

From: [REDACTED]
To: [REDACTED]
Subject: FOI 202400400853 - q5 - documents
Date: 07 March 2024 15:00:10
Attachments: [RE FOI - 202400395463 - Ministerial Clearance - FOI due 2102.msg](#)
[FOI - 202400395463 - Ministerial Clearance - FOI due 2102.msg](#)
[RE FOI - 202400395463 - Clearance.msg](#)
[FOI - 202400395463 - Clearance.msg](#)
[FOI - 202400395463.msg](#)

Hi [REDACTED]

I saved docs to the file [202400395463 \(qA1695554\)](#) for this FOI. These 5 are all I hold in my mailbox, and I think most of them are already in the FOI folder on eRDM.

I can confirm that most of the work done on this FOI was based on me examining the documents you had identified as being written or oral evidence, and conducting a page count.

The email from Mr Hamilton confirming that he holds no further material is also within the eRDM file at [FOI Appeal - Scottish Ministers v Scottish Information Commissioner & Harrop - confirmation from James Hamilton that no further notes are held - 12 January 2024 \(A47518145\)](#)

Thanks,

[REDACTED]

From: [REDACTED]
To: [REDACTED]
Subject: FW: FOI - TRIAGE - Mr Hamilton investigation - 202400400853
Date: 26 February 2024 12:29:00
Attachments: [Casefile checklist.docx](#)

Hello[REDACTED],

The following is the new [REDACTED]'s FOI. I will assign it to myself and then we can decide who is the best person for it.

Thanks,
[REDACTED]

From:[REDACTED]@gov.scot> **On Behalf Of** Freedom of Information
Sent: Friday, February 23, 2024 2:15 PM
To: [REDACTED]@gov.scot>; Propriety and Ethics team mailbox <PandETeam@gov.scot>
Cc: [REDACTED]@gov.scot>; [REDACTED]@gov.scot>; [REDACTED]@gov.scot>; [REDACTED]@gov.scot>; DG Corporate <dgcorporate@gov.scot>
Subject: FOI - TRIAGE - Mr Hamilton investigation - 202400400853

Good afternoon,

Please review this email IN FULL as handling instructions have recently changed.

It looks like this FOI request may be in relation to your policy area. Please confirm this sits with you or advise us immediately if it does not; suggesting business areas that are better suited.

Please note the following:

Scottish Covid 19 Inquiry Restriction Order

The Scottish Covid 19 Inquiry has issued a restriction order which affects information that can be released by the Scottish Government. This may directly affect the handling of this request. The order can be viewed [here](#).

This restriction **must** be considered when responding to every request for information received after 11 October 2023 prior to any information is released.

Is it possible that the information requested could have been shared with the Scottish Covid 19 Inquiry? If so, you **must** contact CIRDC (Covid Inquiries Response Directorate) for advice as soon as possible. Please contact them by email : covidinquiriesinformation@gov.scot

Guidance on undertaking the check and providing the record is now part of the compliance documents.

Please note the following:

Timescale

- The response to this case should issue as soon as possible and no later than the statutory deadline which is **21/03/24**.

Immediate Actions

Please:

- 'Assign to self' through the 'Case Actions' tab on MiCase: [MiCase - View Case 400853](#)
- The eRDM casefile can be found here: [202400400853 - Objective ECM \(scotland.gov.uk\)](#). All correspondence and evidence of how you reached your final decision **MUST** be saved here.
- Send the requester an **FOI specific acknowledgement letter**, following the standard template ([FOISA Request Templates](#), page 5). The acknowledgement issued by MiCase is not FOI specific and we are required to do this.
- Complete all relevant documents as your case progresses, including the:
 - i. **Mandatory FoI Statement of Compliance** template linked [here](#) via: "Roles & Responsibilities of an FoI case handler" - listing information identified as in scope and a summary of decisions made
 - ii. Open and download the mandatory **Searches template** linked [here](#) recording details of searches carried out and the results.
 - iii. Remember to consult the **casefile checklist** (attached).
- Use the **Response Wizard** contained in MiCase for ALL letters to the requester.

Sensitivity

- In FOISA terms we are assessing this case as **sensitive**. This means a Ministerial decision in terms of disclosure is required. Please seek input from SpAds (emailing FoI.SpAdsPO@gov.scot in order to seek comments) before making your final submission to your Minister. You may find our FOI ministerial level submission and decision template useful, linked [here](#)
- *The sensitivity assessment can change once full searches have been completed. If after searching you consider the case not to be sensitive, please engage with the FOI Unit to help us reassess the case.*
- Please make officials of appropriate seniority (normally C Band or above) aware of

the case.

