From: [redacted] <[redacted]@gov.scot>
Sent: 03 February 2025 16:50
To: Social Security BMU <SSDBMU@gov.scot>
Subject: FW: Immediate: FOI Review 202400446349: Submission for Ministerial Decision

Hi [redacted],

To confirm, [redacted] from Private Office has been in touch regarding our query on the Cabinet Secretary's comments on proposed redactions in the attached.

She has provided the following updated steer:

[redacted section 30(b)(i)]

I have adopted this approach in the version I have sent up to the Cab Sec this afternoon.

Many thanks,

[redacted]

[redacted] (she / her)
Supporting Access to Social Security Policy Officer
Disability Benefit Reform & Access to Social Security
Social Security Directorate

Email: [redacted]@gov.scot

Scottish Government
Riaghaltas na h-Alba

From: [redacted] **On Behalf Of** Cabinet Secretary for Social Justice 2024
Sent: 03 February 2025 09:17
To: Social Security BMU ; Cabinet Secretary for Social Justice 2024
Cc: Stephen Kerr ; Ian Davidson ; [redacted] ; Emilie-Louise Purdie ; Communications Social Justice ; Freedom of Information ; [redacted]
Subject: RE: Immediate: FOI Review 202400446349: Submission for Ministerial Decision

Hi [redacted],

The Cabinet Secretary is content with Option 2, I have included some comments in the attached.

Many thanks,

[redacted]

[redacted] (she/her)

Deputy Private Secretary | Office of Cabinet Secretary for Social Justice

St Andrews House, Regent Road, Edinburgh, EH1 3DG
Email: CabSecforSJ@gov.scot
Phone: [redacted]

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Scottish Ministers, Special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

From: [redacted] **On Behalf Of** Social Security BMU
Sent: 30 January 2025 13:03
To: Cabinet Secretary for Social Justice 2024 <CabSecforSJ@gov.scot>
Cc: Stephen Kerr <Stephen.Kerr@gov.scot>; Ian Davidson <Ian.Davidson2@gov.scot>; [redacted] <[redacted]@gov.scot>; Social Security BMU <SSDBMU@gov.scot>; Emilie-Louise Purdie <Emilie-Louise.Purdie@gov.scot>; Communications Social Justice <CommunicationsSocialJustice@gov.scot>; Freedom of Information <foi@gov.scot>; [redacted] <[redacted]@gov.scot>
Subject: Immediate: FOI Review 202400446349: Submission for Ministerial Decision

PO/Cabinet Secretary for Social Justice

Please find attached, for the Cabinet Secretary's consideration, a draft response to a review request made under the Freedom of Information (Scotland) Act 2002 (FOISA).

[redacted section 30(b)(i)]

I therefore provide two draft responses for your consideration:

Option 1
[redacted section 30(b)(i)]

Option 2
A response that concludes that the original decision should be confirmed with modifications, in line with FOI Unit advice - partial release of information.

The final deadline to issue the response was Monday 27 January, apologies that we are only sharing this FOI response now. This request changed to sensitive as we approached the final deadline after further discussions with the FoI Unit.

Grateful if you can please confirm if the Cabinet Secretary is content for option 1 or 2 to issue.

Please advise if you require any further information.

Thanks

[redacted] (she/her)
Business Manager
Directorate Business Management Unit
Social Security Directorate

Email: [redacted]@gov.scot

The Scottish Government

From: [redacted] <[redacted]@gov.scot>
Sent: 07 January 2025 17:31
To: Cabinet Secretary for Finance & Local Government <CabSecFLG@gov.scot>
Cc: DG Scottish Exchequer Mailbox <DGScottishExchequer@gov.scot>; Jennie Barugh <Jennie.Barugh@gov.scot>; Alasdair Black <Alasdair.Black@gov.scot>; [redacted] <[redacted]@gov.scot>; [redacted] <[redacted]@gov.scot>; [redacted] <[redacted]@gov.scot>; David Hutchison <David.Hutchison@gov.scot>; [redacted] <[redacted]@gov.scot>; [redacted] <[redacted]@gov.scot>
Subject: RE: DUE 07/01: FOR CLEARANCE: FOI Response - two child limit - 202400443884 - due 7 January 2025 - IMMEDIATE

IMMEDIATE

Hi PO

Davie has seen this and advised that we should include reference to the documentation published by the SFC in the response.

I have therefore revised the response. No further documents are included for release.

