

The following items of information are provided as extracts because they come from sources containing other information outwith the scope of your request.

Item 1 – Taken from an email from officials in Constitutional Futures Division to the Permanent Secretary on 27/09/2022:

2. The approach is largely in line with that in the 2013 white paper. It is consistent with a context where the EU requirements are under review and where current UK Government's current actions are adding to uncertainties about the UK's fiscal position at the time of independence.

4. However, there is greater fiscal and economic uncertainty now than when the SGC proposed its fiscal rule; the policy decisions taken by the UK government between now and Scottish independence may well increase the UK's fiscal deficit, which in turn would affect Scotland's fiscal position upon independence.

Item 2 – Taken from an internal Scottish Government document produced on 28/09/2022

6. We set out in the prospectus paper that current economic uncertainties mean that the starting fiscal position is extremely uncertain, and therefore this is not the right time to set out precisely what a fiscal rule should be.

Section 29(1)(a) – Formulation or Development of Government Policy

An exemption under Section 29(1)(a) of FOISA (Formulation or Development of Government Policy) applies to some of the information requested because it relates to the formulation of the Scottish Government's policy on future fiscal policy for an independent Scotland.

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 high quality policy and decision-making, and in the properly considered implementation and development of policies and decisions. This means that Ministers and officials need to be able to consider all available options and to debate those rigorously, to fully understand their possible implications. Their candour in doing so will be affected by their assessment of whether the discussions on future fiscal policy for an independent Scotland will be disclosed in the near future, when it may undermine or constrain the Government's view on that policy while it is still under discussion and development.

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 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 Ministers and officials to have a private space within which to discuss and explore options before the Scottish Government reaches a settled public view. Disclosing the content of free and frank discussions on future fiscal policy for an independent Scotland will substantially inhibit such discussions in the future, particularly because these discussions are still ongoing and decisions have not been taken, and these discussions relate to a sensitive or controversial issue such as Scotland's constitutional future.

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 Ministers and officials a private space within which to explore and refine the Government's position on future fiscal policy for an independent Scotland, until the Government as a whole can adopt a policy that is sound and likely to be effective. 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 between Ministers and officials, 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 Effective Conduct of Public Affairs)

An exemption under Section 30(c) of FOISA (Prejudice to Effective Conduct of Public Affairs) applies to some of the information requested. This exemption applies because providing this information would be likely to prejudice future negotiations between the Scottish Government, international markets and the EU, in the event that the people of Scotland were

to vote in favour of independence. This in turn would be likely to impair the Government's ability to take forward its work on policy development for future fiscal policy 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 enter into potential future negotiations with international markets and the EU without the risk of these negotiations being prejudiced by information released while the Scottish Government's policy was still under development on a matter of significant political relevance and controversy.