- Please sight your Comms team, parallel media handling may be required.

Requests for legal advice, or requests which reference or incorporate legal advice

Requests for legal advice are subject to certain handling protocols. If you receive a request for or relating to legal advice, contact the relevant lawyers in the Scottish Government Legal Directorate (SGLD) who gave that advice to request a review of whether the material is subject to legal professional privilege (LPP). Your normal SGLD contact can help in identifying any legal advice in scope of the request. You must contact the offices of the Law Officers (Lord Advocate and Solicitor General) if the request is for or relates to legal advice from the Law Officers. Please also CC digitalandinformationlaw@gov.scot.

If the request is being dealt with under the Environmental Information (Scotland) Regulations 2004 and you have shared legal advice with any external persons, please let the FOI Unit know.

Read our advice [here](#).

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Requests which capture information about FFM and DFM

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If your FOI/EIR contains information that you think might be personal/of interest to our former FM and DFM, please contact the FOIU as soon as possible and we will advise you or sign-post you to the right person.

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Guidance

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Detailed guidance is available here [Freedom of Information \(FOI\): SharePoint: 2020-2025](#) and [SharePoint Collection](#).

Many thanks,

FOI Unit

From: Central Correspondence Unit <CentralCorrespondenceUnit@gov.scot>

Sent: Friday, February 23, 2024 2:08 PM

To: Freedom of Information <foi@gov.scot>

Subject: FOI - TRIAGE - interviewed as part of his investigation - 202400400853

From: [\[REDACTED\]@icloud.com](#)>

Sent: Thursday, February 22, 2024 7:47 PM

To: Central Correspondence Unit <ceu@gov.scot>

Subject: Re: Your recent enquiry with Scottish Government and partner agencies - 202400395463

Greetings,

My name is [REDACTED] and I request the following information: In reference to the FOI below (202400395463) I request the following information:

- 1) Who were the 5 individuals who Mr Hamilton interviewed as part of his investigation?
- 2) Given the response with 5 individuals and six interview transcripts who was the individual who Mr Hamilton interviewed twice?
- 3) The SG stated:

"In response to your third question, we are interpreting your question as a request for notes made by Mr Hamilton himself in the course of his investigation. While our aim is to provide information whenever possible, in this instance the Scottish Government does not have the information you have requested as no notes were provided to the Scottish Government by Mr Hamilton, and he has confirmed that he does not hold any other material not passed to the Scottish Government. This is a formal notice under section 17(1) of FOISA that the Scottish Government does not have the information you have requested."

Is the SG/Mr Hamilton claiming that during the course of his investigation Mr Hamilton created no notes and that explains the SG/Mr Hamilton's response of not holding notes? Or is it claiming that under the legal term of "hold" under FOISA it does not legally "hold" them?

- 4) The communications between the SG and Mr Hamilton in obtaining the response in point 3 in the FOI below in which: "he has confirmed that he does not hold any other material not passed to the Scottish Government."
- 5) Any other communications within/without the SG in reference to the creation of the FOI response below.

An electronic copy at this email address is good. My thanks and kind regards, Benjamin Harrop

On 21 Feb 2024, at 14:58, casehandling.service@gov.scot wrote:

Please find attached a response to your correspondence.

This e-mail (and any files or other attachments transmitted with it) is

intended solely for the attention of the addressee(s). Unauthorised use, disclosure, storage, copying or distribution of any part of this e-mail is not permitted. If you are not the intended recipient please destroy the email, remove any copies from your system and inform the sender immediately by return.

Communications with the Scottish Government may be monitored or recorded in order to secure the effective operation of the system and for other lawful purposes. The views or opinions contained within this e-mail may not necessarily reflect those of the Scottish Government.

<Response-202400395463.pdf>

[REDACTED]

From: [REDACTED]@gov.scot>
Sent: Wednesday, February 7, 2024 11:08 AM
To: Ashleigh Gray <Ashleigh.Gray@gov.scot>
Cc: [REDACTED]@gov.scot>
Subject: FOI - 202400395463 - Clearance

Good morning Ashleigh,

I hope you are well.

Please find attached the draft response for FOI – 202400395463.

Please let us know if you have any comments.

