

## Annex A

### Item 1 –

**From:** Elliot Bulmer  
**Sent:** Wednesday, June 1, 2022 8:32 PM  
**To:** [redacted]  
**Cc:** [redacted]; [redacted]; Brian Dornan  
**Subject:** Re: Scottish Government constitution work: Query regarding potential discussion

Dear [redacted], Brian, [redacted] and [redacted],

Thank you for our conversation today. [redacted]

Here is the document I referred to (attached in .doc and .pdf formats). Feel free to use it as you see fit.

I've very happy to continue to engage on this subject in a personal and confidential capacity.

All the best and stay in touch,

Elliot

**Dr W. Elliot Bulmer**

[redacted]

International Institute for Democracy & Electoral Assistance

[redacted]

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**From:** [redacted]  
**Sent:** 01 June 2022 18:15  
**To:** Elliot Bulmer  
**Cc:** [redacted]; [redacted]; Brian Dornan  
**Subject:** RE: Scottish Government constitution work: Query regarding potential discussion

Dear Elliot,

Thank you very much again for your time earlier, it was a really helpful and interesting discussion for us.

As discussed, I have copied in [redacted], [redacted] and Brian so you have their email addresses.

We hope to be in touch again soon.

Thanks again, and best wishes,

[redacted]

**From:** Elliot Bulmer  
**Sent:** 31 May 2022 00:12  
**To:** [redacted]

**Subject:** Re: Scottish Government constitution work: Query regarding potential discussion

Hi [redacted],

Meeting at 3.30pm (I assume that's 3.30pm your time) on Wednesday is fine. Will you send a calendar request?

I'm happy to have a quick pre-call. My whatsapp works here (normal phone / SMS does not). I've had a cancellation tomorrow (i.e. Tuesday) morning so if you call me mid-to-late morning I should be free.

I've attached my CV and Publications List just to give you a bit of background on me. I hope that's helpful.

All the best,

Elliot

**Dr W. Elliot Bulmer**

[redacted]

International Institute for Democracy & Electoral Assistance

[redacted]

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**From:** [redacted]

**Sent:** 30 May 2022 17:35

**To:** Elliot Bulmer

**Subject:** RE: Scottish Government constitution work: Query regarding potential discussion

Dear Elliot,

Thanks very much for your response. Would a meeting at 3.30pm on Wednesday suit you ok? Are you in [redacted] currently, would that time suit ok?

If that's ok, would it be possible for me to give you a quick call in advance just to confirm a couple of details? I'm free for the next hour, or could speak on Wednesday morning if tomorrow's out?

Many thanks again.

Best wishes,

[redacted]

**From:** Elliot Bulmer

**Sent:** 30 May 2022 14:00

**To:** [redacted]

**Subject:** Re: Scottish Government constitution work: Query regarding potential discussion

Dear [redacted],

Thanks for getting in touch.

I'd be more than happy to contribute to this process (in a private capacity, not on behalf of International IDEA).

I am available to have a Teams call at your earliest convenience. I am free for the rest of today, if that suits.

Otherwise, I could make space on Wednesday or Thursday (Tuesday and Friday are more difficult).

All the best,

Elliot

**Dr W. Elliot Bulmer**

[redacted]

International Institute for Democracy & Electoral Assistance

[redacted]

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**From:** [redacted]

**Sent:** 30 May 2022 14:35

**To:** Elliot Bulmer

**Subject:** Scottish Government constitution work: Query regarding potential discussion

Dear Dr Bulmer,

I hope you're well. I work in the Scottish Government's Central Analysis Division, and provide research support to colleagues working on the Scottish Government's Programme for Government commitment to work on a detailed prospectus for an independent Scotland. We are keen to harness academic expertise to ensure the prospectus is informed by research-based knowledge and insight, and are currently working on themes that I understand are related to your areas of research interest.

I wondered if you would be available to have a brief call in confidence (on Teams if that suits) to discuss whether you might be interested in participating in discussion(s) on constitution-related issues, and the basis on which these conversations might take place. If you would be happy to discuss this, I'd be grateful if you could let me know if you have any availability in the next week in the first instance please.

If you have any queries, please don't hesitate to get in touch.

Kind regards,

[redacted]

\*\*\*\*\*

[redacted]

Constitution, International and Migration Analysis | SG Central Analysis Division | Scottish Government | 2W St Andrew's House, Regent Road, Edinburgh, EH1 3DG | [redacted]

## Item 2

**From:** [redacted]

**Sent:** Thursday, April 6, 2023 12:03 PM

**To:** Elliot Bulmer; [redacted]

**Cc:** [redacted]

**Subject:** RE: Scottish Government constitution work

Dear Elliot,

Apologies for the late response! [redacted] was off sick and is now on annual leave. I hope you are doing well.

