

9 May 2013 FoI REQUEST

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 of October 2012 in which evidence was invited to be submitted by 11 January 2013 (later extended to 18 January 2013). Excluded from this information should be any information contained in evidence submitted where the person requested that it be treated in confidence.

Thank you.

Yours etc.

Andy Wightman

7 June 2013 RESPONSE

Dear Mr Wightman

Thank you for your request dated 9 May 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 of October 2012 in which evidence was invited to be submitted by 11 January 2013 (later extended to 18 January 2013). Excluded from this information should be any information contained in evidence submitted where the person requested that it be treated in confidence.”*.

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.

I am conscious of your previous request, and the grounds for refusing it. Time has moved on, and some of the reasons that were valid at that time, are no longer applicable, namely the proximity to the closing date of the Call for Evidence, and the issues of confidential submission, which you have addressed in your amended request. However, the others still remain valid in my opinion.

- In the Review Group’s Call for Evidence, they 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. I still consider this to be a valid concern, although this will diminish as the stated publication date approaches.

- Secondly, 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 team dealing with the review group, at the same time as they are trying to support the Group during Phase 2 of the Review. To put some context on this, using other releases as guidance, I have estimated that an average of 3 minutes to review each page would be reasonable. There are an estimated 7200 pages of submissions, amounted to approximately 360 hours work. Even if both members of the support team were to work on this, it would take 5 weeks to complete, during which time the Group would have no support. I consider this amount of time to be unreasonable in the context of the Act and, 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.

However, I can say that we now plan to bring forward the submission publication date. We will now publish submissions in August 2013. Of course, I will let you know as soon as we have published the submissions.

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
Land Reform Review Secretariat Manager
B1 Spur, Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD