Annex A

Reasons for not providing information:

Section 30(b)(ii) – 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) 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 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.

Section 30(b)(i) - free and frank provision of advice

An exemption under section 30(b)(i) of FOISA (free and frank provision of advice) applies to some of the information requested. This is because it is likely that disclosure would likely 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 other officials before the Scottish Government reaches a settled view.

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 free and frank advice to other officials, as part of the process of exploring and refining the Government's position. 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. Disclosure is likely to undermine the full and frank discussion of issues, which in turn will undermine the quality of the decision making process, which would not be in the public interest.

S**ection 38(1)(b) – applicant has asked for personal data of a third party**

An exemption under section 38(1)(b) of FOISA (personal information) applies to some of the information requested because it is personal data of a third party or non SCS level staff member, ie email addresses, names, phone numbers etc., 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.

Section 30(c) – Prejudice to effective conduct of public affairs

An exemption under section 30(c) of FOISA applies to a small amount of the information requested. This exemption applies because revealing the source of the Scottish Government's legal advice would be likely to lead to conclusions being drawn from the fact that any particular lawyer has, or has not, provided advice. 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, and to inform public debate. However, there is a greater public interest in enabling the Scottish Government to determine how and from whom it receives legal advice, without facing external pressure or concerns that particular conclusions may be drawn from the fact that any particular lawyer has or has not provided legal advice on a particular matter. Releasing information about the source of legal advice would also be a breach of the long-standing Law Officer Convention (reflected in the Scottish Ministerial Code) which prevents the Scottish Government from revealing whether Law Officers either have or have not provided legal advice on any matter. There is no public interest in breaching that Convention by divulging which lawyers provided advice on any issue.

Section s.36(1) - confidentiality in legal proceedings (includes legal advice)

An exemption under section 36(1) of FOISA (confidentiality of communications - confidentiality in legal proceedings) applies to some of the information requested because litigation and legal advice privilege protects the confidentiality of communications between a client and their legal adviser. Litigation privilege applies to documents created in contemplation of litigation and to communications when litigation is either pending or being considered, to expert reports prepared on their behalf and to legal advice given in relation to potential legal action.

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 some public interest in release as part of open and transparent government, and to inform public debate. However, this is outweighed by the strong public interest in maintaining the right to confidentiality of communications between legal advisers and clients, to ensure that Ministers and officials are able to receive legal advice in confidence, , and to maintaining the right to confidentiality in legal proceedings, like any other public or private organisation.

There is a very strong public interest in maintaining confidentiality of communications between legal adviser and client, and in considering litigation. It is clearly in the public interest for lawyers to be able to provide free and frank legal advice to their clients, considering and discussing all issues and options, without fear that the advice might be disclosed and potentially taken out of context. It is also in the public interest that decisions are taken by the Government in a fully informed legal context. Ministers and officials therefore need high-quality, comprehensive legal advice for the effective conduct of their business. That advice needs to be given in context, and with a full appreciation of relevant facts. Without such legal advice, which can only be provided frankly and comprehensively in the knowledge that it will be kept in confidence, the quality of the Government's decision-making would be much reduced since it would not be fully informed.

[Redacted]

	It has been suggested that the ID requirements are aimed at marginalising groups. UNISON labelled the plans "*a threat to democracy*".[17] When the legislation was being discussed in the UK Parliament there were some dissenting voices within the Conservative backbenches with MP David Davis calling the voter ID requirement as an "*illiberal policy in pursuit of a non-existent problem*".
	[Redacted]

[Redacted]

[17] David Davis, 'MPS have last chance to save the UK's freedom to vote'. Open Democracy (online)(accessed 25/06/2024)

[Redacted]

[Redacted]

