

Revenue Scotland

*Freedom of
Information*

Contents

This guide is designed to take you through each step of handling a FOI or EIRs request. It applies to both requests for information under the [Freedom of Information Act 2002 \(FOISA\)](#) and [Environmental Information \(Scotland\) Regulations 2004](#) (EIRs).

Revenue Scotland FOI/EIR Policy

1. Freedom of Information (Scotland) Act 2002 (FOISA) and Environmental Information (Scotland) Regulations 2004 (EIRs)

Revenue Scotland FOI/EIR Procedures

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Revenue Scotland FOI/EIR Policy

Document History

Date	Version	Reason for Issue
11/01/15	V0.1	1 st draft issued for comments

Freedom of Information (Scotland) Act 2002 (FOISA) and Environmental Information (Scotland) Regulations 2004 (EIRs)

"A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority."

What is our Policy?

1. Our Policy is to comply fully with the provisions and spirit of FOISA and EIRs by ensuring that information requests are dealt with timeously and helpfully. We will proactively publish and supply on demand the information we hold in compliance with FOISA and EIRs.

[The Freedom of Information \(Scotland\) Act 2002](#)

[Environmental Information \(Scotland\) Regulations 2004](#)

[Your Right To Know – a Guide to FOI in Scotland](#)

Why do we have a policy?

2. FOISA and EIRs aim to increase openness and accountability across the public sector and obliges Revenue Scotland to comply. We are required to put procedures in place which ensure that we comply with our statutory obligations.

How do we comply?

3. We comply by ensuring that all members of staff can identify requests under FOISA and EIRs ([How to Identify an FOI request](#), [How to Identify an EIRs request](#)) and know how to deal with these. The Corporate Services team are trained to co-ordinate and assist members of staff where an FOI request is received.

<http://www.itspublicknowledge.info/ScottishPublicAuthorities/RespondingtoaRequest/InformationRequestResponse.aspx>

What Happens if the Policy is not followed?

4. If the policy breach is serious (eg if information is deliberately withheld or destroyed) then the officer will be subject to disciplinary procedures. The Information Commissioner will review any decision which is appealed and Revenue Scotland may be subject to criticism if obligations under FOISA or EIRs are not met.

Revenue Scotland FOI/EIR Procedures

Document History

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11/01/15	V0.1	1 st draft issued for comments

How to Identify an FOI Request

What is an FOI Request?

1. Any request in writing (either by letter or email) which asks for information held by Revenue Scotland may be a question under the Freedom of Information (Scotland) Act 2002 (FOISA). **There is no requirement to mention FOI or Freedom of Information within the request.** Anyone can make a request under FOISA, they do not have to give reasons for requiring the information.

What do I do with an FOI Request?

2. Requests should be dealt with as follows:

If the letter or email specifically refers to “Freedom of Information” or to FOISA then send it immediately to the Corporate Services team at CorporateServices@revenue.scot mailbox or by handing it to a member of the team (Brian Rigby in the first instance). If the letter or email does not refer to FOISA but asks for information held by Revenue Scotland it should also be sent to Revenue Scotland Corporate Services Team immediately.

What else do I need to know?

3. Always forward a request to Revenue Scotland Corporate Services team if you are in any doubt whether or not it is a request under FOISA.

All FOISA requests must be dealt with within 20 working days of receipt in Revenue Scotland so the request must be sent to the Corporate Services Team on the day of receipt.

Revenue Scotland Corporate Services will coordinate the response to the request by following the procedures in [How FOI/EIRs Requests are Logged and Processed](#). Staff from other business areas may be asked to assist by providing information for the response.

How to identify an EIR request

What is an EIRs Request?

1. Our Policy is to comply fully with the provisions of the [Environmental Information \(Scotland\) Regulations 2004](#) (EIRs) which have been derived from European law. The Regulations provide public access to environmental information held by public authorities. To comply with the Regulations Revenue Scotland will:

- make environmental information available proactively, using easily accessible electronic means whenever possible; and
- make environmental information available on request.

2. The definition of “environmental information” can be found [within Regulation 2 of the Environmental Information \(Scotland\) Regulations 2004](#) (the EIRs). The definition is broad, and includes information which relates to:

- (i) The state of elements of the environment – such as air, water, soil, land, landscape and natural sites, biological diversity and genetically modified organisms – and it includes any interaction between them;
- (ii) The state of human health and safety, conditions of human life, the food chain, cultural sites and built structures, which are, or are likely to be, affected by the state of elements of the environment or any interaction between them;
- (iii) Any factor such as substances, energy, noise, radiation or waste, including radioactive waste, emissions discharges and other releases affecting, or likely to affect, the state of the elements of the environment or any interaction between them;
- (iv) Measures and activities affecting, likely to affect, or intended to protect the state of the elements of the environment or any interaction between them. This includes administrative measures, policies, legislation, plans, programmes and environmental agreements;
- (v) Reports on the implementation of environmental legislation;
- (vi) Cost benefits and other economic analyses used in environmental decision making.

