

An exemption applies

An exemption under section 38(1)(b) of FOISA applies to some of the information you have requested because it is personal data of a third party, for example the names of individuals 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.

An exemption applies, subject to the public interest test

An exemption under section 28(1) of FOISA (relations with the UK) applies to some of the information you have requested. This exemption applies because disclosure would, or would be likely to, prejudice substantially relations between the Scottish Government and the UK Government. Release of information regarding communications with the UK Government about Not for EU labelling would mean that the UK Government would likely be more reluctant to fully engage the Scottish Government on this and other issues in the future, which would reduce both the frequency and openness of communications between the Scottish Government and other UK administrations. It is essential for the effective administration of the UK as a whole that there should be regular, and often private, communications between the Scottish Government, the UK Government and the other devolved governments. Disclosure of this information will mean that the UK Government is likely to be more reluctant to communicate as frequently and openly with the Scottish Government in future.

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 maintaining good relations between the Scottish Government, the UK Government and other devolved governments, and in protecting the free exchange of information between the administrations to ensure that we keep each other fully and regularly informed about matters of mutual interest, such as Not for EU labelling. There is no public interest in disclosing information when that will damage relationships and disrupt future engagement.

An exemption under section 30(b)(i) of FOISA (free and frank provision of advice) applies to some of the information requested. This exemption applies because disclosure would, or would be likely to, inhibit substantially the free and frank provision of advice. This exemption recognises the need for officials to have a private space within which to provide free and frank advice to Ministers before the

Scottish Government reaches a settled public view. Disclosing the content of free and frank advice on the GB wide 'Not for EU' labelling proposals will substantially inhibit the provision of such advice in the future, particularly because these discussions are still ongoing and decisions have not been taken.

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 allowing a private space within which officials can provide full and frank advice to Ministers and other officials, as part of the process of exploring and refining the Government's position on Not for EU labelling, until the Government as a whole can adopt a position that is sound and likely to be effective. This private thinking space is essential to enable all options to be properly considered, based on the best available advice, so that good decisions can be taken. Premature disclosure is likely to undermine the full and frank discussion of issues between Ministers and officials, which in turn will undermine the quality of the policy making process, which would not be in the public interest.

An exemption under section 30(b)(ii) of FOISA (free and frank exchange of views) applies to some of the information requested. This exemption applies because disclosure would, or would be likely to, inhibit substantially the free and frank exchange of views for the purposes of deliberation. This exemption recognises the need for Ministers and officials to have a private space within which to discuss and explore options before the Scottish Government reaches a settled public view. Disclosing the content of free and frank discussions on GB wide 'Not for EU' labelling plans would substantially inhibit such discussions in the future, particularly because these discussions are still ongoing and decisions have not been taken.

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 allowing Ministers and officials a private space within which to communicate as part of the process of exploring and refining the Government's position on Not for EU labelling, until the Government as a whole can adopt an agree position. This private space is essential to enable all options to be properly considered. Premature disclosure is likely to undermine the full and frank discussion of issues between the officials and Ministers, which in turn will undermine the quality of the policy making process, which would not be in the public interest.