

Freedom of Information Request

Extracts from Submission from Scottish Government Elections Team to Minister for Parliamentary Business, 21 April 2023 on the Boundaries Scotland Commissioner appointment

Section 38(1) – Personal information

An exemption under section 38(1) applies to some of the information requested because it is personal data, 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.

Appointments to Boundaries Scotland

Appointments to Boundaries Scotland are regulated by the Ethical Standards Commissioner and must follow the Code of Practice for Ministerial Appointments to Public Bodies in Scotland (2022).

The Code requires that ‘Scottish Ministers consider whether the needs of a board will most effectively be met by an appointment, reappointment or extension to an appointment term. They will balance the continuity provided by reappointment and term extensions with the opportunity to increase the diverse range of relevant skills, knowledge, experience, including lived experience, values and other attributes on a board by making a new appointment through open competition.’

The Code allows board members to be reappointed ‘the same position or extend a member’s appointment term provided that:

- i. the member’s performance has been properly appraised as being effective during the current term and the member has been given the opportunity to demonstrate that they have the appropriate skills, knowledge and experience and other attributes required
- ii. the reappointment or extension will continue to meet the board’s needs for the period
- iii. the member’s total period of appointment will not exceed 8 years.’

However, reappointment is not automatic and decisions about board needs is for the Appointing Minister.

New appointment round

A new appointment round provides an opportunity to consider the future needs of the board and increase the diverse range of relevant skills, knowledge, experience on the board.

However the Commission would be quorate with four members and the policy team are working with Public Appointments Team to explore whether an interim Deputy Chair can be appointed.

No Bute House implications identified.

This Submission has been approved by Penny Curtis, Deputy Director, Elections and FOI Division.

Copy List:

Deputy First Minister and Cabinet Secretary for Finance
DG Strategy and External Affairs
David Rogers
Penny Curtis
Ellen Leaver
Jeanette Campbell

Other names withheld under section 38(1)(b) of FOISA 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.