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PUBLICATION OF RESPONSES TO REQUESTS FOR INFORMATION FOI UNIT POLICY

Purpose

1. To set out the approach followed by the FOI Unit in publishing responses to requests for information made under the Freedom of Information (Scotland) Act 2002 ("FOISA") and the Environmental Information (Scotland) Regulations 2004 ("the EIRs").

Background

2. In June 2017, the Minister for Parliamentary Business undertook that all information released by the Scottish Government in response to information requests would be published online, in the interests of openness and transparency¹. Accordingly, we have published our responses since July 2017 on the Scottish Government website: they can be found via the Publications page, which can be filtered to show FOI and EIRs publications².

3. Neither FOISA nor the EIRs requires Scottish public authorities to publish their responses to request for information. Publication is voluntary, but the Scottish Government considers that it is in the interests of openness and transparency to do so.

Approach to publication

4. Our general approach is to publish all responses where information is being disclosed. When a response is prepared for publication, we remove the requester's name and other personal information as we consider that publication of that personal information would breach the data protection principles.

5. This means that we publish all responses unless:

- (a) the request is invalid (section 8 of FOISA)
- (b) we have refused the request on grounds of excessive cost (section 12(1) of FOISA; regulation 10(4)(b) of the EIRs)
- (c) the request is vexatious or manifestly unreasonable (section 14(1) of FOISA; regulation 10(4)(b) of the EIRs)
- (d) the request is a repeated request (section 14(2) of FOISA)
- (e) we have given notice that we do not hold the requested information (section 17(1) of FOISA or regulation 10(4)(a) of the EIRs)
- (f) we have refused to confirm or deny whether we hold the requested information (section 18(1) of FOISA; regulations 10(8) and 11(6) of the EIRs)
- (g) we have applied an exemption or exception to all of the requested information

¹ [Official Report - Parliamentary Business : Scottish Parliament](#)

² [Publications - gov.scot \(www.gov.scot\)](#)

OFFICIAL

- (h) the subject-matter of the request is such that the requester is likely to be identifiable even if their name and other personal data is removed before publication
 - (i) one of the exceptions mentioned below applies
6. In relation to review responses, we publish the response if new information is being disclosed at that stage. This is likely to occur where:
- (a) the review is a review of failure to respond and we are providing a combined response to the original request and the review (which discloses information)
 - (b) the review response confirms the original decision with modifications, and discloses new information as a result
 - (c) the review response substitutes a new decision, and discloses new information as a result
7. We occasionally provide further information to requesters in the course of an appeal to the Commissioner, either during the appeals process or as a result of the Commissioner's decision. Where further information is disclosed during an appeal, we will publish it.

Exceptions

8. We do not routinely publish responses where information is disclosed but it is of limited public interest. These are usually responses to routine requests for information about roads maintenance which are handled by Transport Scotland: we receive a relatively high number of requests of this type, and we consider that the resource required to publish the responses would be disproportionate to the benefits.
9. In all other cases, decisions not to publish will be taken on a case-by-case basis by the FOI Unit. If a casehandler considers that we should not publish a response where information has been disclosed, they should email foi@gov.scot explaining the reasons for non-publication. The FOI Unit publications team will then refer the request to a member of C band staff within the Unit for a decision. We may contact the casehandler to discuss further before coming to a decision.
10. Similarly, if a casehandler wishes us to publish a response that would not normally be published for one of the reasons mentioned in paragraph 4, they should email foi@gov.scot explaining why publication would be desirable in this case. This typically happens where:
- (a) the response does not disclose the requested information, but provides other related information outwith FOISA or the EIRs
 - (b) the explanation of why we do not hold the requested information may be of wider public interest
 - (c) the casehandler or a colleague wishes to refer to the response in the response to another request for information.
11. The FOI Unit publications team will deal with these requests in consultation with a member of C band staff within the Unit.
12. If a casehandler identifies an error in the response and wishes to address this in the published version, they should contact foi@gov.scot with an explanation of the issue. Again,

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the FOI Unit publications team will deal with these requests in consultation with a member of C band staff within the Unit.

13. If you have any queries about this policy, please contact foi@gov.scot.

**FOI Unit
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