

Decision Notice



Decision 212/2010 CaL Solutions (Billingham) Ltd and Scottish Water

Whether requests are vexatious

Reference Nos: 201001081, 201001083, 201001084, 201001085, 201001086,
201001154, 201001157, 201001158, 201001230, 201001233 and 201001718
Decision Date: 20 December 2010

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Summary

CaL Solutions (Billingham) Limited (CaL) requested from Scottish Water a range of information in a number of requests. With respect to a five of the sixty requests that are under consideration in this case, Scottish Water provided substantive responses. The remaining 55 requests received no substantive response, however, and Scottish Water concluded (in terms of section 14(1) of FOISA) that it was not obliged to comply with the requests since they were vexatious. After reviews in each case, CaL remained dissatisfied and applied to the Commissioner for a decision.

During the investigation, Scottish Water indicated that it now considered section 14(1) of FOISA to be applicable to all of the requests that are the subject of this Decision Notice.

Following an investigation, the Commissioner found that Scottish Water was justified in treating CaL's requests as vexatious under section 14(1) of FOISA and was not obliged to comply with these requests. However, the Commissioner has found that Scottish Water failed to provide responses to requests 6-23, 25-32 and 57-60 within the timescale required by section 10(1) of FOISA. In so doing, it breached the requirements of Part 1 of FOISA.

Relevant statutory provisions and other sources

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) and (6) (General entitlement); 10(1) (Time for compliance); 14(1) (Vexatious or repeated requests); 16(5) (Refusal of request); 21(1), (8) and (9) (Review by Scottish Public Authority).

The full text of each of the statutory provisions cited above is reproduced in the Appendix to this decision. The Appendix forms part of this decision.

Decisions 045/2010 Cal Solutions (Billingham) Limited and Scottish Water

Decision 108/2010 Mr Mark Irvine and South Lanarkshire Council

Background

1. On various dates from 22 October 2009 to 8 June 2010, CaL wrote to Scottish Water requesting a range of operational and administrative information. These requests were made amid a series of correspondence dating back to June 2009.



2. Sixty of these information requests are under consideration in this decision. Appendix B contains a chronological log, setting out the full terms of each request, along with:
 - the relevant case reference number,
 - the date and time of the request being sent to Scottish Water,
 - the date of any response from Scottish Water (where applicable)
 - the date and time of the request for review being submitted to Scottish Water.
 - the date of Scottish Water's response and
 - the date of the relevant application for decision to the Commissioner.

Appendix B forms part of this decision.

Requests 1 - 5

3. Scottish Water failed to provide any response to information requests 1-5, or the subsequent requests for review. CaL then made an application for decision by the Commissioner, relating to the procedural failings of Scottish Water to the Commissioner on 25 January 2010. This resulted in *Decision 045/2010 Cal Solutions (Billingham) Limited and Scottish Water*, which required Scottish Water to conduct a review in relation to these requests, the outcome of which was to be the provision of a response where none had been supplied before.
4. Scottish Water provided responses to these requests in compliance with the Commissioner's decision on 12 March 2010 (with respect to request 1) and 20 May 2010 (with respect to requests 2-5). In these responses, Scottish Water variously:
 - supplied some of the information requested,
 - maintained that some of the information was not held, and
 - maintained that some of the information was exempt from disclosure
5. On 24 May 2010, CaL wrote to the Commissioner stating that it was dissatisfied with the outcome of Scottish Water's reviews in relation to requests 1 to 5 and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
6. The application was validated by establishing that CaL had made requests for information to a Scottish public authority and had applied to the Commissioner for a decision only after asking the authority to review its response to those requests. Given that a number of issues were raised by Scottish Water's responses to each of requests 1 to 5, separate case files (references 201001081-6) were opened in relation to each request. These cases were then allocated to an investigating officer.



Requests 6-60

The remaining requests for information were made on a range of dates between 22 March 2010 and 8 June 2010. Only one of these (request 24) received a substantive response from Scottish Water.

