

Mr Michael Bimmler

12 May 2010

Dear Mr Bimmler

**FREEDOM OF INFORMATION REQUEST –
ADELBASET ALI MOHMED AL MEGRAHI**

1. I write in respect of your request for information concerning Mr Megrahi and with reference to various communications concerning the validity of your request. As you know, following the Court of Session judgment in *Glasgow City Council and Dundee City Council v Scottish Information Commissioner* [2009] CSIH 73, the terms of your request have been considered to be invalid.

2. However, following further advice and discussion about the implications of the judgment, we now consider your request may have been valid. I have therefore undertaken a further review to consider whether information could have been released if your application had been treated that way.

3. For these purposes, I used the formulation of your request given in your e-mail to Neil MacLennan of 7 January, viz, for “all information contained in the “Notes of meetings and telephone conversations with US and Foreign Office officials” and the “Correspondence between the Scottish Government and the UK and US Governments referred to in Neil’s e-mail of 7 January.”

4. As you know, a considerable amount of information is publicly available – including correspondence with the UK Government and therefore Section 25(1) applies – the relevant information can be accessed at: <http://www.scotland.gov.uk/Topics/Justice/legal/lockerbie>. However, as you may also be aware, on our website we have published an exchange of correspondence with the United States Government in which we sought, and they denied, permission to release this material. This exchange can be found at:

<http://www.scotland.gov.uk/Topics/Justice/legal/lockerbie/correspondence/us-gov>

In respect of this information we therefore consider that Section 32(1)(a)(i) of the Freedom of Information (Scotland) Act applies, as we believe that release would 'substantially prejudice relations between the United Kingdom and any other State' – in this case the United States. While the release of Mr Megrahi was primarily a matter for the Scottish Government, this clearly relates to an issue of foreign affairs ie a reserved matter. Given the clear response from the US Government referred to above, and given the long-standing convention on respecting the confidentiality of diplomatic communications, we are of the opinion that release of this information would substantially prejudice relations between the US and UK Governments.

5. While we acknowledge there is significant public interest in information relating to such a high-profile issue as the release of Mr Megrahi, we consider this to be outweighed by the public interest in ensuring that relations between the UK and US are not damaged. The US is a key ally of the UK in many spheres eg in terms of the global economy as well as international relations. Given the importance of maintaining effective relations with the US, we therefore suggest that the public interest lies clearly in withholding release of this information.

6. 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:

Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS

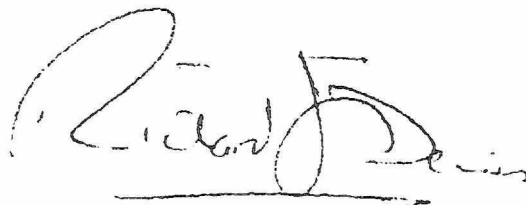
Email: enquiries@itspublicknowledge.info

Tel: 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.

7. This letter is being copied for information to the Scottish Information Commissioner.

Yours sincerely



RICHARD DENNIS