

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)**

Decision notice

Date: 30 October 2024

Public Authority: Scotland Office
Address: Dover House
Whitehall
London SW1A 2AU

Decision (including any steps ordered)

1. The complainant requested information associated with two meetings about the Deposit Return Scheme (DRS), and one meeting with the Net Zero Technology Centre (NZTC). Scotland Office disclosed some information and withheld the remainder under regulations 12(4)(e), 12(5)(f) and 13 of the EIR, which concern internal communications, the interests of the information provider and personal data, respectively.
2. During the Commissioner's investigation Scotland Office decided that the majority of the information wasn't environmental information and applied various FOIA exemptions, though it also cited regulation 12(5)(e) of the EIR at this point. This exception concerns commercial confidentiality.
3. However, Scotland Office's final position now is that the majority of the information **is** environmental information, to which the above EIR exceptions apply. It considers section 35 of FOIA applies to the remainder.
4. The Commissioner's decision is as follows:
 - Scotland Office correctly applied regulation 12(4)(e) of the EIR to some information in both the DRS and NZTC documents. The public interest favours maintaining this exception in respect of the

DRS briefing documents and information in the NZTC briefing document, but the public interest favours disclosing the information in the DRS readout documents to which regulation 12(4)(e) has been applied.

- Scotland Office correctly applied regulation 12(5)(e) to some information in one of the DRS briefing documents and the readout documents and the public interest favours withholding this information. Regulation 12(5)(e) isn't engaged in respect of the remaining information to which this exception has been applied.
 - Regulation 12(5)(f) isn't engaged in respect of information in the DRS briefing and readout documents to which Scotland Office has applied this exception.
 - The remaining information in the NZTC briefing and readout documents is exempt from disclosure under section 35(1)(a) of FOIA.
5. The Commissioner requires Scotland Office to take the following steps to ensure compliance with the legislation:
- Disclose the information in the DRS readout documents (Annex A2 and Annex B2) to which regulation 12(4)(e) solely has been applied.
 - In addition, disclose the information marked as 'Disclose' in the Appendix to this notice.
6. Scotland Office must take these steps within 30 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

7. The complainant made the following information request to Scotland Office on 4 January 2024:
- "i. 6/6/23 - Alister Jack MP met with Coca Cola to discuss the views of Coca Cola on the Deposit Return Scheme
 - ii. 15/5/23 - John Lamont MP met with the Net Zero Technology Centre to receive an update on their upcoming organisational changes

iii. 28/2/23 - John Lamont MP met with Coca Cola to discuss the deposit return scheme

1. I am writing to request documents related to each of these meetings, including but not limited to:

- a. Agendas
- b. Minutes
- c. Briefing notes
- d. Readouts
- e. Other meeting memoranda

2. I am also writing to request copies of correspondence generated between these respective parties, specifically correspondence between:

i. Alister Jack and Coca Cola, generated in May and June 2023.

ii. John Lamont and the Net Zero Technology Centre, generated in May and June 2023.

iii. John Lamont and Coca Cola, generated in February and March 2023.

I ask that correspondence include, but not be limited to:

- a. Letters
- b. Emails and attachments
- c. Text messages
- d. WhatsApp messages."

8. Scotland Office responded on 1 February 2024. It disclosed relevant information and withheld the remainder under regulations 12(4)(e) and 13 of the EIR.
9. Scotland Office also said that the information requested in "ii. 15/5/23 - John Lamont MP met with the Net Zero Technology Centre to receive an update on their upcoming organisational changes" wasn't environmental information and that the complainant would need to submit a FOIA request for that information.
10. The complainant requested an internal review on 7 February 2024. This correspondence focussed on what information was held, Scotland Office's application of regulation 12(4)(e) and the matter of the information caught by FOIA rather than the EIR.
11. Scotland Office provided an internal review on 28 March 2024. It maintained its reliance on regulation 12(4)(e) and advised that it considered the information also engaged regulation 12(5)(f). Scotland

Office acknowledged that, in its original response, it should have provided a response under FOIA to part of the request.