CM
There's been a lot of people that have been really supportive, and I think it just sums up the influence and the friendships that Alex had. Sir David Davis has been extensively lobbying the UK Government to have them support the repatriation attempts. Kate Forbes has, I think at about 2 pm your time, had a meeting with the UK Government to put forward Scottish Government's position that they are fully supportive of repatriation efforts. There is no protocol, as far as I understand it, to repatriate a former First Minister. Alex is the first former First Minister to have died. Donald obviously died while he was in office. We should set a precedent that if a tragic event like this happens overseas, we just need to– I mean, just looking back home it's quite clear that a lot of people are upset, emotional. The King has paid tribute to Alex, the leader of the Opposition, the Prime Minister, every opposition party in the country. I just think it's fit and proper for the office that he once held, and the contribution he made to Scottish society and public life, that we bring him home as quickly as possible – because the alternative is trying to take him home commercially, which could take a significant amount of time. And I think that for his family's sake, his friends, we should get him home as quickly as possible. And for all that he did for Scotland, I think it's the least that we can do for him.

[Redacted]

[Redacted]

CM
To be frank, if the UK Government say get it done, it gets done. So I think, if they listen to the suggestions that David Davis has been making, friends of Alex Salmond have lobbied people directly, people such as the Chancellor of the Exchequer – and obviously the Deputy First Minster has been very supportive, Ms Forbes – I think we could be talking days, if not day, if the UK Government approve the repatriation. If not, it could be longer, and I think one of the phrases that Alex often used to me was 'we take our fences as they come to us', and at the moment we're focused on repatriation attempts with the support of the RAF. If we don't succeed in that, then we would explore alternatives…

<discussion about repatriation efforts ends>

Excerpt from transcript of BBC Radio Scotland Drivetime interview with Christopher McEleny (CM)2, 14 October 2024

[Redacted]

From: [Redacted]
To: First Minister; Deputy First Minister and Cabinet Secretary for Economy & Gaelic
Cc: [Redacted]; Permanent Secretary; Colin McAllister; DG Corporate; [Redacted] Director Propriety and Ethics; [Redacted]; Ashleigh Gray; [Redacted]
Subject: For FM & DFM Awareness - Sir David Davis MP debate today - Adequacy of the Scotland Act 1998
Date: 18 July 2024 10:35:19
Attachments: David Davis to raise concerns.pdf

First Minister
Deputy First Minister and Cabinet Secretary for Economy & Gaelic
The Times reported yesterday (attached and copied below) that Sir David Davis MP plans to raise "fresh concerns" in a Commons adjournment debate today (Thursday) about SG's handling of the complaints about Alex Salmond. I don't have any more information on those concerns or what Mr Davis is expected to say. Spads have seen the below article and requested that FM and DFM be made aware in advance of any media interviews today.
Mr Davis has raised this issue in Parliament several times, including in January following the Court of Session decision on the [Redacted] FOI request, where the court found that the Scottish Government did hold the requested information about the Hamilton report (but did not find, as Mr Davis suggests, that it must therefore be released): Contribution by Sir David Davis (Haltemprice and Howden) (Con) (parliament.uk) [Redacted] for FMQs in response to Mr Davis's comments that the SG was instructed by the Information Commissioner to release material about the Hamilton Report:
The Scottish Government accepted the decision of the Court of Session on 6

December [2023] regarding the Scottish Government's appeal against a decision of the Scottish Information Commissioner.

- Following the judgment we completed a review of this FOI request to comply with the Scottish Information Commissioner's Decision 004/2023 and issued a further response to the requester in this case. The Court did not instruct the Scottish Government to release material.
- The legislation recognises that there are circumstances where public authorities must maintain a degree of confidentiality – for example, to allow for confidentiality in legal proceedings and to protect personal data.

Thanks,
[Redacted]

[Redacted]

Media coverage summary

The National, 6, *Salmond probe concerns raised by Tory MP*
The Scotsman, 6, *Ex-Tory minister slams Scottish Government over its probe into Salmond allegations*
The Herald, 7, *Conservative ex-minister criticises Scottish Government's Salmond probe*
Daily Telegraph, 6, *David presses MPs over unlawful Salmond investigation*
The Press & Journal (main), 8, *MP Davis calls for tougher Holyrood powers*

