



Scottish
Forestry
Coilltearachd
na h-Alba

Annex A

REASONS FOR NOT PROVIDING INFORMATION

Personal data relating to third party

An exemption under section 38(1)(b) of FOISA (personal data of a third party) 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 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.

Formulation or development of government policy

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 the development of forestry policy, delivery and the administration of Scottish Forestry.

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 testing and options will be disclosed in the near future, when it may undermine or constrain the Government's view on that policy, delivery, or design of systems and processes, while these are still under discussion and development.

Free and frank exchange of views for the purposes of deliberation

An exemption under Section 30(b)(ii) of FOISA (free and frank exchange of views for the purposes of deliberation) applies to some of the information requested because disclosure would, or would



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be likely to, substantially inhibit the free and frank exchange of views between Scottish Forestry officials and other bodies and parts of the Scottish Government.

The exemption recognises the need for Scottish Government and Scottish Forestry officials to have a private space within which to share and exchange views, before officials have reached settled views on the most appropriate approach, structure or next steps regarding policy decisions, system designs and procurement, as a public sector organisation. Disclosing the content of the position when still a live process would inhibit the exchange of information between officials and risks undermining Scottish Forestry's advice, internal communications with staff; the outcomes of which will form a critical role in shaping future decisions on the organisation's structure and functions.

The Section 30(b) exemption is subject to the 'public interest test.' Therefore, taking account of all the circumstances of this request, 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 allowing a private space within which officials from Scottish Forestry can exchange views, as part of the process of reaching an agreed position on policy and development of structures or systems. This private thinking space is essential to enable all options to be properly considered, based on the best available advice, and open communication exchanges, so that good decisions can be taken. Premature disclosure is likely to undermine the full and frank discussion of issues between officials, which in turn will undermine the quality of the decision making process, which would not be in the public interest.