12. In a somewhat muddled discussion of section 35, Scotland Office indicated that it had applied this exemption in its original response (it hadn't) and then proceeded to refer to personal data matters.
13. In an initial submission to the Commissioner, Scotland Office said that, on reflection, it considered that the majority of the requested information was caught by FOIA rather than the EIR. It also said that it maintained its internal review position but should have also applied sections 28(1), 40(2), and 43(2) of FOIA, and regulation 12(5)(e) of the EIR to the withheld information. It was clear from that submission that Scotland Office had also applied section 35(1)(a) to some of the information in scope.
14. However, Scotland Office provided the Commissioner with a further submission on 25 October 2024. Aside from the information to which it has applied section 40(2) and regulation 13, Scotland Office has confirmed its final position is that it is withholding information associated with the DRS meetings (Annexes A1 and A2, B1 and B2) under regulations 12(4)(e), 12(5)(e) and 12(5)(f) of the EIR.
15. Scotland Office has confirmed that it considers regulation 12(4)(e) applies to a small amount of information in the NZTC briefing document (Annex C1). It considers that the remaining information in this document and the NZTC readout document (Annex C2) is exempt from disclosure under section 35(1)(a) of FOIA.

Reasons for decision

16. Based on the complainant's correspondence to Scotland Office, the Commissioner considers that its application of regulation 13 and section 40(2) of FOIA to information it considers is personal data is out of scope of this investigation.
17. The Commissioner has focussed his investigation on the EIR exceptions that Scotland Office has applied to the majority of the information it is withholding, and its application of section 35(1)(a) of FOIA to the remaining information. He'll first explain why the majority of the requested information is environmental information.

Is the information environmental information?

18. The Commissioner has previously considered a separate request, submitted to Department for Environment, Food and Rural Affairs

(Defra), that included a request for information about a meeting with Coca Cola about the DRS – IC-304809-T3B5¹. He was satisfied that the EIR covered that request.

19. As such, the Commissioner is satisfied that the majority of the information caught by the current request – the information associated with the meetings with Coca Cola about the DRS (Annex A1, A2, B1 and B2) – is covered by the EIR.
20. The aim of DRS is to help increase recycling, reduce litter, and meet climate change targets. As such, information about the DRS is environmental information. It follows that communications about those meetings about the DRS (the briefing documents) would be environmental information. Records of discussions about the DRS in meetings (the readout documents) is also environmental information.
21. In addition, the Commissioner accepts that a small amount of information in Annex C1 – the NZTC briefing - is caught by the EIR. This is because the information relates to energy matters and the environment.

Regulation 12(4)(e) – internal communications

22. Under regulation 12(4)(e) of the EIR, a public authority may refuse to disclose information to the extent that the request involves the disclosure of internal communications. This exception covers all internal communications, and the sensitivity of the information isn't a consideration for the exception to be engaged.
23. In its response to the complainant, Scotland Office advised that it had applied regulation 12(4)(e) to some information because that information relates to discussions on the formulation and development of Government policy. As such, it could be considered to be 'internal communications.'
24. The Commissioner has reviewed the information in the DRS meeting briefing documents and readout documents and the information in the NZTC briefing document to which Scotland Office has applied regulation 12(4)(e).

¹ <https://ico.org.uk/media/action-weve-taken/decision-notices/2024/4030997/ic-304809-t3b5.pdf>

25. Scotland Office hasn't applied regulation 12(4)(e) to all the information in one of the DRS briefing documents (Annex A1). But the Commissioner is satisfied that, in relation to the DRS information to which it **has** applied regulation 12(4)(e), this information can be categorised as internal communications. Briefing documents, meant for ministers attending the meetings, and the readouts of those meetings were for use internally. Regulation 12(4)(e) therefore applies to that information.
26. The Commissioner is also satisfied that the briefing document associated with the NZTC meeting is an internal communication. He's therefore also satisfied that regulation 12(4)(e) applies to the information in that document to which Scotland Office applied this exception.

