

From: Hope, Valerie (LCS-KIM) [<mailto:Valerie.Hope@defra.gsi.gov.uk>]
Sent: 07 December 2011 09:57
To: Christine
Subject: RE: Re. IMPORTANT. Re DEFRA and advice received from the ICO.

Christine

This is just to confirm that I have passed your note on wind farms and your contact details to DECC, as agreed.

Kind regards

Valerie Hope
Information Rights Case Officer and EIR Policy Adviser
Defra
Knowledge and Information Management
Information Rights Team
Area 1B, Ergon House,
Horseferry Road, London SW1P 2AL

Tel.: 020 7238 4675
GTN 238 4675

From: Christine [<mailto:luanam@btinternet.com>]
Sent: 06 December 2011 11:57
To: Hope, Valerie (LCS-KIM)
Subject: RE: Re. IMPORTANT. Re DEFRA and advice received from the ICO.

Dear Valerie,

By all means pass the details on to DECC. As it happens, I have just had to remind them (see attached) that no reply has been received to a related enquiry.

In respect of the FCS, I certainly did ask the chief executive, Dr. Bob MacIntosh, to hold an internal review into the core issues, but this was refused. The only internal review which was held was in respect of their admitted mishandling of the FoI request. He was also asked to agree to a meeting 'on site' so that outstanding issues could be discussed and he could be shown 'on the ground' why the alternative and less damaging route could still be an option. I also wanted to find out why none of his replies addressed the queries relating to breaches of the Aarhus Convention. This also was refused, and is the reason why a deeper study of Directives etc., has been ongoing.

I have already been in contact with the Scottish ICO – and it was their failure to address the issues raised, which was believed to come under their remit, which was reported to you in the final paragraph of the previous letter, and now forms part of the requirements to have 'exhausted all domestic routes of complaint.'

If anything else occurs to me with which you may be able to help, I will contact you again.

Best wishes,

Christine M.

From: Hope, Valerie (LCS-KIM) [<mailto:Valerie.Hope@defra.gsi.gov.uk>]
Sent: 05 December 2011 17:40

To: Christine

Subject: RE: Re. IMPORTANT. Re DEFRA and advice received from the ICO.

Christine

I have read through your brief report and I hope that my thoughts below will be helpful. My particular role in Defra is to provide internal policy advice on the EIRs to Defra staff and to provide guidance to members of the public and other public authorities on the interpretation of the EIRs. I am not a specialist on wind farms or where the divide lies between UK and purely Scottish issues in this area.

I have dropped a line to DECC, the Department of Energy and Climate Change, as I believe they are the lead department for the UK on wind farm matters. If some of the matters you raise are for DECC to answer, may I pass your email to them? I have not given them your details yet.

It may be that some of the issues you raise are devolved matters that fall to be answered by the Scottish authorities. The Scottish Government website has quite a bit of information on its policy on renewable energy -

<http://www.scotland.gov.uk/Topics/Business-Industry/Energy/Energy-sources/19185>

.

Issues surrounding information access rights are also devolved matters, and Scotland has its own separate FOI and EIR legislation. If any of the unsuccessful requests you made were to Scottish rather than UK public authorities and you have an outstanding complaint, the next steps come under Scottish legislation but are very similar to in the rest of the UK. Scotland also has its own Information Commissioner's Office, which can be contacted via this website -

<http://www.itspublicknowledge.info/home/ScottishInformationCommissioner.asp>. If any of the requests were to a UK public authority, you may ask them for an internal review. It is generally only when the internal review has been completed that the ICO is able to investigate complaints. You do not say whether you asked the Forestry Commission to carry out an internal review of their response.

I would be happy to provide further guidance on the EIRs if you have a query.

Kind regards

Valerie Hope

Information Rights Case Officer and EIR Policy Adviser

Defra

Knowledge and Information Management

Information Rights Team

Area 1B, Ergon House,

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From: Christine [<mailto:luanam@btinternet.com>]

Sent: 05 December 2011 10:44

To: Hope, Valerie (LCS-KIM)
Subject: FW: Re. IMPORTANT. Re DEFRA and advice received from the ICO.
Importance: High

Valerie,

Please could you acknowledge receipt of message below and attachment. Many thanks.

Regards,

Christine M.

From: Christine [<mailto:luanam@btinternet.com>]
Sent: 04 December 2011 17:40
To: 'Hope, Valerie (LCS-KIM)'
Subject: RE: Re. IMPORTANT. Re DEFRA & advice received from the ICO.
Importance: High

Dear Valerie,

Many thanks for your offer of help for which I am very grateful. There has been a slight delay in replying as I have taken this opportunity to try to fully explain why this case is important, and why it is considered to be a prime case for UNECE. As with many developments of this kind at the moment, each one will have a particular set of circumstances but there are however, some clear basic issues which are shared.

I hope you will understand that those at 'grass roots' levels find that involvement with the complexities encountered with such matters mean many long hours, amounting to days - of research and liaising with experts in various fields. If the tone of the attached sometimes reflects the frustration felt – perhaps this will be forgiven! Likewise any errors of understanding of legal aspects which may have occurred during the compiling of the report/complaint.

