



**By E-mail**

Mr Graeme MacLean

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Our ref: HS/C/53031/3503

12 May 2011

Dear Mr MacLean

**Request for Information Under The  
Freedom of Information (Scotland) Act 2002  
Human Remains Call-Off Contract**

Thank you for your e-mail of 27 April asking for a full and complete copy of the Human Remains call-off contract under the Freedom of Information (Scotland) Act 2002 (the Act).

The information you have requested is attached, subject to certain information being withheld as detailed below. You should note that the release of this information by Historic Scotland does not constitute permission for its re-use in such a way that would infringe copyright. You should obtain permission from the copyright holder before any such use.

While we have endeavoured to be as open as possible in response to your request, we have withheld detailed costing and specific methodology information in accordance with the following exemption set out under the Act:

- **Commercial Interests and the Economy**

Under section 33(1)(b), information is exempt information if its disclosure would, or would be likely to, prejudice substantially the commercial interests of any person (including a Scottish public authority). We consider that Historic Scotland's ability to secure value for money through competition would be prejudiced substantially through the release of detailed information on costings and methodologies. Release of this information would also be likely to damage the confidence that suppliers may have in Historic Scotland or weaken our position in a competitive environment by revealing market sensitive information or information of potential usefulness to competitors in a tendering exercise.



As the exemption is conditional we have applied the 'public interest test'. This means we have, in all the circumstances of this case, considered if the public interest in disclosing the information outweighs the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption.

While there is a general public interest in ensuring information is accessible, the release of detailed costing and specific methodology information will not contribute to the public interest in the effective conduct of public affairs and would hinder Historic Scotland's ability to operate in a competitive environment and obtain value for money for the public purse through genuine and effective competition. In particular, disclosure would make it less likely that companies or individuals would provide Historic Scotland with sensitive information in the future and consequently undermine our ability to fulfil our role.

In addition it would not, for example, be in the public interest to disclose information where that information would possibly be used by competitors to gain a competitive advantage. This would clearly not be in the public interest for this to happen and therefore we find that the public interest is overwhelmingly in favour of withholding the information.

In addition, we have withheld personal information in accordance with the following exemption set out under the Act:

- **Personal Information**

Under section 38(1)(b) of the Act information is exempt if it constitutes personal data relating to a third party and the disclosure of the data would breach any of the principles of the Data Protection Act 1998. In our view the disclosure of personal details would breach the first data protection principle. The first data protection principle requires that all personal data is processed fairly and lawfully. The disclosure of the personal data represented by this information would, in our view, be unfair to the individuals concerned as it would not be their expectation that the information would be published. This exemption is absolute so no public interest test had to be applied by us when arriving at this decision.

You may wish to note that the current Human Remains call-off contract will be extended to cover financial year 2011-12. Invitations to tender for a new contract opening in April 2011 will be issued during the course of the financial year 2011-12.

If you believe that our decision not to release some of the information is wrong, you do have the right to request us to review it. Your request should be made within 40 working days of receipt of this letter, and we will reply within 20 working days of receipt. If our decision is unchanged following a review and you remain dissatisfied with this, you then have the right to make a formal complaint to the Scottish Information Commissioner.

If you require a review of our decision to be carried out, please write to Chief Executive, Historic Scotland, Longmore House, Salisbury Place, Edinburgh, EH9



1SH. The review will be undertaken by staff not involved in the original decision making process.

Yours sincerely

**Donna Stewart**

Head of Business, Policy & Outreach Directorate

Attachments



