

REASONS FOR NOT PROVIDING INFORMATION

Exemptions under sections 29(1)(a) (policy formulation), 29(1)(b) (Ministerial communications), 30(b)(i) (free and frank advice), 30(b)(ii) (free and frank exchange of views), and 38(1)(b) (personal information) of FOISA apply to some of the information you have requested.

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 concessionary travel, employability spend, STEM bursary awards, and ScotWind.

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 the policy areas mentioned above 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 29(1)(b) of FOISA (Ministerial communications) applies to some of the information requested because it relates to communications between Scottish Ministers. Exemptions under sections 30(b)(i) (free and frank provision of advice) and 30(b)(ii) (free and frank exchange of views) of FOISA apply to some of the information requested. These exemptions apply because disclosure would, or would be likely to, inhibit substantially the free and frank provision of advice. These exemptions recognise the need for officials to have a private space within which to provide free and frank advice to Ministers and other officials before the Scottish Government reaches a settled public view. Disclosing the content of free and frank advice on concessionary travel, employability spend, STEM bursary awards, and ScotWind will substantially inhibit the provision of such advice in the future, particularly because these discussions relate to a sensitive or controversial issue such as budgetary matters.

These exemptions are 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 exemptions. We have found that, on balance, the public interest lies in favour of upholding the exemptions. 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 policy positions can be explored and refined, until the Government as a whole can adopt policies that are sound and likely to be effective. This private thinking space also allows for all options to be

properly considered, so that good 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 decision making process, which would not be in the public interest.

s.38(1)(b) exempts information from disclosure where it relates to personal information. 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. In this instance, this information includes names, email addresses, phone numbers, and similar items.