

ANNEX

REASONS FOR NOT PROVIDING INFORMATION

Exceptions apply Regulation 10(4)(e) – internal communications in relation to SPQ background notes, Ministerial/media briefings, lines to take, etc.

An exception under regulation 10(4)(e) of the EIRs (internal communications) applies to some of the information you have requested because it is an internal communication of a First Minister's Questions (FMQ) Briefing document prepared by a Marine Directorate Policy Officer.

This exception 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 exception. We have found that, on balance, the public interest lies in favour of upholding the exception. 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 a private space within which officials can provide free and frank advice and views to Ministers in briefing for FMQ answers. It is clearly in the public interest that Ministers can properly answer Parliamentary questions and robustly defend the Government's policies and decisions. They need full and candid advice from officials to enable them to do so. Disclosure of this type of information could lead to a reduction in the comprehensiveness and frankness of such advice and views in the future, which would not be in the public interest.

1. Regulation 11(2) – applicant has asked for personal data of a third party

An exception under regulation 11(2) of the EIRs (personal information) applies to some of the information requested because it is personal data of a third party 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 exception 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 exception.