Public interest test

27. The Commission has gone on to consider the public interest associated with this exception. He will take account of the presumption in favour of disclosure under regulation 12(2) of the EIR.
28. There is a general public interest in public authorities demonstrating that they're open and transparent – that's particularly the case with decisions that concern the environment. Disclosure in this case would indicate what, if any, influence a private, multinational company had on government decisions about the DRS in Scotland.
29. Against disclosure, Scotland Office said that it needs to preserve a 'safe space' to debate live policy issues away from external interference and distraction. It also noted related arguments about preventing a 'chilling effect' on free and frank debate in future.
30. It said that disclosing the information would weaken ministers' ability to discuss controversial and sensitive topics free from premature public scrutiny. Ministers must, Scotland Office said, be able to discuss policy freely and frankly, exchange views on available live policy options and understand their possible implications.
31. The candour of all involved would be affected by their assessment of whether the content of the discussions will be disclosed prematurely. If discussions were routinely made public there's a risk that Ministers may feel inhibited from being frank and candid with one another.
32. Specific to the DRS meetings, Scotland Office said that releasing the withheld information is likely to have a prejudicial impact on the development of the DRS policy. This is because disclosure could influence the behaviours, reactions and responses of the key stakeholders affected by the policies. Ministers and senior officials need to receive unbiased evidence and findings from Scotland Office officials. Not receiving this unbiased evidence and findings is likely to have a

corrosive effect on the development of this specific policy, with a significant risk that policy and decision-making will become poorer.

33. Scotland Office said that the DRS has been a high-profile policy in Scotland, and it's essential that all evidence, professional opinions, and findings, past and present, relating to the policy and its delivery can be considered freely and frankly within a safe space. The UK-wide DRS is a live policy issue. Minister Creagh in Defra confirmed in August 2024 that Defra was reviewing the suite of packaging reforms and is going to work with Scotland Office's devolved government counterparts, industry, and other stakeholders to determine the next steps for the Scheme.
34. In its latest submission to the Commissioner, Scotland Office also suggested that there is "an inherent risk that there would be a detrimental destabilisation of intergovernmental relations between Scotland Office and the Scottish Government if the briefings and readouts are released."
35. In IC-304809-T3B5, the Commissioner found that regulation 12(4)(e) applied to information in briefing and readout documents associated with a meeting between Defra ministers and Coca Cola about the DRS. However, he found that that, while the public interest favoured maintaining the exception in relation to the briefing document, the public interest favoured disclosing the readout.
36. In the current case, the briefing documents were again prepared based on an assessment of what Coca Cola was likely to bring up at the meetings and the strategic priorities it might wish to pursue. That necessarily involves some candid assessments of the company. For that same reason, the Commissioner again finds that the public interest favours withholding the information in the briefing documents associated with the DRS meetings (Annexes A1 and B1), that Scotland Office has applied regulation 12(4)(e) to.
37. The readout documents associated with the DRS meetings (Annexes A2 and B2) concern the meetings between ministers and Coca Cola. That organisation will have its own policy interests to pursue and would have been seeking to influence the eventual design of the DRS policy. As the Commissioner noted in his earlier decision, there's nothing improper about government ministers meeting with representatives of business nor in businesses seeking to influence policy. However, where this does happen there must be high standards of transparency to ensure that influence is not exercised in an improper manner.
38. The readouts reflect the actual discussions that took place and they're likely to be a "sanitised" versions of those discussions. Coca Cola should know that such records may be disclosable, and the Commissioner isn't

persuaded that potential disclosure would prevent it from promoting its interests in future.

