

## **ANNEX A**

### **Regulation 11(2) – Personal Information**

An exception under regulation 11(2) of the EIRs (personal information) 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 exception 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 exception.

### **Regulation 10(5)(f) – Third Party Consultation**

An exception under regulation 10(5)(f) of the EIRs (substantial prejudice to interests of person who provided the information) applies to some of the information you have requested. This exception applies because disclosure of this particular information would, or would be likely to, prejudice substantially the interests of Falkirk Council who provided that information to the Scottish Government.

They:

- were not under any legal obligation to give us that information;
- did not supply it in circumstances in which it could, apart from the EIRs, be made available; and
- have not consented to disclosure.

This exception is subject to the ‘public interest test’.

Therefore, taking account of all the circumstances of this case, I have considered if the public interest in disclosing the information outweighs the public interest in applying the exception. I have found that, on balance, the public interest lies in favour of upholding the exception.

I recognise that there is a public interest in disclosing information as part of open and transparent government. However, there is a greater public interest in protecting the interests of anyone who provides the Scottish Government with information on a confidential basis. Disclosing such information against the express wishes of the stakeholder is likely to undermine their trust in the Government and make them reluctant in future to share information with us on issues such as flood protection. This would significantly impair the Scottish Government’s ability to develop policies and make decisions on the basis of fully informed advice and evidence. This would not be in the public interest.