What do I do with an EIRs Request?

3. Requests should be dealt with as follows:

If the letter or email specifically refers to Environmental Information Regulations or to EIRs then send it immediately to the Corporate Services team at CorporateServices@revenue.scot mailbox or by handing it to a member of the team (Brian Rigby in the first instance). If the letter or email does not refer to EIRs but asks for information held by Revenue Scotland it should also be sent to Revenue Scotland Corporate Services Team immediately.

What else do I need to know?

4. Always forward a request to Revenue Scotland Corporate Services team if you are in any doubt whether or not it is a request under EIRs.

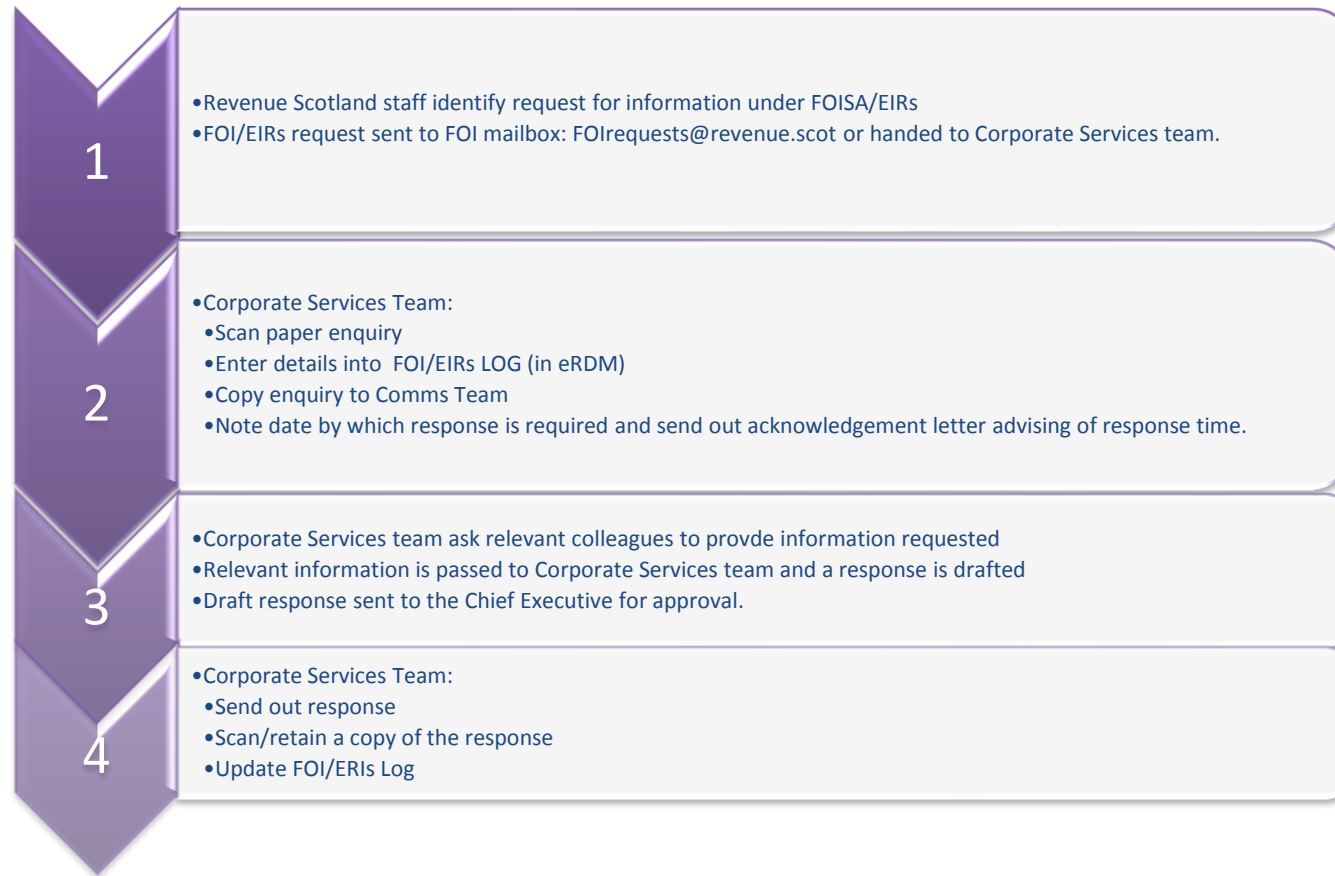
All EIRs requests must be dealt with within 20 working days of receipt in Revenue Scotland so the request must be sent to the Corporate Services Team on the day of receipt.

