

Exemptions not subject to the public interest test

An exemption under section 38(1)(b) of FOISA (personal information) applies to some of the information requested because it is personal data of a third party, i.e. names and contact details of non-senior staff and disclosing it would contravene the data protection principles in data protection legislation. 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.

Exemptions subject to the public interest test

An exemption under section 28(1) (Relations within the UK) of FOISA apply to some of the information you have requested. This exemption applies because disclosure would, or would be likely to, cause substantial prejudice to relations with other UK administrations. This exemption recognises that the Scottish Government needs to share and receive information privately with other UK administrations with the expectation that this information would not be supplied to any other body or to the wider general public.

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 some public interest in release to promote transparency. However, this is outweighed by the public interest in ensuring that other administrations are willing to share private information with the Scottish Government in future on sensitive topics like compensation and in avoiding damage to relations with the UK Government or other devolved administrations.

An exemption under section 29(1)(a) of FOISA applies to some of the information you have requested. This information relates to the development of Scottish Government policy on infected blood compensation. This exemption recognises the need for officials and Ministers to be able to consider fully a range of information on infected blood compensation, before reaching a settled public position.

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 officials and Ministers a private space to consider the information and evidence available on matters of such importance before reaching a settled public position.

An exemption under section 30(c) of FOISA also applies to some of the information you have requested. This exemption applies because disclosure would otherwise prejudice substantially, or be likely to prejudice substantially, the effective conduct of public affairs. It is essential for the Scottish Government to be able to communicate, often in confidence, with external stakeholders on issues such as infected blood and to share their views internally. Disclosing the content of these communications is likely to undermine their trust in the Scottish Government and will substantially inhibit communications on this type of issue in the future. These stakeholders will be reluctant to share their views fully and frankly if they believe that their views are likely to be made public, particularly where these discussions relate to a sensitive issue, such as compensation. This would significantly harm the Government's ability to carry out many aspects of its work, and could adversely affect its ability to gather all of the information it needs to make fully informed decisions.

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 some public interest in release as part of open, transparent and accountable government, and to inform public debate. However, there is a greater public interest in allowing officials a private space within which to communicate with appropriate external stakeholders as part of the process of exploring and refining the Government's position and appropriate options on issues relating to compensation. This private space is essential so that decisions can be taken based on informed advice. Premature disclosure is likely to undermine the full and frank discussion of issues between the Scottish Government and these stakeholders, which in turn will undermine the quality of the policy making process, which would not be in the public interest.

Finally, an exemption under section 36(1) of FOISA applies to some of the information you have requested. This exemption applies because it is legal advice or requests for legal advice and its disclosure would breach legal professional privilege.

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 some public interest in release as part of open, transparent and accountable government, and to inform public debate. However, this is outweighed by the strong public interest in maintaining the right to confidentiality of communications between legal advisers and clients, to ensure that Ministers and officials are able to receive legal advice in confidence, like any other public or private organisation.

From: <Redacted> <<Redacted>@gov.scot>

Sent: 04 September 2023 16:57

To: Minister for Public Health & Women's Health <<Redacted>@gov.scot>

Cc: Cabinet Secretary for NHS Recovery, Health and Social Care

<<Redacted>@gov.scot>; DG Health & Social Care <<Redacted>@gov.scot>;

Director of Population Health <<Redacted>@gov.scot>; Elizabeth Sadler

<<Redacted>@gov.scot>; <Redacted> <<Redacted>@gov.scot>; <Redacted>

<<Redacted>@gov.scot>; <Redacted> <<Redacted>@gov.scot>; <Redacted>

<<Redacted>@gov.scot>; <Redacted> <<Redacted>@gov.scot>; SGLD Heads of

Public Health Branch <<Redacted>@gov.scot>; <Redacted>

<<Redacted>@gov.scot>; <Redacted> <<Redacted>@gov.scot>; <Redacted>

<<Redacted>@gov.scot>; <Redacted> <<Redacted>@gov.scot>; <Redacted>

<Redacted>@gov.scot>; <Redacted> <Redacted>@gov.scot>

Subject: Official-sensitive - Infected blood - compensation - update

Hello <Redacted>

We wanted to update Ms Minto on the latest around infected blood compensation given the meeting with the charities on 7 September is being postponed. We can provide a fuller update soon, particularly if any further four nations Ministerial meetings are arranged.