I don't have much of an update, as Ministers will be discussing the deployment, and programme of stakeholder and public engagement on our policies for an independent Scotland in the coming weeks.

Best wishes,

[redacted]

**From:** Elliot Bulmer

**Sent:** 30 March 2023 10:43

**To:** [redacted]

**Cc:** [redacted]

**Subject:** Re: Scottish Government constitution work

Dear [redacted],

Now we know that Angus Robertson MSP has been kept in office as the Minister responsible for the constitution, is this likely to proceed as planned? Or is it all on hold?

All the best,

Elliot

**Dr W. Elliot Bulmer**

[redacted]

International Institute for Democracy & Electoral Assistance

[redacted]

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**From:** [redacted]

**Sent:** 01 February 2023 12:56

**To:** Elliot Bulmer

**Cc:** [redacted]

**Subject:** RE: Scottish Government constitution work

Hi Elliot,

We're looking forward to catching up with you tomorrow. In the meantime, please find attached the latest draft of our paper on developing a new constitution, shared with you in confidence in case you have comments you'd like to discuss.

Best wishes,

[redacted]

**From:** Elliot Bulmer

**Sent:** 26 January 2023 13:37

**To:** [redacted]

**Cc:** [redacted]

**Subject:** Re: Scottish Government constitution work

Yes. That works. Could you send me calendar request?

**Dr W. Elliot Bulmer**

[redacted]

International Institute for Democracy & Electoral Assistance

[redacted]

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**From:** [redacted]

**Sent:** 26 January 2023 14:35  
**To:** Elliot Bulmer  
**Cc:** [redacted]  
**Subject:** RE: Scottish Government constitution work

Hi Elliot,

Apologies for the delay, would next Thursday between 10am-11am work for you?

Best wishes,

[redacted]

**From:** Elliot Bulmer  
**Sent:** 26 January 2023 13:27  
**To:** [redacted]  
**Cc:** [redacted]  
**Subject:** Re: Scottish Government constitution work

Hi [redacted],

Just following up on this. Are we still planning to meet in the remainder of this week? Or next?

All the best,

Elliot

**Dr W. Elliot Bulmer**  
[redacted]  
International Institute for Democracy & Electoral Assistance  
[redacted]

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**From:** [redacted]  
**Sent:** 20 January 2023 17:06  
**To:** Elliot Bulmer  
**Cc:** [redacted]  
**Subject:** RE: Scottish Government constitution work

Dear Elliot,

Many thanks for getting back to me, that's great. I'll check colleagues' calendars and come back to you at the start of the week.

Good news about the internet connectivity, I hope you're enjoying the new role!

Best wishes,

[redacted]

**From:** Elliot Bulmer  
**Sent:** 20 January 2023 15:38  
**To:** [redacted]  
**Cc:** [redacted]  
**Subject:** Re: Scottish Government constitution work

Dear [redacted],

Thanks for getting back in touch.

Happy for a call on Teams. I can make time pretty much any day in the next two weeks, except Monday 23. Just send me a request that fits for you and I should be able to schedule other stuff around it.

[redacted]

All the best,

Elliot

**Dr W. Elliot Bulmer**  
[redacted]  
International Institute for Democracy & Electoral Assistance  
[redacted]

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**From:** [redacted]  
**Sent:** 20 January 2023 16:29  
**To:** Elliot Bulmer  
**Cc:** [redacted]  
**Subject:** Scottish Government constitution work

Dear Elliot,

I hope you're well. Thank you again for your insight earlier last year during our conversation on constitution-related work, and apologies not to have been in touch again before now.

We wondered if you might be available for another conversation in the next week or two, on the same basis as before?

If that would be possible, I'd be grateful if you could suggest when might suit you, and I can send a Teams link for a meeting.

Many thanks in advance.

Best wishes,

[redacted]

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### Item 3

#### **Minister for Independence: Further advice on CFD engagement with academics on drafts of Building a New Scotland: Creating a modern constitution for an independent Scotland – file note**

##### **Background**

At our briefing on 25 April 2023 the Minister asked officials for a note of the academics we have engaged with on the drafting of the prospectus paper “Creating a modern constitution for an independent Scotland.”

##### **Context for academic engagement**

In order to provide the people of Scotland with the information they need to make an informed choice about their constitutional future, officials sought academic expertise to ensure the draft prospectus paper was informed by research-based knowledge and insight.