Revenue Scotland Corporate Services will coordinate the response to the request by following the procedures in [How FOI/EIRs Requests are Logged and Processed](#). Staff from other business areas may be asked to assist by providing information for the response.

How FOI and EIRs Requests are Logged and Processed

1. All FOI and EIRs requests sent to Revenue Scotland must be sent to the Corporate Services team either by email CorporateServices@revenue.scot or handed to a member of the Corporate Services team (Brian Rigby in the first instance) on the day of receipt. Requests sent via the FOIrequests@revenue.scot are automatically forwarded to the Corporate Services mailbox.
2. Revenue Scotland Corporate Services team is responsible for the following actions:
 - scanning enquiry
 - entering details in FOI/EIRs log
 - noting date by which a response is required
 - sending out an acknowledgement letter advising of deadline for response
 - collating information
 - drafting a formal response
 - forwarding the draft to the Chief Executive for review
 - issuing the final response
 - updating the FOI/EIRs log.
3. Revenue Scotland Corporate Services team may ask colleagues in appropriate business areas to assist by supplying the information requested. There is a strict timescale of 20 working days for a response to be sent out therefore FOI and EIRs requests should be treated as priority and reasonable cooperation is expected.
4. An FOI/EIRs request is for factual information held by Revenue Scotland and we should give a direct and straightforward answer to the question. If we do not hold the information requested then we should say so and explain why we do not record this information. There is no obligation to create new information although it may be sensible to set out the information in a certain format if it will be better understood in that format.
5. The legislation imposes a duty upon Revenue Scotland to be helpful. If you do not understand the question or are unsure whether the information you have is relevant ask the Corporate Services team for advice.
6. For further information about these procedures see the [FOI/EIRs Process Diagram](#) below.

FOI/EIRs Process Diagram



Corporate Services – FOI/EIRs logging procedure & dealing with an enquiry

1. An FOI/EIRs enquiry can be received via telephone, by person, by email, letter or social media. If a request comes in by telephone or in person you must ask the enquirer to submit the enquiry via an email or letter, as in accordance with FOI legislation all requests must be in a written format.

2. When you receive an FOI/EIRs request the following steps should be taken:

- i. Log enquiry in the FOI/EIRs log – the log can be found here:



Revenue Scotland - FOI Log.obr

All details should be entered into the spreadsheet. This should be updated as the enquiry progresses. Work out the deadline date (20 working days from the day after receipt) and take a note of it. Scan all hardcopies and create a file in the Revenue Scotland FOI folder in eRDM (link to follow).

- ii. Send an email off to the CEO, Communications team and CC Head of Finance & Corporate Services informing them that we have a new enquiry in. Subject of the email should be **FOI/EIRs(number) Requester's name - New Request**. The email should be worded along the lines of:

“FYI. We have a new FOI/EIRs request about X. It has been entered into the log. ”

If there is potential for the enquiry to be a reputational issue for Revenue Scotland, then we should add in the full text of the enquiry. Do not add the enquirer's details, this should only be given if specifically asked for. The Communications team need to be copied in to all FOI/EIRsrequests (if it is a contentious request they may be interested in being involved with the reply. The Communications Team will decide whether or not colleagues in SG Comms need to be informed). Highlight specifically if we know the request is from a reporter.

iii. An acknowledgement email or letter should be issued to the enquirer advising of deadline for response. ([FOI/EIRs Acknowledgement Letter](#)) If it is not clear what information the applicant wants request clarification (20 working day clock stops). Send reminder if clarification not received. When clarification is received the new 20 working day period starts. If no clarification received close request after 60 working days and notify applicant.

3. Once the logging procedure has been completed you must assess the request: does Revenue Scotland hold the information requested? Would releasing the information requested breach the [Data Protection Act 1988](#) or the Declaration of Confidentiality in relation to Protected Taxpayer Information (made under section 16(1) of the Revenue Scotland and Tax Powers Act 2014 which all Revenue Scotland officials have signed)? Would complying exceed the £600 cost limit? Is the information already accessible? Is it due for publication within 12 weeks? Is the request vexatious? Is the request a repeat of a previous request from the same applicant? [Summary of Exemptions.](#)

4. If proceeding with answering the request, identify who in Revenue Scotland can assist and gather all relevant information to answer the enquiry. Forward the enquiry on to them, ensuring they are aware of the 20 day deadline (but ask for a reply by a date a week earlier than the actual deadline date which will give the required time to go back to ask for more information or to ask for assistance/advice from others if need be).

5. Ensure all communication within Revenue Scotland is via email (even if you speak face-to-face with the person giving you information – always confirm with an email). Therefore we have an audit trail to evidence the gathering of information should it be required at a later date. Copy all relevant emails into eRDM.

