



Scottish Information
Commissioner
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Decision Notice 006/2026

Correspondence regarding Dumfries House and Knockroon

Authority: Scottish Ministers

Case Ref: 202500532

Summary

The Applicant asked the Authority for correspondence between the then First Minister and the then Prince of Wales regarding Dumfries House and the Knockroon development. The Authority withheld the information requested on the basis it was internal communications, and the public interest favoured withholding it. During the investigation, the Authority disclosed some information to the Applicant. The Commissioner investigated and found that the Authority had failed to comply with the EIRs in responding to the Applicant's request. However, he found that it had, by the close of his investigation, disclosed to the Applicant all of the correspondence it held falling within the scope of his request.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); 2(1)(b) (Effect of exemptions); 39(2) (Healthy, safety and the environment); 47(1) and (2) (Application for decision by Commissioner).

The Environmental Information (Scotland) Regulations 2004 (the EIRs) regulations 2(1) (definition of "the Act", "applicant," "environmental information" and "the Commissioner") (Interpretation); 5(1) (Duty to make environmental information available on request); 17(1), (2)(a), (b) and (f) (Enforcement and appeal provisions).

Background

1. On 14 January 2025, the Applicant made a request for information to the Authority. He asked for the following information generated between 1 January 2010 to 1 January 2011:

“1... During the relevant period did the Prince of Wales/Earl of Rothesay write to and or communicate with Alex Salmond. Please note that I am only interested in that correspondence and or communication which mentions and or in any way relates to the property known as Dumfries House and or the Prince's plans (and plans by the Prince's Foundation) for a community development known as Knockroon in East Ayrshire. If the answer is yes, can you please provide copies of this correspondence and communication.

2 ... During the relevant period did Alex Salmond write to and or communicate with the Prince of Wales/Earl of Rothesay. Please note that I am only interested in that correspondence and communication which mentions and or in any way relates to the property known as Dumfries House and or the Prince's plans (and plans by the Prince's Foundation) for a community development known as Knockroon in East Ayrshire. If the answer is yes can you please provide copies of this correspondence and communication.

3 ... During the aforementioned period did Alex Salmond and the Prince of Wales/Earl of Rothesay meet to discuss Dumfries House and or the Prince's plans (and plans by the Prince's Foundation) for a community development known as Knockroon in East Ayrshire. If the answer is yes can you provide the date, time and venue for the meeting. If a draft agenda and or a set of briefing notes was prepared for Mr Salmond in advance of the meeting, can you please provide a copy of the briefing notes and the agenda.”
2. The Authority responded on 11 February 2025 in terms of the EIRs. It advised the Applicant that it held some information but that it was withholding this information under the exceptions in regulations 10(4)(e) and 10(5)(a) of the EIRs.
3. On 21 February 2025, the Applicant wrote to the Authority requesting a review of its decision. He stated that he was dissatisfied with the decision because he considered that the correspondence and communications of senior members of the Royal Family were not exempt if they related to the environment or if they could be classed as “advocacy correspondence”. He considered that the information requested was likely to meet both criteria.
4. The Authority notified the Applicant of the outcome of its review on 20 March 2025, which confirmed (with modifications) the original decision to withhold the information requested. It overturned its reliance on the exception in regulation 10(5)(a) of the EIRs but noted that the information to which it had applied this exception did not fall within the scope of the request as it did not relate to, or mention, either Dumfries House or Knockroon. However, it upheld its decision to apply the exception in regulation 10(4)(e) of the EIRs to the information that fell within the scope of the request.
5. On 9 April 2025, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. By virtue of regulation 17 of the EIRs, Part 4 of FOISA applies to the enforcement of the EIRs as it applies to the enforcement of FOISA, subject to specified modifications. The Applicant stated that he was dissatisfied with the outcome of the Authority's review because he did not agree that the Authority was entitled to withhold the correspondence he had requested.