While in July the Inquiry put a lot of pressure on UK Ministers to make progress, **[Text redacted]**

Let me know if the Minister has any queries or would like to discuss any of these points.

Best wishes,

<Redacted>

<Redacted>

Head of Unit, Organ and Blood Donation, Infected Blood and Abortion Policy

Scottish Government

St Andrew's House

Regent Road

Edinburgh EH1 3DG

Tel: <Redacted>

From: <Redacted> @gov.wales <Redacted> @gov.wales>

Sent: 30 August 2023 14:35

To: <Redacted> @dhsc.gov.uk; <Redacted> @dhsc.gov.uk; <Redacted> @health-ni.gov.uk; <Redacted> @dhsc.gov.uk; <Redacted> <<Redacted>@gov.scot>

Cc: <Redacted> @health-ni.gov.uk; <Redacted> <<Redacted>@gov.scot>; <Redacted> @gov.wales; <Redacted> <<Redacted>@gov.scot>; <Redacted> <<Redacted>@gov.scot>; <Redacted> @dhsc.gov.uk; <Redacted>

@cabinetoffice.gov.uk; <Redacted> @dhsc.gov.uk; <Redacted>

@cabinetoffice.gov.uk; <Redacted> @cabinetoffice.gov.uk; <Redacted>

@dhsc.gov.uk; <Redacted> @cabinetoffice.gov.uk; <Redacted>

@cabinetoffice.gov.uk; <Redacted> @dhsc.gov.uk; <Redacted> @dhsc.gov.uk;

<Redacted> @cabinetoffice.gov.uk

Subject: RE: RE: Social Security (Infected Blood Capital Disregard) (Amendment) Regulations 2023

Hi <Redacted>

Thanks for the update

<Redacted>

From: <Redacted> <Redacted> @dhsc.gov.uk>

Sent: Wednesday, August 30, 2023 2:22 PM

To: <Redacted> <<Redacted>@dhsc.gov.uk>; <Redacted> (HSS - Quality & Nursing Directorate) <<Redacted>@gov.wales>; <Redacted> @health-ni.gov.uk; <Redacted> <<Redacted>@dhsc.gov.uk>; <Redacted> @gov.scot

Cc: <Redacted> @health-ni.gov.uk; <Redacted> <<Redacted>@gov.scot>; <Redacted> (HSS - Quality & Nursing Directorate) <<Redacted>@gov.wales>; <Redacted> <<Redacted>@gov.scot>; <Redacted> @gov.scot; <Redacted>

<<Redacted>@dhsc.gov.uk>; <Redacted> @cabinetoffice.gov.uk; <Redacted> <<Redacted>@dhsc.gov.uk>; <Redacted> @cabinetoffice.gov.uk;

<Redacted> @cabinetoffice.gov.uk; <Redacted> <<Redacted>@dhsc.gov.uk>; <Redacted> @cabinetoffice.gov.uk; <Redacted> @cabinetoffice.gov.uk; <Redacted>

<<Redacted>@dhsc.gov.uk>; <Redacted> <<Redacted>@dhsc.gov.uk>; <Redacted> <<Redacted>@cabinetoffice.gov.uk>

Subject: RE: RE: Social Security (Infected Blood Capital Disregard) (Amendment) Regulations 2023

Hi <Redacted>,

Thank you, <Redacted> we have received the draft letter with comments from our lawyers, as well as DWP – I would like to get <Redacted> view before sending it out to DA colleagues.

Best regards,

<Redacted>



Department
of Health &
Social Care

<Redacted>

<Redacted>

Policy Manager – Infected Blood

Department of Health and Social Care

39 Victoria Street, SW1H 0EU

E: <Redacted> @dhsc.gov.uk T: <Redacted>

<Redacted>



We know. Do you?

