

EIR: 202300350162 – ANNEX

ANNEX: Reasons for Exceptions

The information released under your second request: *‘Can you provide any prepared briefings and meeting notes for the above meetings with companies in the offshore and energy sectors.’* has had 3 EIR regulations applied to them. I have set out below the reasoning and detail for why these exceptions were applied to some of the information you requested.

Regulation 10 (4)(e) Internal Communications

Regulation 10(4)(e) (Internal communications) of the Environmental Information (Scotland) Regulations 2004 (the EIRs) has been applied to some of the information released due to the contents of the documents containing sensitive internal communications. This exception has been subject to the public interest test and found that the public interest in withholding the information outweighed the public interest in making it available.

Regulation 10 (5)(f) Third Party Interests

Regulation 10(5)(f) (Third Party Interests) of the Environmental Information (Scotland) Regulations 2004 (the EIRs) was applied to some of the information requested. This regulation allows a Scottish public authority to withhold environmental information if its disclosure would, or would be likely to, cause substantial prejudice to the interests of a person who provided information voluntarily to the authority.

The exception can only be applied if all three of the following tests are satisfied:

- The person was not legally obliged (and could not be legally obliged) to supply the information.
- The person did not supply it in circumstances such that it could be made available except by making a request for it under the EIRs.
- The person has not consented to the information being disclosed.

All 3 of these tests and the public interest test that applies for this regulation were satisfied for the documents thus allowing us to redact such sensitive information from the documents.

Regulation 11 Personal Data

Regulation 11 (Personal data) of the Environmental Information (Scotland) Regulations 2004 (the EIRs) was applied to all the information released. Regulation 10(3) makes it clear that, where a request for environmental information includes personal data, the personal data must not be made available (i.e. disclosed) otherwise than in accordance with regulation 11. This was applied to the information requested as all the briefings and meeting notes contained the personal data of a third party (Regulation 11 (2)). This regulation is absolute and as such a public interest test was not applied.