Investigation

6. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.
7. On 24 April 2025, the Authority was notified in writing that the Applicant had made a valid application. The Authority was asked to send the Commissioner the information withheld from the Applicant. The Authority provided the information, which comprised two separate documents: a letter from the then Prince of Wales to the then First Minister and a briefing note.
8. The case was subsequently allocated to an investigating officer.
9. Section 49(3)(a) of FOISA requires the Commissioner to give public authorities an opportunity to provide comments on an application. The Authority was invited to comment on this application and to answer specific questions.
10. The Applicant confirmed that he was content for the Commissioner's decision notice to focus on the "advocacy correspondence". In other words, he did not require a decision on the third part of his request.
11. During the investigation, the Authority reassessed its position and disclosed some information to the Applicant contained in the letter from the then Prince of Wales to the then First Minister. It explained that, although it had overturned at review stage its reliance on the exception (regulation 10(5)(a) of the EIRs) that it had initially withheld this information under, it had mistakenly failed to disclose this information to the Applicant as part of its review outcome.
12. Following further correspondence from the Commissioner, the Authority disclosed a small amount of additional information to the Applicant contained in the letter, which it had previously considered fell outwith the scope of the request.
13. Following disclosure of this additional information and correspondence from the Commissioner, the Applicant confirmed that he was content for the Commissioner's decision notice to focus on whether it had disclosed all of the information contained in the letter that fell within the scope of his request.

Commissioner's analysis and findings

14. The Commissioner has considered all of the submissions made to him by the Applicant and the Authority.

Handling in terms of the EIRs

15. Where information falls within the scope of regulation 2(1) of the EIRs, a person has a right to access it (and the public authority has a corresponding obligation to respond) under the EIRs, subject to the various restrictions and exceptions contained in the EIRs.
16. Having considered the terms of the request and the nature of the information requested, the Commissioner accepts the decision of the Authority to deal with the request under the EIRs rather than under FOISA.

Section 39(2) – Environmental information

17. The exemption in section 39(2) of FOISA provides, in effect, that environmental information (as defined by regulation 2(1) of the EIRs) is exempt from disclosure under FOISA, thereby allowing any such information to be considered solely in terms of the EIRs.
18. As noted above, the Commissioner accepts that the Authority was entitled to apply this exemption to the information requested, given his finding that it was entitled to classify it as environmental information.
19. As there is a statutory right of access to environmental information available to the Applicant in this case, the Commissioner accepts, in all the circumstances, that the public interest in maintaining this exemption (and responding to the requests under the EIRs) outweighs any public interest in disclosing the information under FOISA. Both regimes are intended to promote public access to information and there would appear to be no reason why (in this particular case) disclosure of the information should be more likely under FOISA than under the EIRs.
20. The Commissioner therefore concludes that the Authority would have been entitled to apply section 39(2) of FOISA and to consider the Applicant's information request under the EIRs. The Commissioner will consider the request in what follows solely in terms of the EIRs.

Regulation 5(1) – Duty to make environmental information available

21. Regulation 5(1) of the EIRs requires a Scottish public authority which holds the information to make it available when requested to do so by any applicant. This obligation relates to information that is held by the authority when it receives a request.
22. On receipt of a request for environmental information, the authority must ascertain what information it holds falling within the scope of the request. Having done so, regulation 5(1) of the EIRs requires the authority to make the information available, unless a qualification in regulation 6 to 12 applies (regulation 5(2)(b)).
23. The Commissioner has carefully considered the terms of the Applicant's request together with the information contained in the letter. For the avoidance of doubt, he has seen the full contents of the letter – including the parts that the Authority deemed fell outwith the scope of the request.
24. As stated above, the Commissioner wrote to the Authority during his investigation to ask whether it would consider disclosing a small amount of further information within the letter that he considered fell within the scope of the request. It subsequently disclosed this information to the Applicant.
25. The Commissioner is satisfied that the remainder of the information in the letter does not fall within the scope of the Applicant's request. In other words, it does not relate in any way to either Dumfries House or Knockroon. He therefore finds that the Authority, by the close of his investigation, disclosed to the Applicant all of the correspondence falling within the scope of his request.
26. However, the Commissioner must find that the Authority failed to comply with regulation 5(1) of the EIRs by failing to disclose this information to the Applicant by the review outcome (at the latest). As the Authority has now disclosed this information to the Applicant, he does not

require the Authority to take any action regarding this failure, in response to the Applicant's application.

Decision

The Commissioner finds that the Authority failed to comply with the Environmental Information (Scotland) Regulations 2004 (the EIRs) in responding to the information request made by the Applicant.

By failing to disclose the information requested to the Applicant by the review outcome (at the latest), the Authority failed to comply with regulation 5(1) of the EIRs.

Given that the Authority has now disclosed the information requested to the Applicant, the Commissioner does not require the Authority to take any action regarding this failure, in response to the Applicant's application.

Appeal

Should either the Applicant or the Authority wish to appeal against this decision, they have the right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days after the date of intimation of this decision.

Euan McCulloch
Head of Enforcement

14 January 2026