Grateful for immediate clearance as the deadline is today. I will available as long as necessary to action this.

Thanks
[redacted]

From: [redacted] <[redacted]@gov.scot> **On Behalf Of** Cabinet Secretary for Finance & Local Government
Sent: 06 January 2025 14:21
To: [redacted] <[redacted]@gov.scot>; Cabinet Secretary for Finance & Local Government <CabSecFLG@gov.scot>
Cc: DG Scottish Exchequer Mailbox <DGScottishExchequer@gov.scot>; Jennie Barugh <Jennie.Barugh@gov.scot>; Alasdair Black <Alasdair.Black@gov.scot>; [redacted] <[redacted]@gov.scot>; [redacted] <[redacted]@gov.scot>; [redacted] <[redacted]@gov.scot>; David Hutchison <David.Hutchison@gov.scot>
Subject: FW: DUE 07/01: FOR CLEARANCE: FOI Response - two child limit - 202400443884 - due 7 January 2025

Hi [redacted],

Cab Sec has asked if we should include a link to the information already available.

Davie – CC'ing yourself in as Cab Sec wanted to make sure you have had sight of this.

Thanks,

[redacted] (She/Her)
Deputy Private Secretary to the Cabinet Secretary for Finance and Local Government cabsecFLG@gov.scot
The Scottish Government | St Andrew's House, Regent Road, EDINBURGH EH1 3DG

From: [redacted] <[redacted]@gov.scot>
Sent: 19 December 2024 13:31
To: Cabinet Secretary for Finance & Local Government <CabSecFLG@gov.scot>
Cc: DG Scottish Exchequer Mailbox <DGScottishExchequer@gov.scot>; Jennie Barugh <Jennie.Barugh@gov.scot>; Alasdair Black <Alasdair.Black@gov.scot>; [redacted] <[redacted]@gov.scot>; [redacted] <[redacted]@gov.scot>; [redacted] <[redacted]@gov.scot>
Subject: FOR CLEARANCE: FOI Response - two child limit - 202400443884 - due 7 January 2025

PS/ Cab Sec Finance and Local Govt

Please see attached ministerial submission and draft response in relation to the FOI request below.

No documents are proposed for release.

Request:
a)A copy of the correspondence sent from the Scottish Government to Scottish Fiscal Commission to notify them that of the plan of mitigating the Universal Credit two child limit. Please also include the initial response from the Scottish Fiscal Commission. Please also reveal the date and time of the correspondence.

b) The Scottish Fiscal Commission claims that the Scottish Government made it aware of the policy on 28th November. Therefore the policy must have been agreed either on the 28th November or before the 28th November.
Please provide confirmation of who signed off/agreed to the decision and when (include date and time, this would be kept for the ministerial record).
Please also provide a copy of the correspondence in which the decision to accept and agree on the policy was made. I am asking for everything that isn't free and frank advice. Instead I am asking for factual decisions and decisions that would be recorded and kept for the official record.

Advice from Special Advisers has been sought and this is detailed in the submission. Also as detailed in the submission, some documents within scope of the first part of the request have been released (in redacted form) by the SFC in relation to a separate request.

Thanks
[redacted]

[redacted] | Team Leader (Intergovernmental Relations and SFC liaison) | Fiscal Coordination Unit | Directorate for Exchequer Strategy | Scottish Government | Victoria Quay, EH6 6QQ | [redacted]

Attachment

FOI: 202400443884
REQUEST UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 (FOISA)

Thank you for your request dated 4 December 2024 under the Freedom of Information (Scotland) Act 2002 (FOISA).

Your request

You asked for:
3. A copy of the correspondence sent from the Scottish Government to Scottish Fiscal Commission to notify them that of the plan of mitigating the Universal Credit two child limit

Please also include the initial response from the Scottish Fiscal Commission.

Please also reveal the date and time of the correspondence.

4. The Scottish Fiscal Commission claims that the Scottish Government made it aware of the policy on 28th November.

Therefore the policy must have been agreed either on the 28th November or before the 28th November.

Please provide confirmation of who signed off/agreed to the decision and when (include date and time, this would be kept for the ministerial record).
Please also provide a copy of the correspondence in which the decision to accept and agree on the policy was made.

I am asking for everything that isn't free and frank advice. Instead I am asking for factual decisions and decisions that would be recorded and kept for the official record.

