

From: [Helen Webster](#)
To: [James Hamilton](#)
Cc: [Ashleigh Gray](#); [Redacted]
Subject: RE: FOI Appeal Scottish Ministers v Scottish Information Commissioner & Harrop
Date: 21 December 2023 15:20:16

James

Further to our exchange below, I wanted to let you know that Ministers have now decided **not** to seek permission to appeal the Court of Session decision in relation to the FOI appeal (Scottish Ministers v Scottish Information Commissioner & Harrop). Ministers' decision will be notified to the Information Commissioner's agents later today, although it is not clear when this decision will be made public ahead of the expiry of the timeframe for lodging an appeal, which is 3 January. The next steps for the Scottish Government is to handle the original FOI request, along with a number of subsequent FOIs received following the Court decision, in the usual way. This does not mean that all material held will be released, just that we will now follow the FOISA process. The court orders around identification of individuals will, of course, be honoured (section 26(c) (disclosure would constitute, or be punishable as, a contempt of court), and any other relevant exemptions also applied.

This work will now take place over the coming weeks. The process will be led by colleagues in the Propriety & Ethics directorate who I have copied into this email. In light of the ruling and written reasons now received, it is our understanding that all material held by you as well as that held through [Redacted] on SG systems, falls into scope. I would therefore be grateful if you could confirm whether or not you hold any other relevant material that may now need to be shared with us for the purposes of completing the review of material held under FOISA.

If you would like to discuss this, or anything related, please do let me know.

With many thanks,

Helen

Helen Webster (she/her) | Deputy Director for Cabinet, Parliament and Governance | Directorate for Communications and Ministerial Support | Scottish Government

E: [\[Redacted\]](#) | Mob: [\[Redacted\]](#)

From: Helen Webster

Sent: Friday, December 8, 2023 2:13 PM

To: James Hamilton

Subject: RE: FOI Appeal - Scottish Ministers v Scottish Information Commissioner & Harrop

Dear James

Many thanks for this note. A number of us will be meeting next week to discuss handling and next steps and I will share your advice as below. If we do need anything from you, or if it transpires that there is anything else you are required to do, we will let you know, but my understanding at this point would be that this is not the case.

Many thanks,

Helen

Helen Webster (she/her) | Deputy Director for Cabinet, Parliament and Governance | Directorate for Communications and Ministerial Support | Scottish Government

E: [\[Redacted\]](#) | Mob: [\[Redacted\]](#)

From: James Hamilton [[Redacted\]@gmail.com](mailto:[Redacted]@gmail.com)>

Sent: Friday, December 8, 2023 2:05 PM

To: Helen Webster [[Redacted](mailto:[Redacted])]

Subject: Re: FOI Appeal Scottish Ministers v Scottish Information Commissioner & Harrop

Dear Helen

Thank you for the information.

All the written evidence I received was held on my behalf by [Redacted]. I did not receive any written material which was not also held by [Redacted] and all communications with witnesses were either made through [Redacted] or copied to [Redacted] by me. My recollection, which I would have to check, is that there was some direct communication from Mr Salmond on the question whether he was prepared to give evidence but anything there may have been was copied to [Redacted]. As far as I recall recordings were made of the oral interviews which I held. If so these were organised by [Redacted] and I do not hold them. I do not recall whether any of these were transcribed but I would have to check this. If so I do not recall that any transcripts were agreed with the witnesses but I think this was probably not the case. I am not aware whether any recordings or transcripts were retained by [Redacted]. It is not clear to me whether any such material might be covered by the court's decision but this no doubt will become clearer when the written judgement becomes available.

I will assume unless I hear otherwise from you that there is nothing further I need to do at this time.

Best wishes

James Hamilton

On Fri, 8 Dec 2023 at 13:07, <Helen.Webster@gov.scot> wrote:

Mr Hamilton

You will likely have seen the news coverage this week regarding the recent court judgement on the FOI case relating to your investigation following Ms Sturgeon's self-referral in relation to the Ministerial Code.

The Court is yet to publish its written reasons for its decision, but these are expected shortly and will be published on the Court's website. I will alert you to this once available. Thereafter, I will ensure you are kept informed on the next steps and the relevant timescales for future decisions. If you have any questions, I would be very happy to answer these as best I can.

Many thanks,

Helen

Helen Webster (she/her) | Deputy Director for Cabinet, Parliament and Governance | Directorate for Communications and Ministerial Support | Scottish Government

E: [[Redacted](mailto:[Redacted])] | Mob: [[Redacted](tel:[Redacted])]

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