6. When all relevant information has been submitted it is then your responsibility to compose a reply letter, include all the information gathered and then forward onto the Compliance Officer (Head of Finance & Corporate Services) unless the request concerns a legal issue, see point 7 below). In their absence you should speak to Stephen Crilly. If using Stephen as the Compliance Officer remember to change the review officer details in the response letter.

7. If the request concerns a legal matter then the reply letter and all relevant information should be forwarded to Stephen Crilly as the Compliance Officer. In these circumstances the Head of Finance & Corporate Services will be the Review Officer for any subsequent review.

8. After the Compliance Officer has read over the proposed reply and made any changes/amendments the letter should be sent to the Chief Executive asking her to read through the reply and make any changes and/or amendments where required. When sending the reply use the format of the original request e.g. by email or post. If sending by e-mail ensure that all attached documents are sent in PDF format as word documents can be reverted back to a previous version.

9. To complete the enquiry you must create an electronic archive of everything received and sent out regarding the FOI/EIRs into the file created within eRDM. Check in all emails, word and excel documents sent and received as part of the enquiry into eRDM, ensuring each document is labelled with the appropriate filename i.e. **FOI/EIRs 15/001 description – date** (deadline for response date). If sending out documents which are not held electronically you must scan them and file as above.

10. When this is complete go back to the FOI/EIRs logging spreadsheet



Revenue Scotland - FOI Log.obr

and complete the relevant fields i.e. Enquiry status, date response sent and deadline met?

FOI/EIRs Review Procedure

1. Request for review received by Revenue Scotland
2. Does the request relate only to a failure to respond to a request within 20 working days? If so, undertake procedural review and respond explaining the reason for failure and apologising for it. **A decision must also be reached on the original decision.**
3. Does the review request include any new requests for information? It is important to look out for such requests and pass them on immediately to the appropriate business area so that they can respond within the 20 working day deadline. Any new request included in a review request should usually be handled separately from the review and must always be logged on the FOI Tracker as an entirely new request.
4. Send request to Review Officer – Stephen Crilly (or alternatively, if the request concerned a legal matter then Stephen Crilly would have been the Compliance Officer with any subsequent review forwarded to the Head of Finance & Corporate Services as the Review Officer).
5. Review Officer should determine if the request for review is valid?

To be valid in terms of **FOISA**, a review request must:
 - be made in writing – for example by letter or e-mail, not by telephone.
 - provide the applicant's name and an address for correspondence (an e-mail address is sufficient);
 - be made within 40 working days of the applicant receiving our response to their original request or, if we have not responded to the request, within 40 working days of the date when we should have responded.

- specify the request for information to which their review request relates;
- specify the matter which gives rise to their dissatisfaction, i.e. explain why they want a review. **However, it should be noted that the applicant does not have to specifically say they want a review.**

6. Review Officer should record the date request for review was received on the FOI/EIR logging spreadsheet.



Revenue Scotland - FOI Log.obr

7. Review Officer should write to applicant to acknowledge receipt.

8. Review Officer obtains all paperwork about original decision, and the information requested and discusses case with original request handler(s).

9. If original request was not clear and adequate clarification was not obtained by request-handler, Review Officer should write seeking clarification (clock does not stop).

10. Review Officer considers whether original request was handled under the correct statutory regime, ie FOISA, EIRs or the Data Protection Act 1998 (DPA) and considers whether i) original request was valid; ii) procedures were properly followed and all statutory obligations were met; iii) all relevant information was identified; iv) re-considers any FOI exemption(s)/ EIRs exception(s) and the public interest test.

11. Review Officer drafts response and clears with CEO. Response should be sent within 20 working days of receipt. If information is to be provided this should be included with response.

12. The Review Officer must fully record the review process and if the review finds procedures were not properly followed, the Review Officer should advise the area that originally handled the case.

ANNEX A: FOI Responses

FOI Acknowledgement Letter

Revenue Scotland
PO BOX 24068, Victoria Quay
Edinburgh, EH6 9BR
FOIrequests@revenue.scot

«Name»
«Organisation»
«Address1»
«Address2»
«Address3»
«Address4»
«Address5»

Your ref: «Yourref»
Our ref: «Ourref»

«Date»

«Salutation»

Thank you for your request dated <insert date> which is being dealt with under the Freedom of Information (Scotland) Act 2002 (FOISA).

Revenue Scotland will respond to your request within twenty working days.

Please remember to quote the above reference number in any future communications.

