



Paul Temple
request-832894-81f29d06@whatdotheyknow.com

Our Reference: 202200280506

Your Reference: Freedom of Information request social media

10 March 2022

Dear Mr Temple,

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

Thank you for your request dated 13 February 2022 under the Freedom of Information (Scotland) Act 2002 (FOISA).

Your request

You asked for:

1. a copy the submission mentioned in the copy of the email that was supplied in response to FOI/202100257829.
2. the name disclosed of the other possible candidate who would be less contentious than Jane Godley.

Response to your request

Request 1:

An exemption under section 25(1) applies as the information you have requested because it is already accessible in the public domain.

We are exempting this information because the document you seek is publicly available on the Scottish Government website. The submission referred to was included as part of the original response to Freedom of Information request 202100248293 (<https://www.gov.scot/publications/foi-202100248293/>)

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and is published on page 4 onwards of the download titled FOI - 202100248293 - Information released 1 (<https://www.gov.scot/binaries/content/documents/govscot/publications/foi-eir-release/2021/12/foi-202100248293/documents/foi---202100248293---information-released/foi---202100248293---information-released/govscot%3Adocument/FOI%2B-%2B202100248293%2B-%2BInformation%2Breleased%2B1.pdf>).

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.

Request 2:

While our aim is to provide information whenever possible, in this instance we are unable to provide the information you have requested because of exemption(s) under section(s) 30(b)(ii) (free and frank exchange of views for the purposes of deliberation) and section 38(1)(b) third party personal data of FOISA applies to that information. The reasons why these exemptions apply are explained below.

An exemption under section 30(b)(i)(ii) of FOISA (free and frank exchange of views) applies to the information requested. This exemption applies because disclosure would, or would be likely to, inhibit substantially the free and frank exchange of views for the purposes of deliberation. This exemption recognises the need for Ministers and officials to have a private space within which to discuss and explore options before the Scottish Government reaches a settled public view. Disclosing the content of free and frank discussions on individuals who could be approached in relation to working with a Scottish Government marketing campaign will substantially inhibit such discussions in the future, particularly when names of individuals to be approached are proposed prior to Ministerial review and the individuals being approached on whether they wish to be linked with the campaign.

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, and to inform public debate. However, there is a greater public interest in allowing Ministers and officials a private space within which to explore and refine the Government's position on which individuals should be approached to support marketing activity. This private thinking space is essential to enable all options to be properly considered, so that good decisions can be taken. Premature disclosure is likely to undermine the full and frank discussion of issues between Ministers and officials, which in turn will undermine the quality of the decision making process, which would not be in the public interest.

An exemption under section 38(1)(b) of FOISA (personal information) applies to the information requested because it is personal data of a third party 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.

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 Andrew Bruce, Director of Communications and Ministerial Support, St Andrew's House, Regent Road, Edinburgh, EH1 3DG or andrew.bruce@gov.scot. Your review request

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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:
<http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>.

Yours sincerely

Neil Harrison

COMMS : Marketing, Insight, Brand Scotland & Internal Comms

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