Response to your request

While our aim is to provide information whenever possible, in this instance we are unable to provide the information you have requested because exemptions under sections: s.29(1)(a) (policy formulation), s.30(b)(ii) (free and frank exchange of views), and s.38(1)(b) (personal information) of FOISA applies to that information. The reasons why these exemptions apply are explained below.

Exemptions under section 29(1)(a) of FOISA (formulation or development of Government policy) apply to some of the information requested. This is because it relates to the formulation of government policy involving consideration and development of options for Scottish Ministers. 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 this 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 high quality policy and decision making, and in the properly considered implementation and development of policies and decisions. This means that Ministers and officials need to be able to consider all available options and to debate those rigorously, to fully understand their possible implications. Their candour in doing so will be affected by their assessment of whether discussions will be disclosed in the near future, when it may undermine or constrain the Government's view on that policy while it is still under discussion and development.

Exemptions under section 30 b (ii) of FOISA (free and frank exchange of views) apply to some of the information requested. These exemptions apply because disclosure would, or would be likely to, inhibit substantially the free and frank exchange of views for the purposes of deliberation. The exemption recognises the need for officials to engage in a free and frank exchange of views as they conduct their duties. Disclosing the content of free and frank information will substantially inhibit such information in the future. This exemption is subject to the public interest and prejudice test. 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 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 exchange of views. Disclosure of this type of information could lead to a reduction in the comprehensiveness and frankness of such advice and views in the future, which would not be in the public interest as it would substantially prejudice the ability of Ministers and Scottish Government officials to engage with each other.

Section 38(1)(b) – Personal Data
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, i.e. names and contact details, 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.

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to the Director of Exchequer Strategy and C/O FOI@gov.scot and C/O this postal address: FOI Unit 1E.10, St Andrew's House, Regent Road, EDINBURGH EH1 3DG. Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the date when you received this letter. We will complete the review in accordance with FOISA as soon as possible, and not later than 20 working days from the day following the date we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your appeal

rights is available on the Commissioner's website at:
What can I do if I'm unhappy? | Scottish Information Commissioner (itspublicknowledge.info)

FOI: 202400443884

REQUEST UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 (FOISA)

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Please provide confirmation of who signed off/agreed to the decision and when (include date and time, this would be kept for the ministerial record).

Please also provide a copy of the correspondence in which the decision to accept and agree on the policy was made.

I am asking for everything that isn't free and frank advice. Instead I am asking for factual decisions and decisions that would be recorded and kept for the official record.

Response to your request

Some of the information you have requested has already been published by the Scottish Fiscal Commission and is available here: Correspondence-with-Scottish-Government-about-proposals-to-remove-or-mitigate-the-two-child-cap-in-the-2025-2026-budget-FoI-2024-6-18-December-2024.pdf

While our aim is to provide information whenever possible, in this instance we are unable to provide some of the information you have requested because exemptions under sections: s.29(1)(a) (policy formulation), s.30(b) (i) and (ii) (free and frank provision of advice and free and frank exchange of views), and s.38(1)(b) (personal

information) of FOISA applies to that information. The reasons why these exemptions apply are explained below.

Exemptions under section 29(1)(a) of FOISA (formulation or development of Government policy) apply to some of the information requested. This is because it relates to the formulation of government policy involving consideration and development of options for Scottish Ministers. 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 this 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 high quality policy and decision making, and in the properly considered implementation and development of policies and decisions. This means that Ministers and officials need to be able to consider all available options and to debate those rigorously, to fully understand their possible implications. Their candour in doing so will be affected by their assessment of whether discussions will be disclosed in the near future, when it may undermine or constrain the Government's view on that policy while it is still under discussion and development.

Exemptions under section 30 b (i) and (ii) of FOISA (free and frank provision of advice and free and frank exchange of views) apply to some of the information requested. These exemptions apply because disclosure would, or would be likely to, inhibit substantially the free and frank exchange provision of advice and the free and frank exchange of views for the purposes of deliberation. The exemption recognises the need for officials to provide free and frank advice and to engage in a free and frank exchange of views as they conduct their duties. Disclosing the content of free and frank information will substantially inhibit such information in the future. This exemption is subject to the public interest and prejudice test. 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 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 exchange of views. Disclosure of this type of information could lead to a reduction in the comprehensiveness and frankness of such advice and views in the future, which would not be in the public interest as it would substantially prejudice the ability of Ministers and Scottish Government officials to engage with each other.

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