It is still not understood why the ICO have not addressed the subject of destruction of docs./failure to produce those relevant which are still outstanding. As previously explained to them, recent Freedom of Information requests have revealed that there is an obligation for the FCS to record dates of destruction of documents. Initially, FCS denied that any documentation existed due to destruction of all related documentation to past EU funding applications for the West Loch Awe Timber Haul Route (prior to the involvement of a wind farm access requirement). It was further denied that any surveys or feasibility studies were ever produced to accompany the funding applications made. It is clearly not credible that an application for hundreds of thousands of pounds would not have had such evidence included. It would be tantamount to asking for funds 'on a premise.' No dates of destruction for any documents have been produced and these important surveys are still 'missing' which is therefore the fatal flaw within the FCS statement that the alternative route they previously presented for an EU funding application, and we maintain must be re-assessed as a viable alternative, was merely 'indicative.' If the said documents have been destroyed, and are not still existence somewhere within records, it is not possible to prove that they were not produced.

Yours sincerely,

Christine Metcalfe.

From: Hope, Valerie (LCS-KIM) [<mailto:Valerie.Hope@defra.gsi.gov.uk>]
Sent: 01 December 2011 11:11
To: luanam@btinternet.com
Subject: FW: Re. IMPORTANT. Re DEFRA & advice received from the ICO.

Good morning, Christine

I've been copied into your email exchanges with Defra in case I can help in any way. I work in the team with policy responsibility for the Environmental Information Regulations 2004, which are the environmental equivalent of the Freedom of Information Act 2000. I believe the ICO has advised you that you need to exhaust the domestic avenues of complaint before the Aarhus Convention Compliance Committee will look at a case. Colleagues in Defra have confirmed to me that that is the case.

If there is anything I can do to shed light on anything, please let me know.

Kind regards

Valerie Hope

Information Rights Case Officer and EIR Policy Adviser
Defra
Knowledge and Information Management
Information Rights Team
Area 1B, Ergon House,
Horseferry Road, London SW1P 2AL

Tel.: 020 7238 4675
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From: Christine [<mailto:luanam@btinternet.com>]
Sent: 29 November 2011 15:31
To: Helpline, Defra (CCU)
Subject: FW: Re. IMPORTANT. Re DEFRA & advice received from the ICO.
Importance: High

Dear Jennifer,

During your consideration of the matter in hand, could you also tell me how DEFRA (i.e. as a Public Authority) are ensuring the transparency and availability of information on the environment?

Yours sincerely,

Christine Metcalfe.

From: Christine [<mailto:luanam@btinternet.com>]
Sent: 26 November 2011 00:07

To:

Subject: Re. IMPORTANT. Re DEFRA & advice received from the ICO.

Dear Jennifer,

Re. ICO Case Reference Number FER0417446. I do not appear to have received any further responses after this reply to you on 11.11.11. If a further communication has been sent, but not received here for some reason, could you re-send please.

If however, matters are still being considered, I should be grateful for this information/confirmation.

Yours sincerely,

Christine Metcalfe.

From: Christine [<mailto:luanam@btinternet.com>]

Sent: 11 November 2011 16:10

To: 'Helpline, Defra (CCU)'

Subject: RE: IMPORTANT. Re DEFRA & advice received from the ICO.

Dear Jennifer,

Thank you for your prompt reply. Briefly, the ICO were contacted as the Forestry Commission (Scotland) have not supplied various documents requested under FoI ruling. These documents (i.e. feasibility studies, surveys etc., in respect of the route for which funding was required) would have accompanied a past EU funding application and are claimed by the FCS to have been destroyed. However, they have not produced the required dates of destruction of these particular documents. Destruction of documents have meant that clauses within the Aarhus convention have been breached together with those relating to public participation etc.,

The complaint involving breaches of the Aarhus Convention is well in hand, but as you will know, we must have exhausted all our own country's routes of enquiry before this can be sent. As you saw, that DEFRA should be contacted was one suggestion made by the ICO.

Is there any further information that you need?

Best wishes,

Christine M.

From: Helpline, Defra (CCU) [<mailto:defra.helpline@defra.gsi.gov.uk>]

Sent: 10 November 2011 15:56

To: luanam@btinternet.com

Subject: RE: IMPORTANT. Re DEFRA & advice received from the ICO.

Dear Ms Metcalfe

Please can you provide some more information about the complaint you made to the ICO. It is not clear from your email if it's a complaint against the Aarhus Convention, or a complaint that a public or private body is in breach of Aarhus or something else.

Thanks

Jennifer Long
Business Support Team
Customer Contact Unit

From: Christine [<mailto:luanam@btinternet.com>]
Sent: 10 November 2011 12:20
To: Helpline, Defra (CCU)
Subject: IMPORTANT. Re DEFRA & advice received from the ICO.
Importance: High

Dear Sir,

In respect of the ICO email received, could you please tell me what services DEFRA provides in this regard based on the official statement below that I have now received?

Yours sincerely,

Christine Metcalfe. Community Councillor. AKCC Argyll.

9th November 2011

Case Reference Number FER0417446

Dear Ms Metcalfe,

Thank you for your e-mail.

The Commissioner's remit is solely to establish whether the Environmental Information Regulations have been correctly followed: if you have a complaint about your specific rights under the Aarhus Convention, I believe that you would need to approach DEFRA (www.defra.gov.uk), or the UNECE direct (<http://www.unece.org/env/pp/ccBackground.html>).

Yours sincerely,

Jenny Sanders
Advice Team
Information Commissioner's Office
01625 545674

Department for Environment, Food and Rural Affairs (Defra)

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