

Our Ref: EXT04-H/  
F0186581  
EXT04-H/  
F0186567

Mr D Jones  
[request-348819-107518aa@whatdotheyknow.com](mailto:request-348819-107518aa@whatdotheyknow.com)

If telephoning ask for  
Alison Mackinnon

30 August 2016

Dear Mr Jones

## REQUEST FOR INFORMATION – FORMAL REVIEW

This letter is sent in response to your request for a Formal Review, which was received on 5 August 2016. The Review has been handled under the reference F0186581.

*I am writing to request an internal review of Scottish Environment Protection Agency's handling of my FOI request 'Maternity, adoption and shared parental leave policies'.*

*I requested information on the number of staff who have taken or requested shared parental leave since April 2015. This has been refused on the 'because the release of this figure would allow the identity of individual members of staff to be identifiable or inferred'.*

*I believe you have reached this decision in error. I am not requesting any personal information on particular members of staff, just a figure on how many out of your total staff have requested or taken shared parental leave. I cannot see how this would allow me to identify or infer the identity of any individual member of staff*

The original request, which was handled under reference F0186567, is reproduced below

*1. Can you therefore please provide me with copies of your current maternity, adoption and shared parental leave policies for employees. Please include information on pay for these schemes - do you offer enhanced pay above the statutory minimum for your employees who take maternity, adoption and shared parental leave?*

*2. Can you also tell me since April 2015 how many employees have requested/taken Shared Parental Leave within your organisation. This includes those who have requested but are yet to take the period of leave.*

We confirm that we have handled your request under the terms of the Freedom of Information (Scotland) Act 2002.

**The outcome of the Formal Review of your request is attached as Annex 1 to this letter.**

SEPA takes its obligations and responsibilities under the Freedom of Information (Scotland) Act 2002 very seriously. Feedback will be provided from this Review to relevant staff that where any shortcomings have been identified or lessons have been learned, these will be actioned in the handling of future requests.

If you are not satisfied with our response to your request for Review, you can appeal in writing, to the Scottish Information Commissioner, within six months of the date of this Formal Review.

Scottish Information Commissioner  
Kinburn Castle  
Doubledykes Road  
St Andrews  
Fife  
KY16 9DS  
Telephone: 01334 464610  
Fax: 01334 464611  
e-mail: [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info)

Your unique reference number for this Formal Review is F0186581. Please quote this in any future contact with us about your request.

If you have any queries in the meantime please contact me.

Yours sincerely

Alison Mackinnon

**Alison Mackinnon**  
Information Manager

## ANNEX 1 - FORMAL REVIEW OF ACCESS TO INFORMATION REQUEST (F0186581)

The SEPA Access to Information Review Group (the Group) has met to consider your request for formal review and has made comments and decisions classified under the following headings:

### *Background to the Formal Review*

1. Analysis of handling of the original request (F0186567)
2. Terms of the Formal Review

### *Issues considered during the Formal Review*

3. Releasability of the withheld information – Section 38(1)(b) of FOISA

## **4. Review Decision**

### 1. Analysis of handling of the original request (F0186567)

- 1.1 On 29 July 2016, the enquirer requested information relating to a number of SEPA HR policies and their application. The enquirer also sought data on the numbers of SEPA staff who had “*requested/taken Shared Parental Leave*”.
- 1.2 The request was handled under the Freedom of Information (Scotland) 2002.
- 1.3 Copies of the requested policies and associated guidance were provided to the enquirer.
- 1.4 Details of the numbers of staff who had requested or taken Shared Parental Leave were withheld under the terms of Section 38 of the Freedom of Information (Scotland) Act 2002.
- 1.5 A response was sent to the enquirer on 5 August 2016.

### 2. Terms of the Formal Review

- 2.1 The requestor contacted SEPA on 5 August 2016 seeking a Formal Review, as follows:

*“I requested information on the number of staff who have taken or requested shared parental leave since April 2015. This has been refused on the 'because the release of this figure would allow the identity of individual members of staff to be identifiable or inferred'.*

*I believe you have reached this decision in error. I am not requesting any personal information on particular members of staff, just a figure on how many out of your total staff have requested or taken shared parental leave. I cannot see how this would allow me to identify or infer the identity of any individual member of staff”*

- 2.2 The Review Group agreed that the Formal Review would consider the releasability of the withheld data.

## *ISSUES CONSIDERED DURING THE FORMAL REVIEW*

### 3. Releasability of the withheld information - Section 38(1)(b) of FOISA

- 3.1 The Review Group reviewed the application of Section 38(1)(b) of FOISA to the release of the requested data. They further noted that it was stated that release of the data would allow the identity of individual members of staff to be released or inferred.
- 3.2 The Review Group considered whether individual members of staff would be identified if the information was placed in the public domain via the FOISA process.
- 3.3 The Review Group then considered the results of an Internet search of responses to similar requests, which showed that some public authorities had a policy to refuse to release information where staff numbers fell below ten. Other organisations were content to release data below this figure.
- 3.4 After reviewing all the issues relating to the specific scope and circumstances of this request, it was agreed that the total number of staff who had requested or taken Shared Parental Leave since April 2015 would be released.
- 3.5 The Information Manager therefore recommended that the exemption under the terms of Section 38(1)(b) of FOISA should not be upheld.

### 4. Review Decision

- 4.1 **The Review Group agreed with the Terms of the Formal Review as set out in Section 2.2 above.**
- 4.2 **The Review Group noted the content of Section 3 above.**
- 4.3 **The Review Group endorsed the recommendation in Section 3.5 above, that the exemption under the terms of Section 38(1)(b) of FOISA should not be upheld.**
- 4.4 **The Review Group reiterated their agreement in Section 3.4 that the requested information should be released with this response**

***The total number of SEPA staff who have taken or requested Shared Parental Leave since April 2015 is 5.***

**AMM/ 30 August 2016**