

T: 0131-244 3322
E: simon.stockwell@gov.scot

David Thompson
Producer
BBC Nolan Show

By email: David.Thompson02@bbc.co.uk

Our ref: FOI/17/01366 A 18332091
10 July 2017

Dear Mr Thompson

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

Thank you for your request dated 20 June 2017 under the Freedom of Information (Scotland) Act 2002 (FOISA).

Your request

You asked for:

Any information relating to correspondence between the minister for Department of Finance and Personnel in Northern Ireland and the Scottish Department for Local Government and Community Empowerment (including its predecessors and successors who dealt with the relevant issues) in relation to same sex marriage or civil partnership legislation – and related issues - between 1st July 2009 and 1st March 2016.

Response to your request

By way of background, section 8 of the Marriage and Civil Partnership (Scotland) Act 2014 made provision so that civil partners in a partnership registered in Scotland can, if they wish, change their relationship to marriage in Scotland. Section 9 of the 2014 Act gives a power to the Scottish Ministers to make a Scottish Statutory Instrument (SSI) so that couples in a civil partnership registered outside of Scotland can also, if they wish, change their relationship to marriage in Scotland.

The Scottish Ministers have made an SSI under section 9.

The Scottish Government has also issued guidance to couples considering changing their civil partnership registered outside of Scotland to a marriage in Scotland:

Before making the SSI, the Scottish Government issued a [consultation](#) on a [draft order](#) on changing civil partnerships registered outwith Scotland into marriage in Scotland. The consultation follows an earlier [discussion paper](#).

In addition, following the passage of the 2014 Act, an [Order](#) under section 104 of the Scotland Act 1998 (on UK consequential provision following an Act of the Scottish Parliament) was made. Some of this Order (eg Article 6) affected Northern Ireland and so there was correspondence with the Northern Ireland administration accordingly.

I enclose a copy of most of the information you requested.

Some of the information you have requested is available at <https://beta.gov.scot/publications/changing-civil-partnerships-registered-outwith-scotland/> Under section 25(1) of FOISA, we do not have to give you information which is already reasonably accessible to you. If, however, you do not have internet access to obtain this information from the website(s) listed, then please contact me again and I will send you a paper copy.

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 an exemption under section 36(1) (confidentiality) of FOISA applies to that information. The reasons why that exemption(s) applies are explained in the Annex to this letter.

Your right to request a review

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 Paul Johnston, Director General for Education, Communities and Justice, Paul Johnston, Room 1N.10, St Andrew's House, Regent Road, Edinburgh, EH1 3DG. Email: paul.johnston@gov.scot 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 and tell you the result, within 20 working days from the date when 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: <http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>.

Yours sincerely

SIMON STOCKWELL

ANNEX

REASONS FOR NOT PROVIDING INFORMATION

An exemption applies, subject to the public interest test

An exemption under section 36(1) of FOISA applies to some of the information you have requested. This relates to requesting and obtaining legal advice.

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 because of the general benefits of transparency. However, this is outweighed by the public interest in requests by Scottish Government officials for legal advice and the advice to be kept confidential.