



E: allan.ferguson@gov.scot

Mr Paterson

Sent by email to: request-575965-
efa9e305@whatdotheyknow.com

Our Ref: Fol/19/01259

11 June 2019

Dear Mr Paterson

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

Thank you for your request dated 13 May 2019 under the Freedom of Information (Scotland) Act 2002 (FOISA).

Your request

You asked for “a copy of all amendments to the loan agreements with Ferguson Marine Engineering Limited and with Ferguson Marine Engineering (Holdings) Limited.”

Response to your request

We have identified three documents which would fall within the scope of your request:

1. £15m loan amendment dated 25 June 2018
2. £15m loan amendment dated 1 February 2019
3. £30m loan amendment dated 1 February 2019

Item 1 was provided to you in redacted format in our response of 3 April 2019 in relation to your request reference number FOI/18/01835 and items 2 and 3 were provided to you with a small amount of personal data redacted in our response to your request reference FOI/19/01262 issued 11 June 2019.

We consider that an exemption under section 25(1) of FOISA applies to this information as we do not have to give you information which is already reasonably accessible to you.

While our aim is to provide information whenever possible, in this instance we are unable to provide a small amount of the information you have requested because exemptions under sections 33(1)(b) (commercial interests) and section 38(1)(b) (personal data) of FOISA applies to that information. The reasons why these exemptions apply are explained in the Annex to this letter.

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 Mary McAllan, Director of Economic Development, 3rd Floor, 5 Atlantic Quay, Glasgow, G2 8LU (mary.mcallan@gov.scot).

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 appeal rights is available on the Commissioner's website at:

<http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>.

Yours sincerely

Allan Ferguson

REASONS FOR NOT PROVIDING INFORMATION

Exemptions apply, not subject to the public interest test

An exemption under section 38(1)(b) of FOISA (personal information) also applies to some of the information requested because it is personal data of a third party and disclosing it would contravene the data protection principles in Article 5(1) of the General Data Protection Regulation and in section 34(1) of the Data Protection Act 2018. This exemption is not subject to the 'public interest test', so we are not required to consider if the public interest in disclosing the information outweighs the public interest in applying the exemption.

Exemptions apply, subject to the public interest test

An exemption under section 33(1)(b) of FOISA (commercial interests) applies to some of the information requested. This exemption applies because disclosure of this particular information would, or would be likely to, prejudice the commercial interests of the company.

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. We recognise that there is a public interest in disclosing information as part of open and transparent government, and to help account for the expenditure of public money. However, there is a greater public interest in high quality policy and decision-making, and in the properly considered development and implementation. This means that Ministers and officials need to be able to consider all available options and to debate those rigorously, to fully understand their possible implications.