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**Our Ref:** VP/DLS0354/FOI.EIR.0649  
**Your Ref:**

**Date:** 10 August 2017

**FAO Des Lawton**

By email only to: [request-416534-af4bab07@whatdotheyknow.com](mailto:request-416534-af4bab07@whatdotheyknow.com)

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Dear Mr Lawton

### **Request for Review under the Freedom of Information (Scotland) Act 2002 (FOISA)**

I refer to your e-mail of 31 July 2017 requesting a formal review of the response to your Freedom of Information request dated 6 July 2017.

In terms of the guidance issued under the relevant legislation I can confirm that I was not involved with the original response to your Freedom of Information request and accordingly have looked at your request independently of any other Council officers.

### **Your Request**

I understand that your original request dated 6 July 2017 was for the following information relating to the former Greenock Academy site:

1. Total expenditure by Inverclyde Council on the site from 2014 to 23 June 2017. The total expenditure is to include all external and internal costs including all professional fees, legal fees and adjudicators' fees in relation to all contracts disputes on this contract.
2. The information at part 1 is to be broken down as follows:
  - Supplier
  - Total value of works
  - Nature of works
  - Dates of works
  - Procurement method for all works carried out
  - Ensure any works not yet invoiced by suppliers are included within the total expenditure.

### **The Decision**

I note that you were provided with a response to your request on 31 July 2017. I also note that your request was treated as a request for information under the Environmental Information (Scotland) Regulations 2004 ("the EIRs") as opposed to a request in terms of FOISA. I can confirm that this review has been undertaken in terms of the EIRs.

## **The Review**

On 31 July 2017 you wrote to the Council expressing your dissatisfaction with the way in which the Council dealt with your request for information.

I understand from your review request that, in summary, your grounds for review are that you have only asked for financial information and you disagree that the information you have requested falls within the remit of the EIRs.

## **The Review Decision**

I have now carried out a full review of the decision sent to you on 31 July 2017, taking into account your reasons for requesting a review.

You state that you have not requested any environmental information and so the EIRs do not apply to your request.

Having considered the nature and subject matter of the information which you have requested, I can confirm that I am of the view that all of the information which you have requested falls within the definition of "environmental information" for the purposes of the EIRs.

The main subject matter of your request relates to Greenock Academy and the costs incurred by the Council in relation to its demolition and the discovery of asbestos material in the building and at the site. While financial information in itself is not obviously environmental information, taking into account the context and subject matter of your request, the information you have requested does fall within the definition of "environmental information".

Specifically, the information which you have requested falls within the definition of environmental information set out in Regulation 2(1)(c) of the EIRs. Namely you have requested information on measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the state of the elements of the environment. You have asked for information relating to measures at the site at the former Greenock Academy (such as demolition and land remediation) which have a direct impact on the land use and landscape of the former Greenock Academy site. In terms of the EIRs, this is a request for environmental information.

The ultimate intention of the Council and its plans for the former Greenock Academy site is to bring about changes to the land and landscape of the former Greenock Academy site – indeed some of these changes have already been implemented. Any information relating to and connected with the demolition, land remediation, and proposed redevelopment of the former Greenock Academy site, including, but not limited to, information on costs and financing, reports, surveys, the process of decision making and who was involved in the decision making, is therefore environmental information.

I am therefore of the view that your request was treated correctly as a request for information in terms of the EIRs.

As advised in the response provided to you on 31 July 2017, Regulation 8 of the EIRs allows the Council to charge a fee. Therefore, in order to provide the information which you have requested, the fee referred to below will require to be paid to the Council in order that this information can be provided to you.

The fee chargeable for providing you with the information requested is £323.22.

The Council is fully entitled to issue a fees notice before providing the information requested and I am satisfied that the figures shown in the fee calculations in the fee notice provided to you on 31 July 2017 are a reasonable and accurate reflection of the estimated costs involved in complying with your request.



The fees have been calculated fully in accordance with the terms of the EIRs and the Council's schedule of fees for the purposes of the EIRs, which can be found at <https://www.inverclyde.gov.uk/law-and-licensing/freedom-of-information/environmental-information-regulations>.

In the event that you are now willing to pay this fee in order to continue with your request, I can advise that once the fee is received, the Council will comply with your enquiry within 20 working days or less, except to the extent that any material requested is exempt. If the Council does not receive payment within 60 working days your request will be treated as withdrawn.

You will be aware that the Council is entitled to redact and withhold information if it considers it falls within one or more of the exceptions contained within the EIRs.

If you are willing to proceed with this request by paying the fee specified then you will have a further opportunity to request a review should you be dissatisfied with the substantive response provided to you at that time.

In summary, I am satisfied that your request has been dealt with correctly and in accordance with the EIRs and that the Council has complied with your request.

As stated above, should you still require the Council to provide the information requested, to the extent that it is not subject to an exception contained within the EIRs, I look forward to receiving your payment in accordance with the fee notice sent to you on 31 July 2017.

I trust this is satisfactory for your purposes. However, if you are not satisfied with this response then you have the right to make an application within six months of receipt of this letter for a decision by The Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, KY16 9DS. Further information in respect of your right of appeal to the Scottish Information Commissioner can be found in the attached leaflet.

Yours sincerely



**Gerard Malone**  
**Head of Legal & Property Services**