

6 February 2013
Dear Mr Wightman

Thank you for your request dated 13 January 2013 under the Environmental Information (Scotland) Regulations 2004 (EIRs) for "Evidence submitted to the Land Reform Review Group in response to their Call for Evidence".

The Scottish Government do endeavour to provide information whenever possible. However, under the exception at regulation 10(4)(b) of the EIRs a public authority may refuse a request for information if it is 'manifestly unreasonable'. The Scottish Information Commissioner's guidance on requests at: <http://www.itspublicknowledge.info/Law/FOISA-EIRsGuidance/Section14/Section14Overview.asp> says that there may be circumstances where the burden of responding to a request justifies treating it as such, for example where:

- a) the time and cost involved in complying with the request mean that any reasonable person would regard them as excessive; and
- b) an extension of an additional 20 working days (under regulation 7 of the EIRs) is not sufficient to make the request manageable.

In this case, there are several reasons why I consider this request to come under this exception;

- Submitting this request so soon after the original deadline of 11 January 2013, means that to release the information to you within the timescales required by the Regulations, would mean that the review group would not have had time to study the responses themselves, nor have the benefit of having undertaken any formal analysis. This is especially so, given that the deadline for responses was subsequently extended to the 18 January 2013.
- In the group's Call for Evidence issued on 4 October 2012, the group said that "*If you ask for your response not to be published, we will regard it as confidential.*". Therefore, I would not consider any submission that had asked to be kept confidential, be released as part of this request.
- In addition, it stated that, "*At the end of the review process, and after the final report is published, we will publish your responses on the review web page, subject to any requests for anonymity*". Respondents would reasonably expect that, even if they do not wish their submission to remain anonymous, that we would not be publishing the information contained until after the final report.
- Finally, the work involved in collating the information to respond to your request, even should the deadline be extended to 40 days as allowed within the regulations, would place an unreasonable burden on the very small team dealing with the review group, at the same time as they are trying to collate the evidence for the group themselves.

While I am happy to make the non-confidential responses available as soon as is appropriate, I do not believe that it is reasonable to expect to do that within the timescales set out by this request. For those reasons, I am refusing your request under regulation 10 (4)(b).

As the exception is conditional I have applied the 'public interest test'. This means I have, in all the circumstances of this case, considered if the public interest in disclosing

information outweighs the public interest in applying the exception. I have found that, on balance, the public interest lies in favour of upholding the exception. While I recognise that there is a public interest in information about the evidence submitted to the review group, this is outweighed by the public interest in ensuring the efficient and effective use of public resources by not incurring excessive costs when complying with information requests. In addition, should we change the publication schedule from that already announced, I feel that it would have a negative impact on the willingness of some respondents to give further evidence to the group.

I am sorry I am unable to assist with your enquiry. If you are unhappy with this response to your request, you may ask for an internal review, by writing to;

Jonathan Pryce, Director for Agriculture, Food and Rural Communities
P1 Spur, Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD

Your request should explain why you wish a review to be carried out, and should be made within 40 working days of receipt of this email, and we will reply within 20 working days of receipt. If you are not satisfied with the result of the review, you then have the right to make a formal complaint to the Scottish Information Commissioner.

[Dave Thomson](#)
[Head of Land Reform Review Group Secretariat](#)
[Agriculture, Food and Rural Communities Directorate](#)
B1 Spur
Saughton House
0131 244 9435
07760 990 967

From: [vps-andywightman \[mailto:mail@andywightman.com\]](mailto:vps-andywightman@mailto:mail@andywightman.com)
Sent: 13 January 2013 12:00
To: Land Reform Review Group
Subject: Land Reform Review Group

Dear Sir/Madam,

FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

Please could you supply me with the following information:-

Evidence submitted to the Land Reform Review Group in response to their Call for Evidence in which evidence was invited by 11 January 2014.

Thank you.
Yours etc.
Andy

Andy Wightman
mail@andywightman.com