

Chief Executive's Office

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Our Ref : DMcV Your Ref:

Date: 11 May 2021

If phoning or calling ask for Mrs Deborah McVey



M. Stuart

BY EMAIL

Dear Sir/Madam

SOUTH AYRSHIRE COUNCIL INTERNAL REVIEW – EIR/2021/2622

I refer to previous correspondence with the Council regarding your request for Environmental Information, allocated reference EIR/2021/2622. I have carried out an Internal Review as requested by you on 6th April 2021.

It is noted that you have requested the basis for your Review be as follows, that:

- 1. The Ayrshire Roads Alliance (ARA) failed to provide all the information that it holds relating to Timber Transport Consultations (Barr) as requested by you on 8 February 2021, and**
- 2. That ARA failed to fulfil its obligations to provide all the information it holds in terms of the EIRS within statutory time scales, i.e. within 20 working days,**

I have investigated the circumstances surrounding receipt of your information request by ARA on 8th February 2021 and can confirm that it related to roads within South Ayrshire, it was passed by ARA to South Ayrshire Council's FOI Team to progress on 9th February 2021. The request was logged, as EIR/2021/2622 by my team and a formal request for the information held by Ayrshire Roads Alliance was made through our FOI administration process on that same date.

Due to an administration error, the request was not added to our FOI tracking database, which is used to issue reminders and monitor the process of all EIR requests, resulting on this occasion with no reminders being issued by my team to ARA and our holding no centralised record that the ARA documentation was not received. This then resulted in an incorrect assumption being made that the information you had requested had already been provided to you under a similar EIR request made by you around the same time.

I would like to apologise for the inconvenience caused as a result of this error. This is not the standard of service myself, my team or the Roads Alliance seek to achieve when responding to information requests. I uphold that the information held by ARA was not provided to you and that there has been a failure to make this environmental information available to you within 20 working days, as required under Regulation 5(1) of the EIRs. **The information that is held by ARA is now provided, as explained in further detail below, which I hope is of some assistance.**

In summary, I uphold your basis for Review of the Council's handling of your Environmental Information Request. The documentation provided with my review now provides the data held. It is hoped that this letter and enclosures have provided you with the information you required.

RESPONSE: EIR/2021/2622

Please now find below the Council's response, on behalf of ARA, to your information request of 8th February 2021:

Q1. Please provide details of the consultations processes which took place prior to any timber extractions being approved for the following forests near the B734 in Barr Village from Jan 2000 till Feb 2021 - Lambdoughty Forest, Pinclanty Forest, Pinmore Forest and Whiteknowes Forest

For each, please detail who was consulted from the local community (ie local community council, local residents), the dates and contents of those consultations and the agreed results of the consultations, including those listed below. In particular what agreements were agreed between all stakeholders and affected parties in relation to:

- 1) timings and numbers of timber haulage vehicles to be used for each extraction**
- 2) daily limits on numbers and frequency of vehicles**
- 3) start times, stopping times for each day of the week during extraction operations**
- 4) total number of vehicles to complete each extraction**

The Ayrshire Roads Alliance has undertaken extensive record searches of both current and historic records, in paper and electronic formats, and unfortunately does not hold the specific information you have requested within the records that are held. I have enclosed within the response documents attached emails which outline the record searches carried out, to clarify the position. The information that has been located by ARA has however enclosed herewith, which I hope is of some assistance.

There are areas within the documents that have been redacted, i.e. blacked out, to allow this response to comply with data protection legislation, in that the Council must ensure it is processing personal data held in a fair and lawful manner. The data that is redacted relates to the names and contact details of staff members who are not senior staff within the organisation and whose details are not in the public domain. Disclosure of this information under the EIRs would allow these individuals to be identified from the data that is redacted, and disclosure would result in a breach of data protection law (Article 5 of the GDPR). As such, this information is considered exempt from disclosure under Regulation 11 of the EIRs. While it is recognised the Council must be open and transparent in our sharing of Environmental Information, it must also consider how to do this whilst also meeting its obligations under other relevant data laws. It is considered a reasonable balance therefore that the documents be provided to you with the personal information redacted, meeting the public interest in ensuring our responsibilities as a Data Controller are maintained.

Q2. Furthermore, please clearly describe all enforcement powers that ARA have in relation to enforcing the agreements created during these consultations.

While no specific records are held regarding this issue, ARA have advised as follows - ARA have no legal powers to prevent or restrict road legal vehicles from using unrestricted public roads – in the event that timber transport vehicles are reported to have been using a route other than that as discussed/ agreed we would enter into discussions with representatives from the Timber Transport Forum, and ask for the cooperation of hauliers in utilising agreed routes only.

An option available to the Ayrshire Roads Alliance includes the introduction of temporary or permanent restrictions on specific routes where justification exists, such as a weight limit on a weak bridge. This would require the promotion and implementation of a Traffic Regulation Order (TRO) or Temporary Traffic Regulation Order (TTRO). The introduction of such a restriction may make the use of certain routes by some vehicles illegal, however in such instances this would be classified as a moving traffic violation which would be enforced by Police Scotland.

The ARA have no legal powers to undertake enforcement action against drivers for moving traffic violations.

I hope that this response and enclosures are of some assistance, but should you continue to remain dissatisfied with the handling of your information request I have attached details on how you can request a review from the Scottish Information Commissioner.

Yours sincerely

DEBORAH McVEY
Team Leader (Information Governance)

APPLYING TO THE SCOTTISH INFORMATION COMMISSIONER FOR A DECISION

When can you apply for a decision by the Commissioner?

If, having asked the Council to review its actions and decisions in relation to your request for information, you are either dissatisfied with the outcome of the review as notified to you by the Council, or if the Council has failed to notify you of the outcome of a review, you may apply to the Scottish Information Commissioner ("the Commissioner") for a decision as to whether the Council has dealt with your request for information in accordance with Part 1 of the Freedom of Information (Scotland) Act 2002.

How to submit an application to the Commissioner

Any application to the Commissioner must:

- Be submitted in writing (which includes an e- mail if received in a legible form) or in another permanent form (such as, for example, a recording made on audio or video tape);
- State your name and an address for correspondence;
- Give details of:
 - (a) the request for information to which the requirement for review relates;
 - (b) the reason(s) why you are dissatisfied with the Council's actions and decisions in relation to your request; and
 - (c) The reason(s) why you are dissatisfied with the outcome of your requirement for a review or with a failure to notify you of the outcome of a review.

Any application to the Commissioner must be made no later than 6 months after either:

- you receive notice from the Council of the outcome of the review, or
- The expiry of the time- limit imposed on the Council for complying with a requirement for a review.

If appropriate, the Commissioner may consider an application made after the expiry of these time-limits.

The Commissioner's Decision

The Commissioner will contact the Council and invite its comments on your application. Thereafter (if no settlement has meantime been reached), the Commissioner must reach a decision within 4 months of receiving your application, or within such other period as is reasonable. You will receive written notice of the outcome of the Commissioner's decision.

You have a right of appeal to the Court of Session against the Commissioner's decision, on a point of law only.

Where to send your application to the Commissioner

An application to the Commissioner can be submitted online at www.itspublicknowledge.info/Appeal. If you do not wish to submit your application online you can also send your appeal in writing to the Scottish Information Commissioner at Kinburn Castle, Doubledykes Road, St. Andrews, Fife KY16 9DS, Tel: 01334 464610 or by email at: enquiries@itspublicknowledge.info.