

An exemption applies

An exemption under section s.38(1)(b) of FOISA applies to some of the information you have requested. This exemption applies as it related to personal data of a third party (i.e. names, job titles, email addresses, telephone numbers) 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.

Exemptions subject to the public interest test apply

Exemptions under section 30(b)(i) (Free and frank provision of advice) and 30(b)(ii) (free and frank exchange of views for the purposes of deliberation) of FOISA apply to some the information you have requested. The exemptions have been applied because disclosure would, or would be likely to, inhibit substantially the free and frank provision of advice and exchange of views.

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 a private space within which officials can provide free and frank advice and views before the Scottish Government reaches a settled public view. Disclosing the content of such free and frank exchange of views and advice will substantially inhibit the communication of such matters in the future, which would not be in the public interest.

An exemption under section 30(c) of FOISA (prejudice the effective conduct of public affairs) applies to some of the information requested. Disclosing this information would substantially prejudice our ability to discuss decisions with external stakeholders and the need to consider timings before being publicly announced. This would constitute substantial prejudice to the effective conduct of public affairs in terms of the exemption.

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. However, there is a greater public interest in protecting the process of stakeholder engagement and ensuring that the Scottish Government is able conduct this aspect of its business effectively.