Yours sincerely

«Signature»
«Full name»

FOI Response Letter

Revenue Scotland
PO BOX 24068, Victoria Quay
Edinburgh, EH6 9BR
FOIrequests@revenue.scot

«Name»
«Organisation»
«Address1»
«Address2»
«Address3»
«Address4»
«Address5»

Your ref: «Yourref»
Our ref: «Ourref»

«Date»

«Salutation»

REQUEST UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 (FOISA)

Thank you for your request dated <insert date> under the Freedom of Information (Scotland) Act 2002 (FOISA).

Your request

You asked for <quote request exactly, unless it is too long/complicated>.

1. I enclose a copy of [some/most/all] of the information you requested [in the format you asked for].
2. The answer to your question is <insert answer>.

or

3. **INSERT APPROPRIATE RESPONSE FROM BELOW**

Your right to request a review

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to Stephen Crilly, PO BOX 24068, Victoria Quay, Edinburgh, EH6 9BR. Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the date when you received this letter. We will complete the

review and tell you the result, within 20 working days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your rights is available on the Commissioner's website at: www.itspublicknowledge.info/Appeal

Important Note – Copyright

The provision of documents under FOISA does not constitute permission for their re-use in such a way that would infringe copyright. You should obtain permission from the copyholder before any such use.

Yours sincerely

«Signature»

«Full name»

FOI Responses

a) Response when clarification is inadequate

Under section 1(3) of FOISA, if we ask you to clarify your request so that we can identify and locate the information you are looking for, then we are not obliged to provide that information until you have given us the clarification we require. Unfortunately, your letter does not provide the clarification I requested in my letter of <insert date>, because <insert explanation of why clarification is inadequate>. As I explained in my previous letter(s), I need to know <insert a description of the further information requested in previous letter>. In these circumstances, I am unable to proceed further with your request.

However, if you wish to submit a new request which more clearly describes the information you are looking for, we would be able to consider your request and respond in accordance with FOISA. If you need any further advice and assistance to clarify your request, please contact me.

b) Response when information is already reasonably accessible

Under section 25(1) of FOISA, we are not required to provide information in response to a request if it is already reasonably accessible to you. The information you requested is available from <add details of where the information can be obtained e.g. on a website and provide an address>. If you do not have access to obtain this information from the website listed, then please contact me again and I will arrange to provide it in hard copy.

c) Response when information requested has been routinely destroyed

Following a search of our paper and electronic records, I have established that the information you requested is not held by Revenue Scotland because it was routinely destroyed, in accordance with our standard records management practice, before the date of your request.

d) Response when request is a repeat

We do endeavour to provide information whenever possible. However, under section 14(2) of FOISA a public authority is not required to comply with a request for information if it is identical or substantially similar to a request which it has already complied with, unless a reasonable amount of time has elapsed between the two requests. This request is [identical/substantially similar] to your previous request which we complied with on <insert date of response to previous request>. The Scottish Information Commissioner's guidance on repeated requests at:

<http://www.itspublicknowledge.info/Law/FOISA-EIRsGuidance/Section14/Section14Overview.asp>

says that in considering whether a reasonable period of time has elapsed between the previous request and the new request, there are two questions which will help the authority:

- (i) has the information changed?
- (ii) have the circumstances changed?

In this case, the information we hold is the same as at the time of your previous request. We have also considered the circumstances and have concluded that there has been no significant change. For these reasons, we consider that your request is repeated and we are not obliged to comply with it.

e) Response when there is an exemption

While our aim is to provide information whenever possible, in this instance we are unable to provide [some of] the information you have requested because an exemption(s) under section(s) <insert specific section number(s) and title e.g. s.29(1)(a) (policy formulation), s.38(1)(b) (personal information)> of FOISA applies to that information. The reasons why that exemption(s) applies are explained in the **Annex** to this letter.

f) Response when another government department holds the information requested

While our aim is to provide information whenever possible, in this instance Revenue Scotland does not have [some of] the information you have requested. [However, you may wish to contact <insert name of other authority/organisation> at <insert contact details> who may be able to help you.] The reasons why we don't have the information are explained in the **Annex** to this letter.

g) Request would exceed the upper cost limit

While our aim is to provide information whenever possible, in this instance the costs of locating, retrieving and providing the information requested would exceed the upper cost limit of £600. <Provide an explanation of why complying would exceed the upper cost limit.> Under section 12 of FOISA public authorities are not required to comply with a request for information if the authority estimates that the cost of complying would exceed the upper cost limit, which is currently set at £600 by Regulations made under section 12.

You may, however, wish to consider reducing the scope of your request in order that the costs can be brought below £600. <Provide advice, if possible, on how this might best be done, eg by specifying the subject(s) or business area(s) in which they are interested, or narrowing the timeframe.> You may also find it helpful to look at the Scottish Information Commissioner's 'Tips

for requesting information under FOI and the EIRs' on her website at:
<http://www.itspublicknowledge.info/YourRights/Tipsforrequesters.aspx>.

h) Response to request for review of original response (to be sent by reviewer)

Further to my letter of <insert date of acknowledgement>, I have now completed my review of our response to your request under the Freedom of Information (Scotland) Act 2002 (FOISA) for <insert description of request>.