39. In respect of arguments about damage to the relationship between the two governments, the Commissioner must consider the circumstances as they were at the time of the request, which was before the current government was elected. He isn't persuaded that disclosing the information being considered would damage the relationship between governments or prevent either government from continuing to work in cooperation to finalise decisions about the DRS as quickly as possible.
40. The Commissioner is satisfied that, for the DRS meeting readouts, the public interest favours disclosing the information to which Scotland Office applied regulation 12(4)(e).
41. As noted, Scotland Office also applied regulation 12(4)(e) to a little of the information in the NZTC meeting briefing document. Part of the information is general, for example the government's work with the offshore oil and gas industry, and the remainder concerns the Centre's different projects.
42. This briefing document was again prepared based on a candid assessment of what the Net Zero Technology Centre, the minister and Scotland Office might want to bring up at the meeting. The Centre is a not-for-profit organisation in receipt of government funding. The Commissioner doesn't consider it would seek to lobby the government in the same way that a private, multinational company like Coca Cola might seek to do. For the reasons given above and in IC-304809-T3B5, the Commissioner considers that the public interest favours withholding the information in the NZTC briefing document to which Scotland Office has applied regulation 12(4)(e).
43. To summarise, the Commissioner finds that regulation 12(4)(e) is engaged in respect of information in the DRS meeting briefing and readout documents and the information in the NZTC meeting briefing document to which Scotland Office has applied this exception. He finds that the public interest favours maintaining the exception in relation to the DRS and NZTC briefings but favours disclosure in relation to the DRS readouts.
44. Regarding one of the briefing documents (Annex 1), it hasn't been necessary to consider Scotland Office's application of regulation 12(5)(e) or 12(5)(f) or both in those instances where it has applied those exceptions as well as regulation 12(4)(e).
45. However, the Commissioner will go on to consider the remaining exceptions that Scotland Office has applied to information in the Annex

1 DRS briefing document and the DRS readout documents. This is information to which Scotland Office applied regulations 12(5)(e) and 12(5)(f) only, and the information to which Scotland Office applied those exceptions and regulation 12(4)(e), and where the Commissioner has found regulation 12(4)(e) isn't engaged.

Regulation 12(5)(e) – confidentiality of commercial or industrial information

46. Scotland Office has applied regulation 12(5)(e) to certain information in the Annex 1 DRS briefing document – and to information in the two DRS readout documents – Annexes A2 and B2.
47. Under regulation 12(5)(e) of the EIR, a public authority may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.
48. In its final submission to the Commissioner, Scotland Office has explained that certain information engages regulation 12(5)(e) because the information “in the readouts” relates to information about Coca Cola’s economic business activities. It says that this information isn’t in the public domain and would be confidential or competitively sensitive information, or both, for the purposes of competition law. Scotland Office gives as an example, “information relating to production costs and pricing and to commercial strategy in terms of its approach to the Deposit Return Scheme and similar schemes whether in the UK or in other countries.”
49. Scotland Office has gone on to say that Coca Cola maintains it’s important for industry to have the confidence to engage in discussions with public bodies such as Scotland Office, and to share commercially sensitive information with those bodies. Disclosing this information would, Scotland Office says, risk adversely prejudicing legitimate commercial interests or (as in the context of the DRS) risk indirectly disclosing competitively sensitive information to competitors.
50. The Commissioner considers four tests when he’s considering whether regulation 12(5)(e) is engaged.
51. The first three tests are: is the information commercial or industrial in nature? Is the confidentiality provided by law? And is the confidentiality protecting a legitimate economic interest?
52. The Commissioner has first considered the Annex 1 DRS briefing document and the information Scotland Office has withheld under

regulation 12(5)(e). He has noted that its submission refers to the information in the readout documents only.

53. It's not apparent to the Commissioner how some of the information in Annex 1 to which Scotland Office has applied regulation 12(5)(e) meets the above three tests. The information concerns the DRS broadly and Scotland Office hasn't made a case that disclosing this information would adversely affect any person's commercial interests.
54. Because it hasn't met the first three tests, it's not necessary for the Commissioner to consider the fourth test in relation to that information, namely whether disclosure would adversely affect the confidentiality. The Commissioner hasn't been persuaded that regulation 12(5)(e) has been correctly applied to some of the information in Annex 1.
55. In those instances where Scotland Office has also applied regulation 12(5)(f) to that information, the Commissioner will go on to consider that exception separately.
56. The Commissioner finds that Scotland Office correctly applied regulation 12(5)(e) to the remainder of the information in Annex A1 DRS briefing document. That information concerns the DRS in relation to Circularity Scotland (the firm responsible for running the DRS) and in relation to Coca Cola. It's commercial in nature, as it concerns the impact of the DRS, and the circumstances in which Scotland Office holds it would impose an obligation of confidence. Disclosing the information would adversely affect the commercial interests of Circularity Scotland and Coca Cola as it would give others an insight into these organisations in the context of the DRS. The Commissioner understands that Circularity Scotland "collapsed" in 2023 but, on the basis of the briefing document, matters associated with Circularity Scotland remained live.
57. Regarding the fourth test, once the first three elements are established, the Commissioner considers it's inevitable that this element will be satisfied. Disclosing truly confidential information into the public domain would inevitably harm the confidential nature of that information and would also harm the legitimate economic interests that have been identified.
58. The Commissioner has next considered the information in Annexes A2 and B2 to which Scotland Office has applied regulation 12(5)(e).
59. Regarding the information in Annex A2, the Commissioner has considered Scotland Office's latest submission, and its earlier submission to him. In the Commissioner's view, the information in Annex A2 is information about the DRS generally; he doesn't consider that Scotland Office has made a case that disclosing this information would adversely