The Press & Journal (Inverness, Highlands and Islands), 9, *Call for tougher rights to probe Salmond case*
The Scotsman, 6, *Ex-tory minister slams Scottish Government over its probe into Salmond allegations*
Scottish Sun, 2, *Eck probe powers call*
The Times, 13, *Sturgeon aide 'was Salmond leak source'*

[Redacted]

Kind regards,
Ashleigh
Ashleigh Gray |Deputy Director, Propriety & Ethics | Scottish Government|
Mob: [Redacted]
|Email: Ashleigh.gray@gov.scot

[Redacted]

From:	[Redacted]
To:	Ross Ingebrigtsen; First Minister; Ashleigh Gray; Christopher Mackie; [Redacted] ; Permanent Secretary; Colin McAllister; DG Corporate; [Redacted] Director Propriety and Ethics; [Redacted] Andrew Bruce; Julie Grant; [Redacted] David Hutchison
Cc:	
Subject:	RE: OFFSEN: Immediate Case 04 Submission Alex Salmond v Scottish Ministers Expiration of Sist 19 July 2024 12:15:41
Date:	image001.png
Attachments:	

Chris, FMPO, [Redacted], Comms,
The transcript of last night's adjournment debate in the name of Sir David Davis MP has now been published: Adequacy of the Scotland Act 1998 - Hansard - UK Parliament
Mr Davis reiterated much of the material used in his previous speeches on this topic (incl 16 March 2021), but the following points of note were raised in his speech:

- Mr Davis alleges that Liz Lloyd leaked the decision report to the Daily Record (this allegation was the subject of the Police investigation Operation Newbiggin, that has now concluded);
- Mr Davis says that he has heard evidence that SPADs were involved in the redaction of the Hamilton report. He said he had raised this with the current permanent secretary and has not received a satisfactory or clear reply;
- Mr Davis alleges that David Harvie, the then Crown Agent, discussed the case with Leslie Evans' PS, despite telling the Parliamentary inquiry that he had not discussed it with Leslie Evans; and
- Mr Davis also called for investigation into his allegations of perjury by Nicola Sturgeon and Liz Lloyd.

Mr Davis used his speech to call for greater powers for the Scottish Parliament, including:

- Parliamentary Privilege to extend to Scottish Parliament;
- Strengthening of investigative powers of Scottish Parliament;
- Separation of duties of Law Officers; and
- Review of consequences for civil servants found to have acted improperly by parliamentary committees.

[Redacted]

Thanks,
[Redacted]

[Redacted]

From: Ashleigh Gray <Ashleigh.Gray@gov.scot>
Sent: Wednesday, July 17, 2024 5:48 PM
To: Christopher Mackie <Christopher.Mackie@gov.scot>
Cc: First Minister <FirstMinister@gov.scot>; [Redacted] ; Permanent Secretary <PermanentSecretary@gov.scot>; Colin McAllister <Colin.McAllister@gov.scot>; DG Corporate <dgcorporate@gov.scot>; [Redacted] ; Director Propriety and Ethics <DirectorProprietyandEthics@gov.scot>; [Redacted], Andrew Bruce <Andrew.Bruce@gov.scot>; [Redacted]
Subject: RE: OFFSEN: Immediate - Case 04 - Submission - Alex Salmond v Scottish Ministers - Expiration of Sist

Chris, FMPO, comms,
Flagging for your awareness a report in the Times today (attached and copied below) that Dav Davis MP is expected raise "fresh concerns" in a Commons adjournment debate tomorrow (Thursday) about SG's handling of the complaints about Alex Salmond. I don't have any more information on those concerns or what Mr Davis is expected to say.
You'll recall that Mr Davis has raised this issue in Parliament several times, including in January following the Court of Session decision on the Harrop FOI request, where the court found that the Scottish Government did hold the requested information about the Hamilton report (but d not find, as Mr Davis suggests, that it must therefore be released): Contribution by Sir David Davis (Haltemprice and Howden) (Con) (parliament.uk)
Given the ongoing litigation I expect we would not depart from our existing line that it would n be appropriate to comment on live litigation.
Best,
Ashleigh

Redacted]

