



Ben Christman
bchristman@ercs.scot

Our Reference: 202300373083

Your Reference: FREEDOM OF INFORMATION REQUEST - ACCC/C/2022/196 (United Kingdom) -
letter to the Party concerned

20 September 2023

Dear Ben Christman,

Further to my email of 25 August, and your further request for a review of our failure to respond within the original deadline, I have now completed my review. You asked for the total public expenditure paid by DEFRA, the Scottish Government and/or any other public bodies in connection to the response to Aarhus communication ACCC/C/2022/196, referring to fees paid to James Findlay KC, and to any other external legal advice which may have been sought, in connection to the response.

In accordance with regulation 16(3)(b) of the EIRs, I have also reached a decision on your request.

I apologise that we did not respond within the timescale of your original request of 27 July. This is because that request was not treated by us as a request for information from the Scottish Government because the Scottish Government was a copy recipient and not a direct recipient of your email, which was addressed to DEFRA. We are treating your request as having been received on 25 August. I acknowledged your request on 25 August and following this, on 29 August you wrote to request a review of our failure to respond.

I can now provide our response to your original request.

As the information you have requested is 'environmental information' for the purposes of the Environmental Information (Scotland) Regulations 2004 (EIRs), we are required to deal with your request under those Regulations. We are applying the exemption at section 39(2) of the Freedom of Information (Scotland) Act 2002 (FOISA), so that we do not also have to deal with your request under FOISA.

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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, because there is no public interest in dealing with the same request under two different regimes. This is essentially a technical point and has no material effect on the outcome of your request.

Response to your request

The answer to your question is: The total public expenditure in connection to the UK response is £7,800. This refers to payment, by the Scottish Government, of the invoice of James Findlay KC in connection with the response to Aarhus communication ACCC/C/2022/196.

Your right to appeal

If you are not satisfied with this response or how we have responded to your request for a review, you 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:

[What can I do if I'm unhappy? | Scottish Information Commissioner \(itspublicknowledge.info\)](https://www.scot.nhs.uk/itspublicknowledge/info)

Yours sincerely

Helen Wood

PARD : Performance, Development Management and Casework

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