affect Coca Cola's or any other person's commercial interests. The Commissioner therefore cannot find that regulation 12(5)(e) applies to the information in Annex A2. He'll consider Scotland Office's application of regulation 12(5)(f) to that information.

60. Regarding the information in Annex B2, for the reasons set out in relation to Annex A2, the Commissioner hasn't been persuaded that some of the information engages regulation 12(5)(e). In this information the DRS is discussed broadly, and the Commissioner doesn't accept that disclosing this information would harm Coca Cola's commercial interests. He finds that this particular information doesn't engage regulation 12(5)(e).
61. He'll consider Scotland Office's application of regulation 12(5)(f) to that information.
62. But for the reasons it has discussed in its latest submission to him, the Commissioner is satisfied that Scotland Office correctly applied regulation 12(5)(e) to the remaining information in Annex B2.
63. First, this information is commercial or industrial in nature – it concerns the DRS, and this will have a commercial impact on Coca Cola and other organisations.
64. Second, the Commissioner accepts that the circumstances in which the information in question is held, and Scotland Office's reason for holding it, would, in his view, be sufficient to impose an obligation of confidence on Scotland Office. Scotland Office employees who had access to the information would understand that the information was to be held in confidence until such time as decisions about the DRS had been finalised, at least. The information therefore has the necessary quality of confidence.
65. Third, is the confidentiality protecting a legitimate economic interest? For this test it's necessary to consider how sensitive the information is at the date of the request and the nature of the harm that would be caused by disclosure. The timing of the request and whether the commercial information is still current are likely to be key factors. Broader arguments that the confidentiality provision was originally intended to protect legitimate economic interests at the time it was imposed won't be sufficient if disclosure wouldn't actually impact on those interests at the time of the request.
66. It's not enough that disclosure might cause some harm to an economic interest. It needs to be established that disclosure would cause harm (on the balance of probabilities – ie more probable than not).

67. Regarding whose interests would be affected by disclosure, if the information were jointly agreed or was provided under a contractual obligation of confidence, the interests of either party could be relevant.
68. Finally, if a third party's interests are at stake the public authority will need to consult with them, unless the authority has prior knowledge of its views. It's not sufficient for the authority to speculate about potential harm to a third party's interests without some evidence that the arguments genuinely reflect the concerns of a third party.
69. On the basis of the information to which Scotland Office has correctly applied regulation 12(5)(e) and its submission to him, the Commissioner accepts that disclosing this information would compromise Coca Cola's legitimate economic interests. In this information, Jim Fox (Head of Public Affairs GB at Coca Cola) discusses the DRS in relation to Coca Cola specifically. Disclosing it at the time of the request would give Coca Cola's competitors some insight into its thinking about the DRS; insight that Coca Cola doesn't have about its competitors.
70. Fourth, in respect of the information that meets the third criterion, would disclosure adversely affect the confidentiality? As has been noted, although this is a necessary element of the exception, once the first three elements are established, the Commissioner considers it's inevitable that this element will be satisfied. Disclosing truly confidential information into the public domain would inevitably harm the confidential nature of that information and would also harm the legitimate economic interests that have been identified.
71. To summarise, the Commissioner finds that regulation 12(5)(e) is engaged in respect of some of the information in Annex B2 but isn't engaged in respect of the remainder.
72. Where regulation 12(5)(e) is engaged, the Commission has gone on to consider the public interest associated with this exception. He will again take account of the presumption in favour of disclosure under regulation 12(2) of the EIR.