Ashleigh Gray |Deputy Director, Propriety & Ethics | Scottish Government| Mob: Redacted] Email: Ashleigh.gray@gov.scot
Please note that I have recently changed my working pattern and no longer work Frid

From: Ashleigh Gray
To: Lesley Fraser
Cc: [Redacted]
Subject: FW: For FM & DFM Awareness - Sir David Davis MP debate today - Adequacy of the Scotland Act 1998
Date: 18 July 2024 12:42:00
Attachments: David Davis to raise concerns.pdf
[Redacted]

Hi Lesley,

[Redacted]

Back in 2021 Mr Davis spoke under parliamentary privilege in a debate on the Scotland Act. It was a fairly long intervention making a number of allegations about the handling of the investigation and actions of SG and SNP: Scotland Act 1998: Scottish Civil Service - Hansard - UK Parliament

[Redacted]

I'm around in SAH today and happy to talk through.
Best,
Ashleigh
Ashleigh Gray |Deputy Director, Propriety & Ethics | Scottish Government| Mob: [Redacted] |Email: Ashleigh.gray@gov.scot
Please note that I have recently changed my working pattern and no longer work Fridays

[Redacted]

[Redacted]

[Redacted]

From: Ashleigh Gray <Ashleigh.Gray@gov.scot>
Sent: Friday, July 19, 2024 2:50 PM
To: [Redacted]@aol.com
Subject: Personal

Dear [Redacted],

[Redacted]

You may have seen that Sir David Davis MP secured an adjournment debate last night in the House of Commons on "the adequacy of the Scotland Act" (Hansard transcript here: Adequacy of the Scotland Act 1998 - Hansard - UK Parliament)

Mr Davis reiterated much of what he has previously said on this matter in Parliament (including in 2021 – transcript here: 16 March 2021). He also made several new allegations, including that the then crown agent discussed the case with your then PS:

- Mr Davis alleges that Liz Lloyd leaked the decision report to the Daily Record (this allegation was the subject of the Police investigation Operation Newbiggin, that has now concluded);
- Mr Davis says that he has heard evidence that SPADs were involved in the redaction of the Hamilton report. He said he had raised this with the current permanent secretary and has not received a satisfactory or clear reply;
- Mr Davis alleges that David Harvie, the then Crown Agent, discussed the case with Leslie Evans' PS, despite telling the Parliamentary inquiry that he had not discussed it with Leslie Evans; and
- Mr Davis also called for investigation into his allegations of perjury by the former First Minister Nicola Sturgeon and by Liz Lloyd.

He also used his speech to call for greater powers for the Scottish Parliament. Responding for the Government the Parliamentary Under Secretary of State for the Scotland Office Kirsty McNeill noted that these matters were the subject of ongoing legal proceedings.

[Redacted]

Media monitoring reports that 9 papers covered the story with 3 (The National, Scottish Sun and The Times) including claims about the alleged leak. No broadcast covered the story.

In addition to reporting on the speech from Mr Davis, others quoted are:

- [Redacted]

Media coverage summary
The National, 6, Salmond probe concerns raised by Tory MP
The Scotsman, 6, Ex-Tory minister slams Scottish Government over its probe into Salmond allegations
The Herald, 7, Conservative ex-minister criticises Scottish Government's Salmond probe
Daily Telegraph, 6, David presses MPs over unlawful Salmond investigation
The Press & Journal (main), 8, MP Davis calls for tougher Holyrood powers
The Press & Journal (Inverness, Highlands and Islands), 9, Call for tougher rights to probe Salmond case
The Scotsman, 6, Ex-tory minister slams Scottish Government over its probe into Salmond allegations
Scottish Sun, 2, Eck probe powers call
The Times, 13, Sturgeon aide 'was Salmond leak source'
[Redacted]
Kind regards,
Ashleigh

Ashleigh Gray |Deputy Director, Propriety & Ethics | Scottish Government| Mob: [Redacted] |Email: Ashleigh.gray@gov.scot
[Redacted]

[Redacted]

