

### **Section 28(1) – Relations with 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 Government. This is because some of the information was shared with the Scottish Government on the understanding that it would be treated as being in confidence. 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 administrations. 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 close working relationships between the Scottish Government and the UK Government 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.

### **Section 30(c) – Prejudice to the conduct of public affairs**

An exemption under section 30(c) of FOISA (prejudice to effective conduct of public affairs) applies to some of the information requested. It is essential for members of the public to be able to communicate with Ministers. Disclosing the content of these communications, particularly without the consent of the individual, is likely to undermine their trust in the Scottish Government and will substantially inhibit communications in the future. People will be reluctant to write letters to the Government and provide their views fully and frankly if they believe that their views are likely to be made public.

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 members of the public space to communicate with the government on issues that are important to them.

### **Section 38(1)(b) – Personal information**

An exemption under section 38(1)(b) of FOISA (personal information) applies to a some of the information requested because it is personal data of a third party, ie 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 if the public interest in disclosing the information outweighs the public interest in applying the exemption