



The Scottish Parliament  
Pàrlamaid na h-Alba

Information Management and Governance  
Scottish Parliament  
Edinburgh  
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8 February 2022

Dear Requester,

## **REVIEW OF YOUR REQUEST FOR INFORMATION**

On 13 January 2022 you asked us to review our decision of 11 January 2022 in relation to your request for information ( 2021-669657) of 14 December 2021.

Your review request is as follows:

*Thank you for reply relating to my request for information about resettlement grants. I'm unable to agree with your basis for refusal and according request that you proceed with appeal protocol.*

*These payments are in every respect of public interest and SPCB, as the body understood to be administering the payments, should be compelled to publish the payments as a matter of course and upon enquiry. With respect, MSPs (and other office holders) have no reasonable rights to privacy for payments of this nature.*

*I apologise for any additional effort this requires from you or your team but I regret that I find your basis for refusal is unreasonable and unacceptable.*

A review has been carried out in accordance with the Freedom of Information (Scotland) Act 2002 (FOI(S)A).

At review your request was considered afresh by two FOI reviewers who were not involved in consideration of the original request. Your request for review states that the SPCB should be compelled to publish information of the resettlement grants paid to former Members.

The reviewers have confirmed our original decision on your request. Although FOI(S)A provides a right to request information held by a public authority, that information may be withheld where it is exempt in terms of FOI(S)A. We consider that the information that you requested in relation to a schedule of resettlement grants disbursed by the SPCB by year and by MSP is the personal data of the individual former Members who received those payments.

In terms of section 38(1)(b) of FOI(S)A, the personal data of a third party is exempt where disclosure of the personal data will contravene any of the data protection principles in Article 5(1) of the UK General Data Protection Regulation (UK GDPR). Article 5(1) states that personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject. In terms of Article 6 of the UK GDPR, processing is only lawful if the processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data. In reaching our decision we have considered your legitimate interests to receive this information against the fundamental rights and freedoms of the former Members who received payments. We have also considered whether the requested information could be made available in response to the request without interfering with the rights and freedoms of the data subjects.

We consider that any legitimate interest in the payment of public funds is overridden by the fundamental rights and freedoms of the data subjects who require the protection of their personal data. Former Members who receive private resettlement grants have a reasonable expectation that information about individual payments will not be disclosed and to do so would be neither lawful nor fair.

Information about resettlement grants paid to former Members, however, is available in the public domain and can be accessed without disclosing the personal data of the individuals concerned.

Details of MSPs not standing or not returned in the 2021 election are available in the fact sheet for MSPs not standing or not returned. Fact sheets of MSPs not standing or not returned in the 2016, 2011, 2007 and 2003 elections are available in the [MSPs: Historical Series](#) on the archive website.

The total amount of resettlement costs paid to Members by year is routinely included in the [Scottish Parliamentary Corporate Body \(SPCB\) Annual Report and Accounts](#). Costs arising from the 2021 election will be provided in the Annual Report and Accounts for 2021-22, scheduled for publication in the autumn of 2022.

Resettlement costs arising from the 2016 election are set out in the [SPCB Annual Report and Accounts 2016-17](#) at page 9, amounting to £2,106,691.

Resettlement costs arising from the 2011 election are set out in the [SPCB Annual Report 2012](#) at page 14, amounting to £2.2 million. (A more detailed figure is given in the SPCB Annual Accounts 2011-12 – £2,224,060 – though this is available now only as an [archived document](#).)

The SPCB Accounts for previous election years are not currently available on the Parliament website. However, the total amounts paid in resettlement grants in sessions 1 and 2 under the arrangements in place prior to the Scottish Parliamentary Pensions Act 2009 are included in the [Explanatory Notes](#) (on page 87) that accompanied the Scottish Parliamentary Pensions Bill, and details are as follows:

593. The amount paid out in resettlement grant at the end of Session 1 [2003] under the existing Grants Order was £626,964.00

595. The amount paid out in total in resettlement grant at the end of Session 2 [2007] under the existing Grants Order was £1,114,911.00

The calculations used to determine MSP resettlement grants and Office-holder resettlement grants are set out at paragraphs 3 and 4 of Schedule 2 to the Scottish Parliamentary Pensions Act 2009 which can be accessed here: [Scottish Parliamentary Pensions Act 2009 \(legislation.gov.uk\)](#).

The calculations require details of the annual salary payable to an MSP and the number of years an individual has been an MSP. The annual salary at the date of the 2021 election is available on the [MSP salaries](#) webpage. This contains a link to [salaries in previous years](#) back to 2014 and includes the rate at the 2016 election. Information about the number of years served by former MSPs is listed on their individual pages under [Current and previous Members of the Scottish Parliament \(MSPs\)](#). Filters can be set for 'Previous MSPs'.

Finally, you can also access information about [MSPs with dual mandates](#), indicating those MSPs who, in addition to their seat in the Scottish Parliament, hold (or held) a seat in either the House of Commons (MPs) or House of Lords (Peers), resulting in a reduction in their MSP salary.

While we uphold our original decision, we hope that the additional information provided above, which is publicly available, will be helpful to you. We believe that this approach provides a fair balance between respecting the rights of former MSPs as individuals to the protection of their personal data and meeting the legitimate interest of the public in the cost of the scheme and the basis on which payments are made.

If, on the outcome of any review, you are still dissatisfied, or if we are unable to resolve any other complaint, then you can contact the Scottish Information Commissioner:

Post: The Office of the Scottish Information Commissioner  
Kinburn Castle  
Doubledykes Road  
St Andrews  
Fife  
KY16 9DS

Email: [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal)

Telephone: 01334 464610

Fax: 01334 464611

Website: [www.itspublicknowledge.info](http://www.itspublicknowledge.info)

A decision by the Scottish Information Commissioner may be appealed, on a point of law, to the Court of Session.

Yours sincerely,

Robin Davidson  
Head of Information Governance