##### **Basis of engagement**

Individual academics and officials conducted Teams conversations or face-to-face meetings on the basis, communicated with all academics, that:

- Academics could participate in conversations without compromising any commitment to impartiality
- The conversations were a safe space for the sharing of knowledge and ideas, taking place on the understanding that exchanges would remain private and confidential (though the fact and the record of meetings could be disclosed through FOI, if a relevant request were received)
- Any sustained engagement and sharing of expertise would be acknowledged appropriately (e.g., a testimonial letter).

No testimonial letters have been requested or issued thus far.

##### **List of academics**

To date, officials engaged with the following academics:

- Professor Christine Bell, University of Edinburgh. Professor of Constitutional Law
- Dr Elliot Bulmer. Author of *Constituting Scotland: The Scottish National Movement and the Westminster Model* (2016) and Research Director of the Constitutional Commission (2009-13)
- Professor Nicola McEwen, University of Edinburgh. Professor of Territorial Politics
- Professor Aileen McHarg, University of Durham. Professor of Public Law and Human Rights
- Professor Alan Miller, University of Strathclyde. Professor of Practice in Human Rights Law

#### Item 4

**From:** [redacted]  
**Sent:** Thursday, June 15, 2023 2:29 PM  
**To:** Elliot Bulmer  
**Cc:** [redacted]  
**Subject:** RE: Request for a call regarding the constitution paper

Hi Elliot,

Yes, I will send a Teams invitation just now.

Many thanks,  
[redacted]

**From:** Elliot Bulmer  
**Sent:** 15 June 2023 09:47  
**To:** [redacted]  
**Cc:** [redacted]  
**Subject:** Re: Request for a call regarding the constitution paper

Hi [redacted],

That works.  
Could you send me a Teams or Zoom link? (Don't mind which.)

Elliot

**Dr W. Elliot Bulmer**  
[redacted]  
International Institute for Democracy & Electoral Assistance  
[redacted]

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**From:** [redacted]  
**Sent:** 15 June 2023 10:44  
**To:** Elliot Bulmer  
**Cc:** [redacted]  
**Subject:** RE: Request for a call regarding the constitution paper

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Elliot,

Thank you for the fast response!



How about 2 pm (in Scotland) tomorrow afternoon?

Many thanks,  
[redacted]

**From:** Elliot Bulmer  
**Sent:** 15 June 2023 08:48  
**To:** [redacted]  
**Cc:** [redacted]  
**Subject:** Re: Request for a call regarding the constitution paper

Dear [redacted],

Thanks for getting in touch. I am free this morning before 11am your time (i.e. now) or anytime tomorrow afternoon.

Yours,

Elliot

(This has come through to my work email, but of course I would be acting in a private capacity, not for or on behalf of International IDEA).

**Dr W. Elliot Bulmer**  
[redacted]  
International Institute for Democracy & Electoral Assistance  
[redacted]

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**From:** [redacted]  
**Sent:** 14 June 2023 18:17  
**To:** Elliot Bulmer  
**Cc:** [redacted]  
**Subject:** Request for a call regarding the constitution paper

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Elliot,

I hope you are doing well.

Thank you again for your previous engagement with us regarding the prospectus paper.

We were wondering whether you would have some time for a follow-up call regarding the paper either tomorrow or on Friday? This would be under the same conditions regarding confidentiality as our previous calls.

Best regards,  
[redacted]

[redacted] | **Prospectus Lead: Constitution, Rights and Equality | Constitutional Change Unit | Constitutional Futures Division | Directorate for Constitution | [redacted]**

## Item 5

**From:** [redacted] **On Behalf Of** Constitutional Futures  
**Sent:** Thursday, July 13, 2023 9:25 AM  
**To:** Elliot Bulmer  
**Subject:** Freedom of Information request

Good morning,

I am writing to advise you that the Scottish Government has received a request under the Freedom of Information (Scotland) Act 2002 (FOISA) for a list of names of any external individuals or organisations that members of staff working within the Constitutional Futures Division have met with since March 2021.

You have an interest in the information which has been requested because you have attended a meeting which included staff within the Constitutional Futures Division.

Therefore, I am writing to advise you that your name will be included in the list within the response to the FOISA request. We expect this to be issued in the coming days.

I should also explain that we can withhold information only if an exemption under FOISA applies to that information and, where applicable, the public interest in disclosure is not outweighed by the public interest in upholding the exemption. You can find detailed information about FOISA on our website at: <https://www.gov.scot/about/contact-information/how-to-request-information/> or on the Scottish Information Commissioner's website at: <https://www.itspublicknowledge.info/>.