Thanks,
[REDACTED]

[REDACTED]
Propriety and Ethics Team
1W.10, St Andrews House, Regent Road, Edinburgh, EH1 3DG

From: [REDACTED] on behalf of [Fol SpAds PO](#)
To: [\[REDACTED\]](#)
Cc: [Ashleigh Gray](#); [REDACTED] [Fol SpAds PO](#)
Subject: RE: FOI - 202400395463 - Ministerial Clearance - FOI due 21/02
Date: 20 February 2024 16:05:37
Attachments: [202400395463 - draft response - 12 February 2024 \(003\).docx](#)

Good afternoon,

[REDACTED]— special advisers are content and have indicated that ministerial clearance and comms lines are not required at this time.

Many thanks,

[REDACTED]

[REDACTED] (she/her)

Assistant Private Secretary to the Special Advisers' Office

5N.01 | St. Andrew's House

T: [REDACTED]

All e-mails and attachments sent by the Special Advisers' Private Office to any other official on behalf of a Special Adviser relating to a decision, request or comment made by a Special Adviser, or a note of a meeting with a Special Adviser must be filed appropriately by the recipient. Private Offices do not keep official records of such e-mails or attachments.

From: [REDACTED]@gov.scot>

Sent: Tuesday, February 20, 2024 12:27 PM

To: Fol SpAds PO <Fol.SpAdsPO@gov.scot>

Cc: Ashleigh Gray <Ashleigh.Gray@gov.scot>; [REDACTED]@gov.scot>

Subject: RE: FOI - 202400395463 - Ministerial Clearance - FOI due 21/02

Hello,

I hope you are well.

This FOI is due tomorrow, could you confirm if Ministerial clearance is required by today, please?

Thanks,

[REDACTED]

[REDACTED]

Propriety and Ethics Team

1W.10, St Andrews House, Regent Road, Edinburgh, EH1 3DG

From: [REDACTED]

Sent: Monday, February 12, 2024 1:52 PM

To: Fol SpAds PO <Fol.SpAdsPO@gov.scot>

Cc: Ashleigh Gray <Ashleigh.Gray@gov.scot>; [REDACTED]@gov.scot>

Subject: FOI - 202400395463 - Ministerial Clearance - FOI due 21/02

Good Afternoon,

I hope this email finds you well.

Please find attached a draft FOI response for FOI 202300391377 seeking:

1 - The number of interview transcripts the Scottish Government holds from Mr Hamilton's Ministerial Code Investigation into the former FM Nicola Sturgeon in 2021. This being the number of individuals he interviewed, as well as the total number of pages of transcripts.

2 - How many documents/pages it holds of the evidence that Mr Hamilton gathered during this investigation in total (excluding evidence in point 1.

3 - Does the Scottish Government hold following the ruling from the inner house in December 2023 that it holds all evidence gathered in the investigation hold any notes made by Mr Hamilton himself during his investigation. If so, how many notes/number of pages of notes do they hold.

4 - Who within the Scottish Government directed/oversaw the redactions made to Mr Hamilton's final published report?

We have applied section 17 (information not held) to question 3 and section 38(1) (b) (personal information) to question 4.

Could you please confirm if Ministerial Clearance is required?

Please let me know if you have any questions.

Thank you,
[REDACTED]

[REDACTED]

Propriety and Ethics Team

1W.10, St Andrews House, Regent Road, Edinburgh, EH1 3DG

From: [REDACTED]
To: [REDACTED]; [Fol SpAds PO](#)
Cc: [REDACTED] [Ashleigh Gray](#)
Subject: RE: FOI 202400400853 - Ministerial Clearance - FOI due 21/03
Date: 21 March 2024 17:57:00

Hi [REDACTED]

Thank you very much.
[REDACTED]

From: [REDACTED]@gov.scot>
Sent: Thursday, March 21, 2024 5:55 PM
To: [REDACTED]@gov.scot>; Fol SpAds PO <Fol.SpAdsPO@gov.scot>
Cc: [REDACTED]@gov.scot>; Ashleigh Gray <Ashleigh.Gray@gov.scot>
Subject: RE: FOI 202400400853 - Ministerial Clearance - FOI due 21/03

Hi [REDACTED],

Colin has no comments to offer and does not think ministers need to see this before issuing. It also does not require any media lines.

