

**REASONS FOR NOT PROVIDING INFORMATION**An exemption applies.

An exemption under section 38(1) of FOISA applies to all of the information you have requested. This exemption relates to 'personal data relating to a third party,' meaning any information which relates to a living individual who could be identified by the inclusion of that data or information (such as a name, email address or phone number) and which concerns individuals who are third party to the requested information. Where such information has been identified it has been redacted, with all other information in such documents being left available where appropriate. In no instance has information been fully withheld under s.38(1).

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.

An exemption applies, subject to the public interest test.

Exemptions under section of FOISA applies to some of the information you have requested.

As explained above, under section 25(1) 'information otherwise held', the Scottish Government is not required to disclose information which is readily accessible to the requestor. In this instance, this section applies as the correspondence requested relates to the First Minister's Investor Panel recommendations which were released publicly on 29 November 2023.

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 would release information relevant to the Scottish Government's operation of the economy. However, this is outweighed by the public interest in efficient governance, and as the information is reasonably obtainable.

Section 29(1)(a), 'formulation or development of Scottish Government Policy', has been applied to documentation relating to the First Minister's Investor Panel and its recently published recommendations. This exemption relates to any information which would provide insight into the formulation of development of a Scottish Government policy which is not within scope of the request. This has been applied where discussion and/or actions for developing a Scottish Government policy have been put forward by officials as part of information within the scope of this request.

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 the Investor Panel's recommendations advise significant responses and changes from the Scottish Government in how it attracts private capital, which will be essential for delivering on our ambitious National Strategy for Economic Transformation and achieving net zero by 2045. However, this is outweighed by the public interest in the Government's effective response to these recommendations, which

may reasonably be negatively impacted by the disclosure of the initial steps, topics, and stakeholders the Scottish Government is planning or considering undertaking or engaging.

Section 30(b)(i), 'free and frank provision of advice' and section 30(b)(ii), 'free and frank exchange of views', has been applied in seven instances. These exemptions relate to any information which if released would or would likely inhibit substantially the free and frank provision of advice or exchange of views within Government. This has been applied to information in which advice, viewpoints or input has been offered/requested to Ministers/Officials for consideration, and which if disclosed was deemed to be of significant risk to prejudice future discussions in which advice or the exchange of views is offered, requested, or deliberated within Government.

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 some public interest in release because it is to the benefit of the public and government that there be transparency on the part of the Government about actions it is undertaking, how these decisions are reached and how deliberation is carried out within government. As a number of instances in which these exemptions were applied related to commercial activity or Scottish Government economic decisions, there may also be benefit to the public from an insight into how governmental decisions on economic policy are informed. However, this is outweighed by the public interest in effective governance, which may be reasonably hampered if the provisioning of frank advice, especially as relates to complicated or sensitive policy, was to be prejudiced by the disclosure.

For example, if there were an instance in which civil servants had provided frank advice to a Scottish Minister regarding a particular recommendation the Scottish Government had received, which included areas of interest for the Minister to focus on, potential focuses of discussion or 'on-the-ground' assessments of potential areas of sensitivity. If this information were to be released it would unduly inhibit the Scottish Government's and Scottish Minister's ability to have effective conversations with essential stakeholders who see the release.

Section 33(1)(b), 'commercial interests', has been applied to information relating to Scottish Government financial decisions. This exemption relates to any information which if released would, or would be likely to, prejudice substantially the commercial interests of any person [person may refer to an individual, public authority, company, or partnership]. This has been applied to information relating to financial decisions that the Scottish Government is considering and for which the disclosure of was determined to likely prejudice the Scottish Government's commercial interests.

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 the information relates to financial decisions which may affect the Scottish Government or the Scottish economy. However, this is outweighed by the public interest in the Scottish Government's being able to make sound commercial decisions, which will be impacted by the release of information and advice relating to potential and upcoming Scottish Government financial decisions.

For example, if there were a situation where the Scottish Government was seeking to make sales of plots for renewable energy and civil servants had prepared documentation/advice/discussion points relating to these sales, it would reasonably inhibit the Scottish Government's position in any such discussions on the sale of plots if this information were to be made public.