From: John Paul Marks
To: [Redacted]; DG Corporate; Permanent Secretary; [Redacted]; Anna Kynaston
Ashleigh Gray; Propriety and Ethics team mailbox; [Redacted] ; Director Propriety and Ethics
Cc: Re: David Davis to raise fresh concerns re Salmond investigation in Commons tomorrow (18th)
Subject: 17 July 2024 17:26:25
Date:

Thanks [Redacted], grateful if you could also alert Ministers. [Redacted]. Please keep us posted and I presume any line to take in response would be as per the current agreed lines given the summons; [Redacted], but colleagues can advise as they judge sensible please. Best wishes, JP

From: [Redacted]

Sent: Wednesday, July 17, 2024 3:07 PM

To: [Redacted]; DG Corporate <dgcorporate@gov.scot>;

Permanent Secretary <PermanentSecretary@gov.scot>

Cc: Ashleigh Gray <Ashleigh.Gray@gov.scot>; Propriety and Ethics team mailbox

<PandETeam@gov.scot>; [Redacted]; Director Propriety and Ethics

<DirectorProprietyandEthics@gov.scot>

Subject: David Davis to raise fresh concerns re Salmond investigation in Commons tomorrow (18th)

[Redacted]/ PermSec & DG Corporate offices

Just giving a heads up on this article in the Times that David Davis is going to raise "fresh concerns" in the Commons tomorrow on the Alex Salmond investigation.

The article references the ongoing litigation between Mr Salmond and the SG, and we have media line already in place [Redacted] Thanks,

[Redacted]

Please note I am currently working from home and am contactable on Microsoft Teams or using the mobile number below.

[Redacted]| DPE: Propriety & Ethics | The Scottish Government

Phone: [Redacted] | Mobile [Redacted] | e-mail: [Redacted]@gov.scot

Mail: 1W.10 | St. Andrew's House | Regent Road | Edinburgh | EH1 3DG

From:	Ashleigh Gray
To:	"John-Paul Marks"; [Redacted] ; DG Corporate; Permanent Secretary; [Redacted] Anna Kynaston; Lesley Fraser
Cc:	Propriety and Ethics team mailbox; [Redacted]; Director Propriety and Ethics
Subject:	RE: David Davis to raise fresh concerns re Salmond investigation in Commons tomorrow (18th)
Date:	17 July 2024 17:52:00

I've flagged to FMPO and SPADs now. We'll monitor the debate tomorrow and report back.
Ashleigh

Ashleigh Gray |Deputy Director, Propriety & Ethics | Scottish Government| Mob: [Redacted] |Email: Ashleigh.gray@gov.scot
[Redacted]

[Redacted]

From: Ashleigh Gray
To: Lesley Fraser; John-Paul Marks
Cc: [Redacted]
Subject: RE: For FM & DFM Awareness - Sir David Davis MP debate today - Adequacy of the Scotland Act 1998
Date: 18 July 2024 17:46:00

Hi Lesley, JP,

I've just finished watching David Davis MP's adjournment debate on the adequacy of the Scotland Act. Much of the content mirrored his intervention in March 2021, which covered a wide range of allegations around the handling of the investigation and allegations of collusion between SG officials, Ministers and SNP party officials. I'll share the full transcript from Hansard once it's available (likely in the next couple of hours).

I picked up three new points to note for SG:

- Davis alleges that Liz Lloyd leaked the decision report to the Daily Record (this allegation was the subject of the Police investigation Operation Newbiggin, that has now concluded)
- Davis says that he has heard evidence that SPADs were involved in the redaction of the Hamilton report. He said he had raised this with the current permanent secretary and has not received a satisfactory response
- Davis alleges that David Harvey, the crown agent, discussed the case with Leslie Evan's PS, despite telling the Parliamentary inquiry that he had not discussed it with Leslie

[Redacted], but we'll review the transcript in more detail once we have it.

[Redacted].

In her response, the Parliamentary Under Secretary of State for the Scotland Office Kirsty McNeill noted that these matters were the subject of ongoing legal proceedings and didn't comment further.

