a response did not appear a reply'*, I am not treating the review as a failure to respond to the request as the original case was responded to on time.

My queries were:

- Are direct follow up enquires treated as separate FOIs? And therefore required to follow the timelines? (Noting the requester stated 'A response was due on 26/01/2023').
- Should the direct correspondence from the requester have been sent to the Central Enquiries Unit to be dealt with through corporate systems for response?
- Should a review response acknowledge that signposting specific colleagues to help identify information (as in original reply) is not following usual procedure? Is there any guidance stating that this information is not to be included in responses?
- If after reviewing all direct correspondence between the requester and Alan clarification is required to respond, is this included as part of the Review?

Please let me know if any of the above is unclear or it would be helpful to discuss.

Best wishes,

[Redacted: Section 38(1)(b)]

[Redacted: Section 38(1)(b)] [Redacted: Section 38(1)(b)] External Financial Performance and Improvement | Scottish Government

E: [redacted]@gov.scot | M: [Redacted: Section 38(1)(b)]



## **DOCUMENT**

**From:** [redacted]@gov.scot

**Sent:** 06 March 2023 13:51

**To:** Bennett F (Fiona) (Health Finance) <Fiona.Bennett@gov.scot>

**Cc:** [redacted]@gov.scot >; [redacted]@gov.scot >

**Subject:** FW: FOI Review - 202300342978 - Final Response Deadline 13.03.2023 (08.03.2023 if possible)

Attachment:[Redacted: Section 30(b)]

Good afternoon Fiona,

We briefly touched upon this FOI Review Response earlier today. As per the email thread, the **attached response** has been cleared by the FOI unit after a minor drafting amendment and is now ready for your review.

The final response deadline is cop 13/03, however would be grateful if it could be considered before cop 08/03 due to upcoming leave and team capacity.

[Redacted: Section 30(b)]

Should you require more background, I'd be happy to discuss and a full breakdown of the FOI Review and appropriate handling can be found on eRDM here:

[202300342978 - Response Outline - DRAFT details - Objective ECM \(scotland.gov.uk\)](#).

Many thanks,

[Redacted: Section 38(1)(b)]

[Redacted: Section 38(1)(b)] [Redacted: Section 38(1)(b)] External Financial Performance and Improvement | Scottish Government

E: [redacted]@gov.scot | M: [Redacted: Section 38(1)(b)]



**From:** [redacted]@gov.scot > **On Behalf Of** Freedom of Information

**Sent:** 06 March 2023 13:21

**To:** [redacted]@gov.scot >

**Cc:** [redacted]@gov.scot >; [redacted]@gov.scot >

**Subject:** RE: FOI Review - 202300342978 - Final Response Deadline 13.03.2023 (07.03.2023 if possible)

Hi [Redacted: Section 38(1)(b)],

Thanks for this. In your response letter where it says "I have concluded that the original decision should be upheld **without modifications**" if you just add the last 2 words into that sentence. Other than that I'm content to clear for FOI Unit purposes. You should now seek clearance from senior official level (for reviews its usually the DD) before issuing your response.

Thanks,

[Redacted: Section 38(1)(b)]

[Redacted: Section 38(1)(b)] | FOI Adviser | Freedom of Information Unit



**Yammer:** [@FOI - Community](#)

**FOI guidance:** [Explore](#) | [SG Thrive \(learn.link\)](#)

**From:** [redacted]@gov.scot >

**Sent:** 02 March 2023 13:18

**To:** Freedom of Information <[foi@gov.scot](mailto:foi@gov.scot)>

**Cc:** Wilson S (Stuart) (HLTH) <[Stuart.Wilson3@gov.scot](mailto:Stuart.Wilson3@gov.scot)>; [redacted]@gov.scot >  
**Subject:** FOI Review - 202300342978 - Final Response Deadline 13.03.2023 (07.03.2023 if possible)

Dear FOI Unit,

Please see attached a response in regards to a request to review an FOI response (202300342978, original case 202200331936).

Grateful if you could review as per the guidance and ahead of final issue. Correspondence including compliance documents and supporting material can be found within the eRDM case file: [202300342978 - Objective ECM \(scotland.gov.uk\)](https://scotland.gov.uk/202300342978)

Appreciate that the final deadline is 13.03.2023, I am scheduled to be on leave during this time and therefore have sent the response to you to hopefully reflect potential timescales:

**Timelines:**

Send to FOI Unit for Clearance	02.03.2023	FOI unit recommend 3 working days for review.
Send to DD for Clearance	07.03.2023	06.03.2023
Aimed for Response Deadline	<b>08.03.2023</b>	I'm on leave 9,10 & 13
Final Response Deadline	13.03.2023	

If there are any issues at all, please let me know and I'd be happy to discuss these further.

Best wishes,

[Redacted: Section 38(1)(b)]

[Redacted: Section 38(1)(b)] [Redacted: Section 38(1)(b)] External Financial Performance and Improvement | Scottish Government

E: [redacted]@gov.scot | M: [Redacted: Section 38(1)(b)]



**DOCUMENT**

**From:** [redacted]@gov.scot

**Sent:** 07 March 2023 08:57

**To:** Bennett F (Fiona) (Health Finance) <[Fiona.Bennett@gov.scot](mailto:Fiona.Bennett@gov.scot)>

**Cc:** [redacted]@gov.scot >; [redacted]@gov.scot

**Subject:** RE: FOI Review - 202300342978 - Final Response Deadline 13.03.2023 (08.03.2023 if possible)

Good morning Fiona,

Thank you, will proceed to issue.

Best wishes,

[Redacted: Section 38(1)(b)]

[Redacted: Section 38(1)(b)] [Redacted: Section 38(1)(b)] External Financial Performance and Improvement | Scottish Government

E: [redacted]@gov.scot | M: [Redacted: Section 38(1)(b)]



**From:** Bennett F (Fiona) (Health Finance) <[Fiona.Bennett@gov.scot](mailto:Fiona.Bennett@gov.scot)>

**Sent:** 06 March 2023 20:54

**To:** [redacted]@gov.scot >

**Cc:** [redacted]@gov.scot >; [redacted]@gov.scot >

**Subject:** RE: FOI Review - 202300342978 - Final Response Deadline 13.03.2023 (08.03.2023 if possible)

Hi [Redacted: Section 38(1)(b)]

Having looked over and based on the feedback from the FOI unit I am happy to approve

Thanks  
Fiona