I have concluded that [the original decision should be confirmed, [with/without] modifications]/[a different decision should be substituted.]/[your request was correctly handled in accordance with our procedures and legislative requirements]*.*

<Provide an explanation of the decision and how it was reached, including as appropriate:

- *if exemptions and the public interest test have been reconsidered, explain your reasoning. In particular, explain any change in the exemptions being applied;*
- *if information is now to be provided, include a description and enclose the information with this response;*
- *if the review has found that the request was not properly handled provide an apology for this and explain the steps which will be taken to avoid a recurrence;*
- *if the review has found that the original request was invalid, explain why.*

You may find parts of the templates for initial FOISA responses helpful here.>

*<Respond to any specific points raised by the applicant in their request for review, which are not answered by explanation above.> [***delete as appropriate**]*

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your rights is available on the Commissioner's website at: www.itspublicknowledge.info/Appeal

(Please see EIRs Responses for other possible examples)

ANNEX B: EIRs Responses

EIRs Acknowledgement Letter

Revenue Scotland
PO BOX 24068, Victoria Quay
Edinburgh, EH6 9BR
FOIrequests@revenue.scot

«Name»
«Organisation»
«Address1»
«Address2»
«Address3»
«Address4»
«Address5»

Your ref: «Yourref»
Our ref: «Ourref»

«Date»

«Salutation»

Thank you for your request dated <insert date> under the Freedom of Information (Scotland) Act 2002 (FOISA).

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. As the exemption is conditional we have applied the 'public interest test'. This means we have, in all the circumstances of this case, considered if the public interest in disclosing the information under FOISA 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.

Revenue Scotland will respond to your request within twenty working days.

OR

Thank you for your request dated <insert date> under the Environmental Information (Scotland) Regulations 2004 (EIRs) for <quote request exactly, unless it is too long/complicated>.

We will respond in accordance with the EIRs by <insert date 20 working days from date of receipt> .

Please remember to quote the above reference number in any future communications.

Yours sincerely

«Signature»

«Full name»

EIRs Response Letter

Revenue Scotland
PO BOX 24068, Victoria Quay
Edinburgh, EH6 9BR
FOIrequests@revenue.scot

«Name»
«Organisation»
«Address1»
«Address2»
«Address3»
«Address4»
«Address5»

Your ref: «Yourref»
Our ref: «Ourref»

«Date»

«Salutation»

REQUEST UNDER ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004 (EIRs)

Thank you for your request dated <insert date> under the Environmental Information (Scotland) Regulations 2004 (EIRs) for <quote request exactly, unless it is too long/complicated>.

We have now completed our search for the information you request, and a copy is enclosed [in the format you require]*.

If you are unhappy with this response to your request, you may ask us to carry out an internal review, by writing to Steven Crilly, PO BOX 24068, Victoria Quay, Edinburgh, EH6 9BR. 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 letter, 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. More detailed information on your rights is available on the Commissioner's website at: www.itspublicknowledge.info.

*[delete if the applicant did not specify a format]

Important Note – Copyright

The provision of documents under EIRs does not constitute permission for their re-use in such a way that would infringe copyright. You should obtain permission from the copyholder before any such use.

Yours sincerely

«Signature»

«Full name»

EIRs various Responses

a) Letter asking for clarification of request

In order to identify and locate the information that you have asked for we need some further information from you. **<Insert an explanation of why this is the case.>** In particular, it would be helpful to know **<insert an indication of the sort of information that you will require in order to proceed with the request>**. As I am unable to continue without this, I will put your request on hold until I hear back from you.

b) Reminder when there has been no response to request for clarification within 20 working days

As I explained in my previous letter, I am unable to deal with your request until you send me the further information I have asked for. If you need any advice and assistance to enable you to provide that information, please contact me.

c) Letter when there has been no response to request for clarification after more than 40 working days

Under the exception at regulation 10(4)(c) of the EIRs, we may refuse your request if it is formulated in too general a manner; we have asked you to clarify your request; and have given you advice to assist you to provide that clarification. As you have not responded to my request for clarification, we are now refusing your request under regulation 10(4)(c).

As the exception is conditional we have applied the ‘public interest test’. This means we have, in all the circumstances of this case, considered if the public interest in disclosing information outweighs the public interest in applying the exception. We have found that, on balance, the public interest lies in favour of upholding the exception. While we recognise that there may be some public interest in information about **<insert subject of request>**, this is outweighed by the public interest in ensuring the efficient and effective use of public resources. It would not be a good use of our limited resources to guess what information you require and to then spend time locating, retrieving and providing information which may not be what you are actually looking for.