Kind Regards
[REDACTED]

[REDACTED]

Private Secretary to the Special Adviser's Office

Scottish Government | 5th Floor | St Andrew's House | Regent Road | Edinburgh | EH1 3DG | [REDACTED] | [REDACTED]

My working days are Tuesday, Wednesday & Thursday

All e-mails and attachments sent by the Special Advisers' Private Office to another official on behalf of Special Advisers relating to a decision, request or comment made by a Special Adviser, or a note of a meeting with Special Advisers must be filed appropriately by the primary recipient. The Private Office does not keep official reports of such e-mails or attachments. Scottish Ministers, Special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

From: [REDACTED]@gov.scot>
Sent: Thursday, March 21, 2024 10:35 AM
To: Fol SpAds PO <Fol.SpAdsPO@gov.scot>
Cc: [REDACTED]@gov.scot>; [Ashleigh Gray](#) <Ashleigh.Gray@gov.scot>
Subject: RE: FOI 202400400853 - Ministerial Clearance - FOI due 21/03

Morning [REDACTED],

I hope you are well.

[REDACTED]

Please let me know if you have any questions and I am available to have a call to clarify any doubts.

Thanks,
[REDACTED]

[REDACTED]

Propriety and Ethics Team

1W.10, St Andrews House, Regent Road, Edinburgh, EH1 3DG

From: [\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot) <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)> **On Behalf Of** Fol SpAds PO

Sent: Tuesday, March 19, 2024 1:40 PM

To: [\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot); Fol SpAds PO <Fol.SpAdsPO@gov.scot>

Cc: [\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot); Ashleigh Gray <Ashleigh.Gray@gov.scot>

Subject: RE: FOI 202400400853 - Ministerial Clearance - FOI due 21/03

Thanks [REDACTED],

Will pass that on.

[REDACTED]

Deputy Private Secretary to the Special Advisers' Office

[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)

I work from home and can be contacted by email or MS Teams.

All e-mails and attachments sent by the Special Advisers' Private Office to another official on behalf of Special Advisers relating to a decision, request or comment made by a Special Adviser, or a note of a meeting with Special Advisers must be filed appropriately by the primary recipient. The Private Office does not keep official reports of such e-mails or attachments.

From: [\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)

Sent: Tuesday, March 19, 2024 1:40 PM

To: Fol SpAds PO <Fol.SpAdsPO@gov.scot>

Cc: [\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot); Ashleigh Gray <Ashleigh.Gray@gov.scot> **Subject:** RE:

FOI 202400400853 - Ministerial Clearance - FOI due 21/03

Hi [REDACTED],

The attachment is the response we sent to him in a previous FOI.

Please find attached the missing document.

Please let me know if you have questions.

Thanks,
[REDACTED]

[REDACTED]
Propriety and Ethics Team
1W.10, St Andrews House, Regent Road, Edinburgh, EH1 3DG

[REDACTED]

From: [\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>
Sent: Monday, March 18, 2024 3:36 PM
To: Fol SpAds PO <Fol.SpAdsPO@gov.scot>
Cc: [\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; Ashleigh Gray <Ashleigh.Gray@gov.scot>

Subject: FOI 202400400853 - Ministerial Clearance - FOI due 21/03

Good Afternoon,

I hope this email finds you well.

Please find attached the draft response and the documents we intend to publish for FOI 202400400853.

The requester is asking:

1) Who were the 5 individuals who Mr Hamilton interviewed as part of his investigation?

2) Given the response with 5 individuals and six interview transcripts who was the individual who Mr Hamilton interviewed twice?

3) The SG stated:

"In response to your third question, we are interpreting your question as a request for notes made by Mr Hamilton himself in the course of his investigation. While our aim is to provide information whenever possible, in this instance the Scottish Government does not have the information you have requested as no notes were provided to the Scottish Government by Mr Hamilton, and he has confirmed that he does not hold any other material not passed to the Scottish Government. This is a formal notice under section 17(1) of FOISA that the Scottish Government does not have the information you have requested."

Is the SG/Mr Hamilton claiming that during the course of his investigation, Mr Hamilton created no notes and that explains the SG/Mr Hamilton's response of not holding notes? Or is it claiming that under the legal term of "hold" under FOISA it does not legally "hold" them?

4) The communications between the SG and Mr Hamilton in obtaining the response in point 3 in the FOI below in which: "he has confirmed that he does not hold any other material not passed to the Scottish Government."

5) Any other communications within/without the SG in reference to the creation of the FOI response below.

For the first 2 questions, both the FOI unit and [REDACTED].

Question 3) is identical to a question we have already dealt with on the FOI review 202400400846 and we applied Section 14(2) (repeated requests).

For questions 4) and 5) we are releasing the information applying only Section 38(1)(b) (personal information) for the names of the officials below SCS.

Could you please confirm if Ministerial clearance is required?

Please let me know if you have any questions.

Thanks,
[REDACTED]

[REDACTED]
Propriety and Ethics Team
1W.10, St Andrews House, Regent Road, Edinburgh, EH1 3DG