Give blood to find out your blood type
and help save up to three lives.

NHS

Save a life
Give blood

From: <Redacted> <<Redacted> @dhsc.gov.uk>

Sent: 30 August 2023 14:08

To: <Redacted> @gov.wales; <Redacted> @health-ni.gov.uk; <Redacted>
<<Redacted> @dhsc.gov.uk>; <Redacted> <<Redacted> @dhsc.gov.uk>;
<Redacted> @gov.scot

Cc: <Redacted> @health-ni.gov.uk; <Redacted> <<Redacted> @gov.scot>;
<Redacted> @gov.wales; <Redacted> <<Redacted> @gov.scot>;
<Redacted> @gov.scot; <Redacted> <<Redacted> @dhsc.gov.uk>;
<Redacted> @cabinetoffice.gov.uk; <Redacted> <<Redacted> @dhsc.gov.uk>;
<Redacted> @cabinetoffice.gov.uk; <Redacted> @cabinetoffice.gov.uk; <Redacted>
<<Redacted> @dhsc.gov.uk>; <Redacted> @cabinetoffice.gov.uk;
<Redacted> @cabinetoffice.gov.uk; <Redacted> <<Redacted> @dhsc.gov.uk>;
<Redacted> <<Redacted> @dhsc.gov.uk>; <Redacted>
<<Redacted> @cabinetoffice.gov.uk>

Subject: RE: RE: Social Security (Infected Blood Capital Disregard) (Amendment) Regulations 2023

Hi <Redacted>,

<Redacted> is on leave this week but @<Redacted> not sure if you are taking forward the letter in her absence? If not <Redacted> will respond when she returns.

Thanks

<Redacted>



Department
of Health &
Social Care

<Redacted>

Infected Blood Policy response team

NHS Quality, Safety & Investigations

Department of Health, 2nd floor North East D, Quarry House,
Leeds, LS2 7UE

W: <Redacted>

M: <Redacted>

E: <Redacted> @dhsc.gov.uk

From: <Redacted> @gov.wales <<Redacted> @gov.wales>

Sent: 30 August 2023 13:43

To: <Redacted>@health-ni.gov.uk; <Redacted> <<Redacted>@dhsc.gov.uk>;
<Redacted> <<Redacted>@dhsc.gov.uk>; <Redacted>@gov.scot
Cc: <Redacted>@health-ni.gov.uk; <Redacted> <<Redacted>@gov.scot>;
<Redacted>@gov.wales; <Redacted> <<Redacted>@gov.scot>;
<Redacted>@gov.scot; <Redacted> <<Redacted>@dhsc.gov.uk>; <Redacted>
<<Redacted>@dhsc.gov.uk>; <Redacted>@cabinetoffice.gov.uk; <Redacted>
<<Redacted>@dhsc.gov.uk>; <Redacted>@cabinetoffice.gov.uk;
<Redacted>@cabinetoffice.gov.uk; <Redacted> <<Redacted>@dhsc.gov.uk>;
<Redacted>@cabinetoffice.gov.uk; <Redacted>@cabinetoffice.gov.uk; <Redacted>
<<Redacted>@dhsc.gov.uk>; <Redacted> <<Redacted>@dhsc.gov.uk>;
<Redacted> <<Redacted>@cabinetoffice.gov.uk>
Subject: RE: RE: Social Security (Infected Blood Capital Disregard) (Amendment)
Regulations 2023

Hi <Redacted>

I wondered where we were with this draft?

Thanks

<Redacted>

OFFICIAL SENSITIVE

INFECTED BLOOD INQUIRY – COMPENSATION RECOMMENDATIONS

[Text redacted]

Background

The Infected Blood Inquiry has been running since 2018 and is looking at how people became infected with HIV and hepatitis B and C as a result of receiving infected blood transfusions or blood products largely during the 1970s and 80s. It is expected to publish its final report this autumn (date to be confirmed, but will be October at the earliest).