However, if you wish to submit a new request which more clearly describes the information you are looking for, we would be able to consider your request and respond in accordance with the EIRs. If you need any further advice and assistance to rephrase your request, please contact me.

d) Response when request has not been clarified

Under the exception at regulation 10(4)(c) of the EIRs, we may refuse your request if it is formulated in too general a manner; we have asked you to clarify your request; and have given you advice to assist you to provide that clarification. Unfortunately, your letter does not provide the clarification I requested in my letter of <insert date>, because <insert explanation of why clarification is inadequate>. As I explained in my previous letter(s), I need to know <insert a description of the further information requested in previous letter>. In these circumstances, we are now refusing your request under regulation 10(4)(c).

As the exception is conditional we have applied the ‘public interest test’. This means we have, in all the circumstances of this case, considered if the public interest in disclosing information outweighs the public interest in applying the exception. We have found that, on balance, the public interest lies in favour of upholding the exception. While we recognise that there may be some public interest in information about <insert subject of request>, this is outweighed by the public interest in ensuring the efficient and effective use of public resources. It would not be a good use of our limited resources to guess what information you require and to then spend time locating, retrieving and providing information which may not be what you are actually looking for.

However, if you wish to submit a new request which more clearly describes the information you are looking for, we would be able to consider your request and respond in accordance with the EIRs. If you need any further advice and assistance to rephrase your request, please contact me.

I am sorry we are unable to assist with your enquiry.

e) Letter extending deadline where information is complex and voluminous

Under regulation 7 of the EIRs a public authority may extend the 20 working day deadline for responding to a request by up to a further 20 working days, if the complexity and volume of the information makes it impractical for the authority to respond within the original deadline. Having completed an initial search for the information you have requested, we have established that it is complex and voluminous because <insert brief explanation>. This means it will not be possible for us to respond to your request before the original deadline of <insert original deadline date>, and so we are extending the deadline by a further <insert number up to 20> working days to <insert date no more than 20 working days after original deadline>.

f) Holding response when deadline is going to be missed

Under regulation 5(2)(a) of the EIRs, our response to your request is due on <insert date 20 working days from date of receipt – this is calculated for you when you log the request on the FOI Tracker>.

Unfortunately, it is taking longer than expected to deal with your request because <if possible, insert brief explanation>. I apologise for this delay and hope to be able to send you a response by <insert approximate but realistic date or, if this is not possible, say 'shortly'>.

g) Response when information requested has been routinely destroyed

Following a search of our paper and electronic records, I have established that the information you requested is not held by the Scottish Government because it was routinely destroyed in accordance with our standard records management practice. For that reason we are refusing your request under the exception at regulation 10(4)(a) of the EIRs.

As the exception is conditional we are required to apply the 'public interest test'. This means we have, in all the circumstances of this case, considered if the public interest in disclosing information outweighs the public interest in applying the exception. We have found that, on balance, the public interest lies in favour of upholding the exception. While we recognise that there may be some public interest in information about <insert subject of request>, clearly we cannot provide information which we do not hold.

h) Response when information is not held [but may be held by another authority]

Following a search of our paper and electronic records, I have established that the information you require is not held by Revenue Scotland. For that reason we are refusing your request under the exception at regulation 10(4)(a) of the EIRs.

As the exception is conditional we are required to apply the 'public interest test'. This means we have, in all the circumstances of this case, considered if the public interest in disclosing information outweighs the public interest in applying the exception. We have found that, on balance, the public interest lies in favour of upholding the exception. While we recognise that there may be some public interest in information about <insert subject of request>, clearly we cannot provide information which we do not hold.

[However you may wish to contact <insert name of authority> at <insert address> who may be able to help you further.]*

*[delete if you have been unable to identify another public authority which may hold the information]

i) Response when request is 'manifestly unreasonable' on cost grounds

We 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 vexatious or repeated 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 ‘manifestly unreasonable’, 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, **<provide an explanation of why the time and cost of complying would be excessive and why an extra 20 working days would not help>**. For these reasons, we consider that your request is manifestly unreasonable and so we are refusing it under regulation 10(4)(b).

As the exception is conditional we have applied the ‘public interest test’. This means we have, in all the circumstances of this case, considered if the public interest in disclosing information outweighs the public interest in applying the exception. We have found that, on balance, the public interest lies in favour of upholding the exception. While we recognise that there may be some public interest in information about <insert subject of request>, 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.

You may however wish to consider reducing the scope of your request in order to make it manageable **<provide advice, if possible, on how this might best be done>**.