Ashleigh

Ashleigh Gray |Deputy Director, Propriety & Ethics | Scottish Government| Mob [Redacted] |Email: Ashleigh.gray@gov.scot
[Redacted]

[Redacted]

From:	[Redacted] on half of [Redacted]Deputy First Minister and Cabinet Secretary for Economy & Gaelic
To:	[Redacted]; First Minister; Deputy First Minister and Cabinet Secretary for Economy & Gaelic; [Redacted]; Jack Middleton
Cc:	[Redacted] ; Permanent Secretary; Colin McAllister; DG Corporate; [Redacted]; Director Propriety and Ethics; [Redacted]; Colin Troup; [Redacted]; Andrew Bruce; Julie Grant; [Redacted]; Ashleigh Gray; [Redacted] ; Ross Ingebrigtsen; Christopher Mackie; [Redacted]; Craig Jackson
Subject:	RE: For FM & DFM Awareness - Sir David Davis MP debate today - Adequacy of the Scotland Act 1998 18 July 2024 10:41:21
Date:	
Attachments:	David Davis to raise concerns.pdf

Thanks [Redacted],
Copying in [Redacted] and Jack who are supporting DFM for her bids today.

[Redacted]

[Redacted]

From: Ashleigh Gray
To: [Redacted]
Cc: [Redacted]
Subject: RE: For FM & DFM Awareness - Sir David Davis MP debate today - Adequacy of the Scotland Act 1998
Date: 22 July 2024 12:08:00

Perfect, thanks [Redacted]. I assume there's been nothing more since Friday – if anything comes up (unlikely I think) do let me know.
Ashleigh
Ashleigh Gray |Deputy Director, Propriety & Ethics | Scottish Government| Mob: [Redacted] |Email: Ashleigh.gray@gov.scot
[Redacted]

From: [Redacted]
Sent: Monday, July 22, 2024 12:00 PM
To: Ashleigh Gray <Ashleigh.Gray@gov.scot>
Cc: [Redacted] @gov.scot>
Subject: RE: For FM & DFM Awareness - Sir David Davis MP debate today - Adequacy of the Scotland Act 1998

[Redacted]

Best wishes
[Redacted]

From: Ashleigh Gray <Ashleigh.Gray@gov.scot>
Sent: Monday, July 22, 2024 11:41 AM
To:[Redacted]
Subject: RE: For FM & DFM Awareness - Sir David Davis MP debate today - Adequacy of the Scotland Act 1998
Hi [Redacted] ,
Thanks for this very helpful email.

[Redacted]

Thank you!
Ashleigh
Ashleigh Gray |Deputy Director, Propriety & Ethics | Scottish Government| Mob: [Redacted] |Email: Ashleigh.gray@gov.scot
[Redacted]

From: [Redacted]
Sent: Friday, July 19, 2024 11:35 AM
To: First Minister <FirstMinister@gov.scot>; Deputy First Minister and Cabinet Secretary for Economy & Gaelic <DFMCSEG@gov.scot>
Cc: [Redacted] ; Permanent Secretary <PermanentSecretary@gov.scot>; Colin McAllister <Colin.McAllister@gov.scot>; DG Corporate <dgcorporate@gov.scot>; [Redacted]; Director Propriety and Ethics <DirectorProprietyandEthics@gov.scot>; [Redacted]; Andrew Bruce <Andrew.Bruce@gov.scot>; Julie Grant <Julie.Grant@gov.scot>; [Redacted] ; David Hutchison <David.Hutchison@gov.scot>; Ashleigh Gray <Ashleigh.Gray@gov.scot>; [Redacted] ; Ross Ingebrigtsen <Ross.Ingebrigtsen@gov.scot>; Christopher Mackie <Christopher.Mackie@gov.scot>; [Redacted] @gov.scot>
Subject: RE: For FM & DFM Awareness Sir David Davis MP debate today Adequacy of the Scotland Act 1998

First Minister
Deputy First Minister and Cabinet Secretary for Economy & Gaelic
For information, please find below a media coverage round up following Sir David Davis MP raising in the Commons yesterday (Thursday) about SG's handling of the complaints about Alex Salmond.
Best wishes
Gemma

Overview

[Redacted]
9 papers covered the story with three (The National, Scottish Sun and The Times) including claims that Ms Sturgeon's chief of staff Liz Lloyd released information on the investigation.
No broadcast covered the story.