The UKG has already publicly accepted that [Text redacted] there is a moral case that those infected and their affected close family members deserve compensation. The SG has also publicly accepted this and confirmed that in its closing submissions to the Inquiry.

In 2021 the then Paymaster General Penny Mordaunt commissioned Sir Robert Francis KC to produce a framework for compensation to allow UKG to be ready to set up a scheme quickly when the Inquiry reports. Sir Robert's report recommended a generous scheme. Following this, the Infected Blood Inquiry produced a first interim report in July 2022 which recommended interim compensation of at least £100,000 be paid to those infected and the widows, widowers or partners of infected people who had died. This was due to concerns that any final compensation could take years and infected people were dying in the meantime. The UK Government agreed to that recommendation and funded this compensation, which was paid out for 'Scottish' beneficiaries by the Scottish Infected Blood Support Scheme (SIBSS). SIBSS was established in 2017 and provides regular financial support to infected people with hepatitis C and/or HIV and their widows/ers/partners. However, its payments are viewed as support with living costs rather than 'compensation'.

In April 2023, the Inquiry published a second interim report on compensation. This recommended that UKG should set up an arms-length body now to deliver a substantial compensation scheme. The Inquiry also recommended further interim compensation should be paid immediately via the existing support schemes to other bereaved relatives who have had little or no financial support so far (parents, children and siblings). While the Inquiry recommended the new scheme should begin its work this year and made clear that there was no need to wait for its final report, UKG has since made clear that it does not intend to set out its plans for compensation until it has seen the final report this autumn. However, it has emphasised that it is doing a lot of work internally to prepare for compensation, noting the complexity of what's proposed. [Text redacted]

Public Health Capabilities Division

September 2023

From: <Redacted> <<Redacted>@gov.scot>
Sent: 30 August 2023 11:52
To: <Redacted> <<Redacted>@gov.scot>; <Redacted> <<Redacted>@gov.scot>; <Redacted> <<Redacted>@gov.scot>
Subject: RE: Haemophilia Scotland/SIBF

Hi – I would ask her to hold that date for now for them, but let <Redacted> confirm as he may still be waiting for one or two people to confirm they are happy with 15 Nov. Thanks.

<Redacted>

<Redacted>
Organ and Blood Donation, Infected Blood and Abortion Policy
Scottish Government
3E, St Andrew's House, Edinburgh
Tel: <Redacted>

From: <Redacted> <<Redacted>@gov.scot>
Sent: Wednesday, August 30, 2023 11:48 AM
To: <Redacted> <<Redacted>@gov.scot>; <Redacted> <<Redacted>@gov.scot>; <Redacted> <<Redacted>@gov.scot>
Subject: RE: Haemophilia Scotland/SIBF

Thanks <Redacted>,

This all seems sensible.

Should I let <Redacted> know we'll go with the November date, so she doesn't keep trying to get something else in the diary?

<Redacted>

From: <Redacted> <<Redacted>@gov.scot>
Sent: 30 August 2023 11:45
To: <Redacted> <<Redacted>@gov.scot>; <Redacted> <<Redacted>@gov.scot>; <Redacted> <<Redacted>@gov.scot>
Subject: Haemophilia Scotland/SIBF

Hi – I had a fairly long call with <Redacted> just now. While the others are a bit unhappy about the delay with the Min meeting he seemed ok that the proposed new date of 15 Nov might be good if we have an IBI report by then (he seemed optimistic that we will).

He has asked for a Teams call with us in the meantime – prob end Sept/early Oct – so <Redacted> I asked him to contact you about a suitable date for all of us. [Text redacted]

So the points he seems keen to discuss with us as officials are:

- **[Text Redacted – out of scope].**
- Update on any discussions with UK Gov on compensation/any progress
- **[Text Redacted – out of scope].**

[Text redacted – out of scope]

Best wishes,

<Redacted>

<Redacted>

Head of Unit, Organ and Blood Donation, Infected Blood and Abortion Policy

Scottish Government

St Andrew's House

Regent Road

Edinburgh EH1 3DG

Tel<Redacted>