

## Annex to the response

An exemption under section 27(1) of FOISA applies to some of the information requested because we intend to publish that information on or after 19 July 2023 and within 12 weeks of the date of your request. We consider that it is reasonable to withhold the information until that date, rather than release this information before the planned publication date.

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 because it is an Order of the Privy Council and this will be met by our planned publication. In the meantime, there is a greater public interest in taking the time necessary to ensure the information has been properly collated and checked before it is published as planned. Also, we see no public interest in disrupting our programme of work to release the information ahead of the intended publication date.

An exemption under section 28(1) of FOISA (relations within the UK) applies to some of the information requested. This exemption applies because disclosure would, or would be likely to, prejudice substantially relations between the Scottish Government and the UK Government. This is because it is of the utmost importance that UK Government and Scottish Government can share information related to international cooperation in criminal matters in a timely manner without. It is essential for the effective administration of the UK as a whole that there should be regular, and often private, communications between the Scottish Government, the UK Government and the other devolved administrations. Disclosure of this information will mean that the UK Government is likely to be more reluctant to communicate as frequently and openly with the Scottish Government in 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 maintaining close working relationships between the Scottish Government and the UK Government and in protecting the free exchange of information between the administrations to ensure that we keep each other fully and regularly informed about matters of mutual interest. There is no public interest in disclosing information when that will damage relationships and disrupt future communications as that may impact on the effectiveness of future policy development and implementation work.

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 development of the Scottish Government's policy on matters arising as a result of the UK Government's decision to host the INTERPOL General Assembly in Glasgow

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 matters arising as a result of the UK Government's decision to host the INTERPOL General Assembly in Glasgow 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.

An exemption under section 32(1)(a)(ii) of FOISA (international relations) applies to some of the information requested. This exemption applies because disclosure would, or would be likely to, prejudice substantially relations between the United Kingdom and the International Criminal Police Organisation. The effective conduct of international relations depends upon maintaining trust and confidence between the UK Government and international organisations. In this case, the information was given to the Scottish Government on the understanding that it would be treated as being in confidence. If the Scottish Government does not respect this confidence, the UK Government's relations with international organisations and its ability to protect and promote UK interests will be substantially prejudiced.

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 ensuring that the UK Government is able to maintain good relations with international organisations, in order to protect and promote UK interests abroad. There can be no public interest in jeopardising those relations by the Scottish Government disclosing confidential information or information which international organisation has specifically asked us to withhold.

An exemption under section 38(1)(b) of FOISA (personal information) applies to a small amount of the information requested because it is personal data of a third party, e.g. names and 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.