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Ric Lander
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Our Reference: 202400407130

26 April 2024

Dear Ric Lander ,

REQUEST UNDER THE ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004 (EIRs)

Thank you for your request dated 28 March 2024 under the Environmental Information (Scotland) Regulations 2004 (EIRs).

Your request

You asked for:

- *'Please provide me with any written correspondence, including emails and letters, by the First Minister (i.e. initially Nicola Sturgeon MSP but latterly Humza Yousaf MSP) relating to the existing Peterhead power station, or the proposed new station at the same site, since 1st March 2022.*

For the avoidance of doubt the existing power station in question is here:

<https://www.ssethermal.com/flexible-generation/operational/peterhead/>

The new power station in question is here:

<https://www.ssethermal.com/flexible-generation/development/peterhead-carbon-capture/>

Response to your request

As the information you have requested is 'environmental information' for the purposes of the Environmental Information (Scotland) Regulations 2004 (EIRs), we are required to deal with your request under those Regulations. We are applying the exception at section 39(2) of the Freedom of Information (Scotland) Act 2002 (FOISA), so that we do not also have to deal with your request under FOISA.

This exception 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 exception. We



have found that, on balance, the public interest lies in favour of upholding the exception, because there is no public interest in dealing with the same request under two different regimes. This is essentially a technical point and has no material effect on the outcome of your request.

While our aim is to provide information whenever possible, in this instance the Scottish Government holds no correspondence relating to your request.

Therefore, this is a formal notice under Regulation 10(4)(a) of the EIRs confirming that the Scottish Government does not hold this information.

This exception is subject to the 'public interest test'. It is important to note that although we do not hold the information and have applied Regulation 10(4)(a) – information not held, it is a requirement that we have to apply the public interest test.

Under regulation 5(1) of the EIRs, a Scottish public authority that holds environmental information must make it available when requested to do so. This duty is not absolute. In some cases, information is exempted from disclosure, under regulations 10 and 11 of the EIRs. However, all of the exceptions in regulation 10 (and parts of regulation 11) are subject to a public interest test. To clarify, even though we do not hold the information, because we are using EIRs Exception 10(4)(a) in response to your request, we are required to apply a public interest test.

Guidance can be found in the Key Concepts section under 'Information Not Held' and 'The Public Interest Test' in the attached [Scottish Information Commissioner Briefings and Guidance document](#).

Further guidance on the public interest test can also be found on page 8 of the [Scottish Information Commissioner guidance](#).

Your right to request a review

If you are unhappy with this response to your EIR request, you may ask us to carry out an internal review of the response, by emailing the Director of Environment & Forestry at director.enfor@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 in accordance with EIR as soon as possible, and not later than 20 working days from the day following the date 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 [here](#).

Yours sincerely

Kirsteen Macleod
Communications and Engagement