Q3) Did the person in question receive any legal advice from the Scottish Government and/or was assisted in any way in writing their signed statement by individuals within the Scottish Government? If so I request this advice/assistance.

An exemption under 36(1) of FOISA An exemption under section 36(1) of FOISA (confidentiality in legal proceedings) applies to some of the information requested because it is legal advice and disclosure would breach legal professional privilege. 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 some public interest in release as part of open and transparent government, and to inform public debate. However, this is outweighed by the strong public interest in maintaining the right to confidentiality of communications between legal advisers and clients, to ensure that Ministers and officials are able to receive legal advice in confidence, like any other public or private organisation

The individual was provided assistance from individuals in the Scottish Government. This assistance was to identify and correct any factual inaccuracies. I have provided this as below.

section 36(1) of FOISA

Section 38(1)(b) of FOISA

Section 30(c) – the effective conduct of public affairs

Out of scope

Out of Scope

From: Lorna Gibbs @[redacted@gov.scot]
Sent: 02 May 2025 15:24
To: Director Propriety and Ethics @[redacted@gov.scot]; **[redacted]@gov.scot**
Cc: [redacted}@gov.scot [redacted}@gov.scot [redacted}@gov.scot

Subject: URGENT - FW: OSIC response

Hi

Out of scope

Here is the statement that **[redacted]** is happy for us to send to OSIC. **[redacted]** has asked us to check it for factual inaccuracies. Michael and **[redacted]** – you are probably best placed to do that. Could you read it through and come back to me asap?

We will very shortly also be sending round the draft cover letter.

Lorna

From: **[redacted]@gov.scot**
Sent: 02 May 2025 15:18
To: Lorna Gibbs <Lorna.Gibbs@gov.scot>
Cc: David Hutchison@[redacted.gov.scot]
Subject: OSIC response

Lorna

As discussed.

Regards

[redacted]@gov.scot

From: **[redacted]@gov.scot**
Sent: 02 May 2025 16:17
To: Lorna Gibbs@[redacted.gov.scot]
Subject: RE: URGENT - FW: OSIC response

Think emails crossed? Hopefully you have my thoughts!

Thanks,

[redacted]@gov.scot

From: Lorna Gibbs@[redacted.gov.scot]
Sent: 02 May 2025 16:12
To: Director Propriety and Ethics@ [redacted.gov.scot] **[redacted]@gov.scot**

Cc: [redacted]@gov.scot [redacted]@gov.scot [redacted]@gov.scot

Subject: RE: URGENT - FW: OSIC response

OK I have made those changes (except the handling as explained by **[redacted]**) and have added in a reference to lord Woolman's order as well as Lady Dorrian's.

[redacted] – anything else?

From: Michael Chalmers@[redacted.gov.scot] **On Behalf Of** Director Propriety and Ethics
Sent: 02 May 2025 15:51
To: Lorna Gibbs @[redacted.gov.scot] Director Propriety and Ethics @[redacted.gov.scot]
[redacted]@gov.scot

Cc [redacted]@gov.scot [redacted]@gov.scot [redacted]@gov.scot
Subject: RE: URGENT - FW: OSIC response

I haven't picked up any factual inaccuracies. **[redacted]**should be online again before 4 and I would like **[redacted]** to check too.

I have picked up a couple of wording points/typos which we should highlight to **[redacted]**

Second paragraph: "including the Scottish Government's handling of the criminal proceedings against Mr Salmond". I'm not sure what will be made of the use of the word "handling" here, it might suggest some control which of course there wasn't. Is something like "engagement with" or "response to" not better. The wording is also used in the second paragraph of the response to answer c).

Third para, 2nd line – I think "process" should be "processes". Same wording is used in the final line of page 2.

Page 2, response to question c), second line - "providing political advice to the First Minister and Deputy First Minister in relation the issues ". The word "to" is missing between "relation" and "the" .

Page 3, penultimate paragraph, first sentence - the word "attendance" appears twice in error.

Michael

Michael Chalmers

Director for Propriety and Ethics

Scottish Government

From: [redacted]@gov.scot
Sent: 02 May 2025 15:56
To: Director Propriety and Ethics@[redacted@gov Lorna Gibbs@[redacted.gov.scot] [redacted]@gov.scot

Cc: [redacted]@gov.scot [redacted]@gov.scot [redacted]@gov.scot

Subject: RE: URGENT - FW: OSIC response

Thanks Michael

We use 'handling' in the letter and I think it's fine in this context as we do explain it in the letter, but it's obviously up to[redacted]

[redacted]@gov.scot

"As you will be aware, Special Advisers (SPADs) are employed to help ministers on matters where the work of the Scottish Government and the work of the government party/parties overlap, and where it would be inappropriate for permanent civil servants to become involved. For example, civil servants handling FOI/EIR cases may quite legitimately discuss the information being released with their adviser for handling purposes, often related to communications handling. The FOI Criteria for Decision-making, agreed with the previous Scottish Information Commissioner, provides clear guidance on the role and responsibilities of Special Advisers in the process."

From: [redacted]@gov.scot
Sent: 02 May 2025 16:08
To [redacted]@gov.scot Director Propriety and Ethics @[redacted.gov.scot] Lorna Gibbs:[redacted.gov.scot]
Cc: [redacted]@gov.scot [redacted]@gov.scot [redacted]@gov.scot
Subject: RE: URGENT - FW: OSIC response

[redacted], colleagues,

Just had a look through – in addition to what Michael's picked up, I'd suggest a spelling change – replace "secretariate" with "secretariat" (2nd line of p4).

I agree with Michael on the wording around the criminal process - I'd be nervous about suggesting the SG "handled" in any way the criminal process for Mr Salmond as that was a COPFS matter. Agree with Michael's comment that "engagement with" might be better.

Otherwise content that this reflects my knowledge of the events of that day.

Thanks,

[redacted]

From: Lorna Gibbs@[redacted.gov.scot]
Sent: 02 May 2025 16:23
To: **[redacted]@gov.scot** **[redacted]@gov.scot** Director Propriety and Ethics@[redacted gov.scot]
Cc: **[redacted]@gov.scot** **[redacted]@gov.scot** **[redacted]@gov.scot**

Subject: RE: URGENT - FW: OSIC response

Thanks. **[redacted]**was very clear that the words are **[redacted]** and only factual inaccuracies should be raised so I think I'll leave it at that.

From: Lorna Gibbs @[redacted.gov.scot]
Sent: 02 May 2025 16:25
To: **[redacted]@gov.scot**
Cc: David Hutchison@[redacted.gov.scot]
Subject: RE: OSIC response

Thanks **[redacted]** There were 2 Court orders: one from Lady Dorrian and one from Lord Woolman. I have suggested adding in a reference to both, just for accuracy. I also picked up a few typos.

Lorna