Kind regards

**[redacted]**  
Constitutional Futures Division  
Directorate for Constitution  
The Scottish Government  
2W, St Andrew's House, Edinburgh, EH1 3DG

## Item 6

-----Original Appointment-----

**From:** [redacted]

**Sent:** Thursday, June 15, 2023 2:31 PM

**To:** Elliot Bulmer

**Cc:** [redacted]; [redacted]; Brian Dornan

**Subject:** Catch-up about the constitution paper

**When:** 16 June 2023 14:00-14:30 (UTC+00:00) Dublin, Edinburgh, Lisbon, London.

**Where:** Microsoft Teams Meeting

**Importance:** High

**Sensitivity:** Private

Hi Elliot,

As discussed, this is a Teams invitation for our catch-up call.

Many thanks and looking forward to speaking to you tomorrow,  
[redacted]

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## Microsoft Teams meeting

Join on your computer, mobile app or room device

[redacted]

## Item 7

### Note of meeting between Elliot Bulmer and SG officials

1 June 2022

#### Attendees

- Dr Elliot Bulmer, in a personal capacity
- Officials: [redacted], [redacted], Brian Dornan, [redacted]

#### Background

As part of the wider prospectus programme to provide the people of Scotland with the information they need to make an informed choice about their constitutional future, officials sought academic expertise to ensure the draft prospectus paper on the constitution, rights and equality was informed by research-based knowledge and insight.

Officials conducted a Teams conversation with Dr Bulmer in a private capacity on the basis that conversations would be a safe space for the sharing of knowledge and ideas, taking place on the understanding that exchanges would remain private and confidential.

#### Discussion

Officials set out the main arguments and policy proposals which were under development in the draft prospectus publication.

Subsequent discussion drew on Mr Bulmer's expertise in advising on constitutional provisions and his publications on a draft constitution for an independent Scotland.

## **Item 8**

### **Note of meeting between Elliot Bulmer and SG officials 2 February 2023**

#### **Attendees**

- Dr Elliot Bulmer, in a personal capacity
- Officials: [redacted], [redacted], [redacted]
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#### **Background**

As part of the wider prospectus programme to provide the people of Scotland with the information they need to make an informed choice about their constitutional future, officials sought academic expertise to ensure the draft prospectus paper on the constitution, rights and equality was informed by research-based knowledge and insight.

Officials conducted a Teams conversation with Dr Bulmer in a private capacity on the basis that conversations would be a safe space for the sharing of knowledge and ideas, taking place on the understanding that exchanges would remain private and confidential.

#### **Discussion**

Discussion focused on the main arguments and policy proposals on the interim constitution contained in the latest draft of the prospectus publication (which had been shared with Dr Bulmer prior to the meeting).

## **Annex B**

### **Section 30(b)(ii) – Free and Frank Exchange of Views for the Purposes of Deliberation**

An exemption under section 30(b)(ii) of FOISA (Free and Frank Exchange of Views) applies to some of the amount of the information requested. This exemption applies because disclosure would, or would be likely to, inhibit substantially the free and frank exchange of views for the purposes of deliberation. This exemption recognises the need for a private space to discuss and explore options with stakeholders. Disclosing the content of free and frank discussions will substantially inhibit such discussions in the future and may deter stakeholders from entering into discussions with the Scottish Government if they believe their comments will be published.

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 to engage with stakeholders and external experts. This private thinking space is essential to enable 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, which in turn will undermine the quality of the policy making process, which would not be in the public interest.

### **Section 30(c) (Prejudice to the Effective Conduct of Public Affairs)**

The reason why this exemption applies is because releasing content shared with the Scottish Government by external parties may discourage stakeholders from sharing material with the Scottish Government in future, thereby undermining the Scottish Government’s ability to effectively and accurately engage and communicate with the public.

This in turn would be likely to impair the Government’s ability to take forward its work on policy development for an independent Scotland. This would constitute substantial prejudice to the effective conduct of public affairs in terms of the exemption.

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 enabling the Scottish Government to effectively and accurately engage and communicate with the public on its proposals for an independent Scotland without the risk of these proposals being prejudiced due to a lack of ability to engage with externals in confidence.

### **S.38(1)(b) (Personal Information)**

We are unable to provide some of the information you have requested because an exemption under section 38(1)(b) (Personal Information) of FOISA applies to that information. This is because it is personal data of a third party, specifically the personal details of individuals below Senior Civil Service grade, 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.