I am sorry we are unable to assist with your enquiry.....

j) Response when request is ‘manifestly unreasonable’ because it is vexatious

We 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 vexatious or repeated requests at: <http://www.itspublicknowledge.info/Law/FOISA-EIRsGuidance/Section14/Section14Overview.asp> says that in deciding whether a request is ‘manifestly unreasonable’, he is likely to take into account the same kinds of considerations as he would in deciding whether a request is vexatious under section 14(1) of the Freedom of Information (Scotland) Act 2002. In relation to section 14(1), his guidance says that “to be ‘vexatious’ the

Commissioner considers that a request must (a) impose a significant burden on a public authority and (b) meet one or more of the other criteria described.”.

In this case, <insert explanation of why the request imposes a significant burden, then explain which of the other criteria apply and why.> For these reasons, we consider that your request is manifestly unreasonable and so we are refusing it under regulation 10(4)(b).

As the exception is conditional we have applied the ‘public interest test’. This means we have, in all the circumstances of this case, considered if the public interest in disclosing the information outweighs the public interest in applying the exception. We have found that, on balance, the public interest lies in favour of upholding the exception. While we recognise that there may be some public interest in information about <insert subject of request>, this is outweighed by the public interest in ensuring the efficient and effective use of public resources by not complying with information requests which are manifestly unreasonable.

I am sorry we are unable to assist with your enquiry.....

k) Response when request is ‘manifestly unreasonable’ because it is a repeat

We 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’. This request is [identical/substantially similar]* to your previous request which we complied with on <insert date of response to previous request>. In addition, the information we hold is the same as at the time of your previous request. We have also considered the circumstances and have concluded that there has been no significant change. For these reasons, we consider that your request is a repeat of your previous request and so it is manifestly unreasonable. Therefore, we are refusing it under regulation 10(4)(b).

As the exception is conditional we have applied the ‘public interest test’. This means we have, in all the circumstances of this case, considered if the public interest in disclosing the information outweighs the public interest in applying the exception. We have found that, on balance, the public interest lies in favour of upholding the exception, While we recognise that there may be some public interest in information about <insert subject of request>, this is outweighed by the public interest in ensuring the efficient and effective use of public resources by not complying with an information request which is [identical/substantially similar]* to one which we have complied with previously.

I am sorry we are unable to assist with your enquiry.... *[delete as appropriate]

l) Response when information is already reasonably accessible

Under regulation 6(1)(b) of the EIRs, we are not required to provide information in response to a request if it is already publicly available and easily accessible to you in another form or format. The information you requested is available from <add details of where the information can be obtained e.g. on a website and provide an address>. If you do not have access to obtain this information from the website listed, then please contact me again and I will arrange to provide it in hard copy.

m) Response when exception(s) have been applied

We do endeavour to provide information whenever possible. However, in this instance an exception under regulation <insert specific regulation number(s), eg regulation 10(4)(e) or 10(5)(d)> of the EIRs applies to [some of/all of]* the information requested. <Provide number and description of the exception and explain in clear terms why it applies>.

As the exception is conditional we have applied the 'public interest test'. This means we have, in all the circumstances of this case, considered if the public interest in disclosing the information outweighs the public interest in applying the exception. We have found that, on balance, the public interest lies in favour of upholding the exception. While we recognise that there is some public interest in release because <insert argument(s) in favour of release>, this is outweighed by the public interest in <insert argument(s) for upholding application of exception>.

*[delete as appropriate]

n) Response to request for review of original response (to be sent by reviewer)

Further to my letter of <insert date of acknowledgement>, I have now completed my review of our response to your request under the Environmental Information (Scotland) Regulations 2004 (EIRs) for <insert description of request>.

I have concluded that [the original decision should be confirmed, [with/without] modifications]/[a different decision should be substituted.]*/[your request was correctly handled in accordance with our procedures and legislative requirements]*.*

<Provide an explanation of the decision and how it was reached, including as appropriate:

- *if exceptions and the public interest test have been reconsidered, explain your reasoning. In particular, explain any change in the exceptions being applied;*
- *if information is now to be provided, include a description and enclose the information with this response;*
- *if the review has found that the request was not properly handled provide an apology for this and explain the steps which will be taken to avoid a recurrence.*

You may find parts of the templates for initial EIRs responses helpful here.>

<Response to any specific points raised by the applicant in their request for review, which are not answered by explanation above.>

If you are unhappy with the outcome of this review you have the right to appeal to the Scottish Information Commissioner about our decision within 6 months of receiving this letter. You can contact the Commissioner at:

*The Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS*

E-mail: enquiries@itspublicknowledge.info

Telephone: 01334 464610

Should you then wish to appeal against the Commissioner's decision, there is a right of appeal to the Court of Session on a point of law only.

****[delete or amend as appropriate]***