Annex A - Reasons for not providing information

Section 27(1): Information intended for future publication

An exemption under section 27(1) of FOISA applies to some of the information you have requested relating to the guidance

- the Equality Impact Assessment (EQIA)
- the Child Rights and Wellbeing Impact Assessment (CRWIA).

This exemption applies because the information is already planned for publication within 12 weeks of the date of your request. We consider that it is reasonable to withhold the information until publication, rather than release this routinely published information before the planned publication date.

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 there is some public interest in the release of this information in relation to transparency around the development of guidance. However, this is outweighed by the public interest in ensuring the proper and timely publication of these materials in their complete and finalised form, in line with our standard publishing procedures.

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

An exemption under section 30(c) of FOISA (prejudice to effective conduct of public affairs) applies to some the information included in enclosure 1. Disclosing this information would substantially prejudice our ability to conduct effective stakeholder engagement because the bodies in question would be less inclined to share information with the Scottish Government in future. 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. However, there is a greater public interest in protecting the process of open and honest stakeholder engagement and ensuring that the Scottish Government is able conduct this aspect of its business effectively.

Section 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 a small amount of the information in enclosure 1 because it is personal data of a third party, ie the names 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.