Public interest test

73. Disclosure in this case would demonstrate transparency on the part of Scotland Office and again indicate what, if any, influence a private, multinational company had on decisions about the DRS in Scotland.
74. However, the Commissioner considers that there's little public interest in the information being considered here, which is somewhat more concerned with how Coca Cola specifically might approach the DRS.

75. The Commissioner considers that there's greater public interest in this case in external organisations being willing to engage openly with Scotland Office and to share their views and perspectives about decisions such as the DRS. This helps to ensure that high quality decisions are made. As such, the Commissioner is satisfied that the public interest favours withholding this information.
76. The information which the Commissioner has found engages regulation 12(5)(e) and which the public interest favours withholding is detailed in the Appendix to this notice. The information which the Commissioner has found doesn't engage regulation 12(5)(e) is also detailed in this Appendix.
77. The Commissioner has gone on to consider the remaining exception that Scotland Office has applied to information in the DRS readout documents, which he's found doesn't engage regulation 12(4)(e) or regulation 12(5)(e).

Regulation 12(5)(f) – interests of the information provider

78. Under regulation 12(5)(f) of the EIR, a public authority may refuse to disclose information to the extent that its disclosure would adversely affect the interests of the person who provided the information where that person:
 - i. wasn't under, and could not have been put under, any legal obligation to supply it to that or any other public authority
 - ii. didn't supply it in circumstances such that that or any other public authority is entitled apart from the Regulations to disclose it; and
 - iii. hasn't consented to its disclosure.
79. Scotland Office has applied this exception to information in the Annex 1 DRS briefing documents and to information in the two readout documents (Annexes A2 and B2).
80. The engagement of regulation 12(5)(f) can be broken down into a four-stage test, as recognised by the First Tier Tribunal:
 - Would disclosure adversely affect the interests of the person who provided the information to the public authority?
 - Was the person under, or could they have been put under, any legal obligation to supply the information to the public authority?

- Did the person supply the information in circumstances where the recipient public authority, or any other public authority, was entitled to disclose it apart from under the EIR?
 - Has the person supplying the information consented to its disclosure?
81. In its internal review, Scotland Office said that disclosing the information to which it had applied this exception could adversely affect the interests of the third party who provided the information – Jim Fox on behalf of Coca Cola. It said that that person, with 'person' extending to a legal person such as a company, wasn't under any legal obligation to supply it to Scotland Office.
82. In its initial submission to the Commissioner Scotland Office said that Jim Fox had confirmed that he didn't consent to the information's disclosure. In its latest submission, it has said that Coca Cola has noted that releasing the information would "have adverse effects as this would impact Coca Cola Europacific Partners ability to engage with policy makers on the DRS and other similar initiatives, and as part of that to share commercially sensitive information on its business and own commercial strategy and understanding of the market."
83. The Commissioner accepts that Jim Fox wasn't under any legal obligation to provide information to Scotland Office in these meetings; he did so voluntarily and hasn't consented to its disclosure.
84. However, a clear case hasn't been made that disclosing the information in the readouts **would** (more probably than not) adversely affect the interests of Jim Fox or Coca Cola. The information is general discussion about the DRS. Coca Cola should know that such records may be disclosable, and the Commissioner isn't persuaded that potential disclosure would prevent this organisation promoting its interests in future. And any harm to Coca Cola's commercial interests through disclosure has been considered under regulation 12(5)(e).
85. The Commissioner hasn't been persuaded that regulation 12(5)(f) is engaged. The information which the Commissioner has found doesn't engage regulation 12(5)(f) is also detailed in this Appendix.

Section 35 – formulation of government policy, etc

86. Aside from information to which it has applied section 40, Scotland Office has applied section 35(1)(a) of FOIA to the majority of the information in the NZTC meeting briefing and readout documents. (The Commissioner has found the remainder of the information associated with this meeting's briefing document to be excepted under regulation 12(4)(e) of the EIR.)