In addition to reporting on the speech from Mr Davis, others quoted are:

- Parliamentary Under-Secretary of State, Kirsty McNeill who in response to Mr Davis at the debate said: "Scrutiny of the Scottish Government is a matter for the Scottish Parliament." She added that the legal proceedings between Mr Salmond and the Scottish Government are ongoing.
- Former first minister Nicola Sturgeon has previously said that she did not intervene in the investigation and described Mr Salmond's claims of a plot against him as "absurd".
- David Clegg the former political editor of the Daily Record who broke the story (covered in The Times only): "I have never and would never reveal the identity of a confidential source."

Media coverage summary
The National, 6, *Salmond probe concerns raised by Tory MP*

The Scotsman, 6, *Ex-Tory minister slams Scottish Government over its probe into Salmond allegations*
The Herald, 7, *Conservative ex-minister criticises Scottish Government's Salmond probe*
Daily Telegraph, 6, *David presses MPs over unlawful Salmond investigation*
The Press & Journal (main), 8, *MP Davis calls for tougher Holyrood powers*
The Press & Journal (Inverness, Highlands and Islands), 9, *Call for tougher rights to probe Salmond case*
The Scotsman, 6, *Ex-tory minister slams Scottish Government over its probe into Salmond allegations*
Scottish Sun, 2, *Eck probe powers call*
The Times, 13, *Sturgeon aide 'was Salmond leak source'*

[Redacted]

[Redacted]

From: [Redacted]
Sent: Monday, October 14, 2024 4:06 PM
To: [Redacted]; Jonathon Curry <Jonathon.Curry@gov.scot>; Brian Dornan <Brian.Dornan@gov.scot>; Dominic Munro <Dominic.Munro@gov.scot>; [Redacted];
Cc: Communications Constitution, External Affairs and Culture <CommunicationsConstitutionExternalAffairsandCulture@gov.scot>; [Redacted];
Subject: MEDIA QUERY: More powers - The National

Good afternoon colleagues
The National is asking is we wish to comment on an article they are running in which David Davis calls for more powers for Holyrood to aid democracy.
I am not sure what we would say here, if anything. Grateful for guidance.
Kind regards
[Redacted]

QUERY

I've interviewed David Davis MP, who said Holyrood should have more powers like Westminster to boost democracy, saying it would help resolve the Alex Salmond legal battle and that the late former FM would win his legal battle. Don't expect you to comment on all of it, but if you do want to respond, please find his words below!

He said: “Way back when, when he won his two court cases, he won his judicial review against the Government on their management of the sexual harassment

complaint, and he won his criminal court case. It was quite apparent that quite a lot had gone on but we couldn't find anything out.
"So at that point I suggested that Holyrood look at it. It hasn't quite got the same powers as the House of Commons, but I didn't think the Scottish Government would be so bold as to literally threaten them with prosecution and the individual witnesses would refuse to give evidence.
"Holyrood needs to have the same powers in this respect as the Westminster parliament. Namely privilege, protection from lawsuits but also from prosecution. I have done things in the past relating to security issues and torture, which would have attracted contempt of court charge for exposing things that were tried In-camera (closed court). I took the view it was not appropriate, and they were tried in-camera to avoid embarrassment, not for security reasons.
Firstly, we need to give Holyrood the powers to actually speak freely, criticize freely and to summon people to speak. People either refuse to turn up or show up in certain conditions.
"Second there should be a duty of candour for the state. Thirdly, specific to Scotland, you've got to have separation of powers so that the prosecution arm of the judiciary does not report to a cabinet member.
"Having a Government that has to tell the truth, has to operate in the public domain, that's what democracy is about. It will be a fabulous memorial to Alex if out of this we see a better Government for Scotland."
[Redacted]