

Section 28(1) – relations within the UK

An exemption under section 28(1) of FOISA (relations within the UK) applies to some of the information requested. This exemption applies because disclosure would, or would be likely to, prejudice substantially relations between the Scottish Government and the UK Parliament. 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, the other devolved administrations and Parliaments. Disclosure of this information will mean that the UK Parliament are 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 close working relationships between the Scottish Government and the UK Parliament, 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. There is no public interest in disclosing information when that will damage relationships and disrupt future communications as that may impact on the effectiveness of future policy development and implementation work.

Section 38(i)(b) – personal details

An exemption under section s.38(1)(b) of FOISA applies to some of the information you have requested because it is the personal data of a third party, i.e. names and contact details 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 whether the public interest in disclosing the information outweighs the public interest in applying the exemption.