87. Under section 35(1)(a), information held by a government department is exempt information if it relates to the formulation or development of government policy.
88. Section 35 isn't a prejudice-based exemption; it's class-based. That means that the information must simply fall within the class of information described. If the withheld information relates to the formulation or development of government policy, it's exempt information. The timing of a request isn't relevant. The question is whether the information relates to the activity, irrespective of when the request was made. However, section 35 is a qualified exemption which means that it's subject to the public interest test.
89. In its submission to the Commissioner Scotland Office has first noted that there has been a change of government since the UK General Election. But it says that the Net Zero Technology Centre was funded through the Aberdeen City Region Deal, a joint project by both the UK Government and the Scottish Government. Scotland Office has confirmed that there are live discussions ongoing between both governments and local councils about the Net Zero Technology Centre because of concerns over the long-term financial stability of the centre.
90. The Net Zero Technology Centre was created in 2017 as part of the Aberdeen City Region Deal, "...to be the go-to technology centre for the North Sea energy industry." It received £180 million of UK and Scottish government funding.
91. The Commissioner is satisfied that the information to which Scotland Office has applied section 35(1)(a) relates to the development of government policy on the Net Zero Technology Centre; that is, it relates to the process of reviewing or improving that existing policy. The Commissioner therefore finds that Scotland Office has applied this exemption correctly and he has gone on to consider the associated public interest test.

Public interest test

92. Scotland Office has acknowledged that there's a public interest in the transparency of ministerial meetings. However, it says, in this case disclosing the information about the meeting with the Net Zero Technology Centre would negatively impact on the quality of advice going to ministers, if officials were under the belief that this could be subsequently disclosed.
93. Public interest arguments associated with section 35(1)(a) must focus on the effect of disclosing the information in question at the time of the

request, rather than the effect of routinely disclosing that type of information.

94. The meeting with the Net Zero Technology Centre had taken place in May 2023. However, Scotland Office has advised that the policy in question – ie the matter of the Centre’s financial position and future – was ‘live’ at the time of the request in January 2024, and currently, and no final decisions have been made.
95. The Commissioner considers that the general public interest in transparency has been sufficiently met through information that Scotland Office has disclosed. The Net Zero Technology Centre’s work has an impact on Scotland, the UK, and other countries around the world. In the absence of compelling arguments for this specific information’s disclosure, the Commissioner finds that there’s greater public interest in protecting the ‘safe space’ in which to debate this important policy issue away from external interference and distraction.

Right of appeal

96. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals
PO Box 9300
LEICESTER
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

97. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
98. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Cressida Woodall
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
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Cheshire
SK9 5AF

APPENDIX

Annex A1	Scotland Office position	Decision
[6]	12(5)(e)	Disclose
[8]	12(5)(e)	Disclose
[9]	12(5)(e) and 12(5)(f)	12(5)(e) engaged - withhold
[11]	12(5)(e) and 12(5)(f)	Disclose
[12]	12(5)(e) and 12(5)(f)	12(5)(e) engaged - withhold
[16]	12(5)(e) and 12(5)(f)	12(5)(e) engaged - withhold

Annex A2	Scotland Office position	Decision
[LK3]	12(5)(e) and 12(5)(f)	Disclose
[LK5]	12(5)(e) and 12(5)(f)	Disclose
[LK8]	12(5)(e) and 12(5)(f)	Disclose
[LK9]	12(5)(e) and 12(5)(f)	Disclose

Annex B2	Scotland Office position	Decision
[LK5]	12(5)(e) and 12(5)(f)	12(5)(e) engaged - withhold
[LK6]	12(5)(e) and 12(5)(f)	Disclose

[LK7]	12(5)(e) and 12(5)(f)	Disclose
[LK8]	12(5)(e) and 12(5)(f)	12(5)(e) engaged - withhold
[LK9]	12(5)(e) and 12(5)(f)	Disclose
[LK11]	12(5)(e) and 12(5)(f)	Disclose
[LK13]	12(5)(e) and 12(5)(f)	12(5)(e) engaged - withhold
[LK17]	12(5)(e) and 12(5)(f)	12(5)(e) engaged - withhold
[LK18]	12(5)(e) and 12(5)(f)	12(5)(e) engaged - withhold