7. With respect to request 24, Scottish Water responded on 12 May 2010, providing some of the information requested but indicating that the rest was either exempt from disclosure, or had already been supplied to CaL. CaL requested a review of this decision on 13 May 2010.
8. Having received no responses to requests 7-23 and 25 – 32, CaL wrote to Scottish Water on various dates between 7 May and 28 May 2010. In each case it indicated that the information requested had not been supplied and asked Scottish Water to conduct a review and provide the information.
9. Scottish Water wrote to CaL on 31 May 2010 referring to an enclosed list of requests, and any other outstanding requests for information or requests for review. This letter apologised for Scottish Water's failure to respond to a number of these requests, and stated that this was because it was considering an appropriate response to the growing number of enquiries. Scottish Water indicated that, as the number of requests lodged had grown over the preceding months, it had reached the view that the level and nature of these meant that taking these together results in them being vexatious in terms of section 14(1) of FOISA. Scottish Water went on to indicate in this letter that in relation to any requests for which a review was outstanding, it did not intend to carry out that review.
10. Scottish Water stated that, in reaching this conclusion, it had considered the level and type of requests to impose a significant burden on Scottish Water and require a disproportionate amount of time and diversion of an unreasonable proportion of Scottish Water's financial and human resources away from its operations. Scottish Water also indicated that in light of ongoing dialogue between itself and CaL, it considered the requests to be designed to cause disruption or annoyance and in any event, taken as a whole, to have the practical effect of harassing Scottish Water.
11. While this letter provided a response relevant to each of requests 6 – 56 (all of which had had been submitted to Scottish Water prior to 31 May 2010), its significance depends on whether or not a request for review had also been submitted by that date.
12. Where no request for review had been submitted prior to the issue of the letter of 31 May 2010, the letter's effect was to give notice in line with section 16(5) that the request had been judged to be vexatious in terms of section 14(1) of FOISA. This was the effect of the letter in relation to requests 33 to 56.
13. Where a request for review had been submitted prior to 31 May 2010 (i.e. for requests 6-32), the effect of the letter of 31 May 2010 was to give notice in terms of section 21(8) and (9) of FOISA that having judged the relevant information request to be vexatious in terms of section 14(1), Scottish Water did not consider it was obliged to conduct any review of its handling of the request.



14. On 4 August 2010, CaL solutions sent a number of emails to Scottish Water requesting reviews of its handling of requests 33-56 in the light of the response provided on 31 May 2010, and also in relation to requests 57-60, which were submitted after 31 May 2010 and which had received no response,
15. Scottish Water responded to all of these requests for review in an email dated 6 August 2010. This referred to the letter of 31 May and indicated that its terms were also applicable to the subsequent requests for review.
16. In the light of this correspondence, CaL wrote to the Commissioner on the dates specified below. In each letter, CaL stated that it was dissatisfied with the outcome of Scottish Water's reviews in relation to the relevant requests and applied to the Commissioner for a decision in terms of section 47(1) of FOISA.
 - 3 June 2010 – case reference 201001154, covering requests 7-19
 - 4 June 2010 – case reference 201001157, covering requests 20-23
 - 7 June 2010 – case reference 201001158, covering request 6
 - 14 June 2010 – case reference 201001230, coverings request 24
 - 14 June 2010 – case reference 201001233, covering requests 25-32
 - 13 August 2010 – case reference 201001718, covering requests 33-60
17. In each case, the application was validated by establishing that CaL had made the relevant request(s) for information to a Scottish public authority and had applied to the Commissioner for a decision only after asking the authority to review its response to those requests. Each case was then allocated to an investigating officer.

Investigation

18. Scottish Water was notified in writing that each of the applications had been received from CaL and the investigating officer gave Scottish Water an opportunity to provide comments on each of the applications (as required by section 49(3)(a) of FOISA) and asked it to respond to specific questions. In particular, Scottish Water was asked to justify its reliance on any provisions of FOISA it considered applicable to the information requested.



19. Although Scottish Water had provided CaL with substantive responses to requests 1-5 following its reviews of these requests, it indicated during the investigation that it now considered these requests also to be vexatious in terms of section 14(1) of FOISA. The investigation with respect to these requests has therefore (as for the other requests under consideration in this decision) focussed on the question of whether Scottish Water was entitled to rely upon this provision at the time when it conducted its review.
20. Given the related nature of the cases and Scottish Water's application of section 14(1) of FOISA to all of the requests under consideration, the Commissioner found it appropriate to conjoin them for the purposes of the investigation and decision.
21. Scottish Water provided submissions to explain its reasoning when concluding that each of the requests under consideration was vexatious in terms of section 14(1) of FOISA on 23 August 2010.
22. The investigating officer contacted CaL on 7 September 2010, advising that Scottish Water had indicated that it now considered requests 1-5 also to be vexatious, and providing it with an opportunity to comment on Scottish Water's submissions with respect to its application of section 14(1) of FOISA.
23. CaL responded, providing its comments on Scottish Water's submissions on 5 November 2010.

Commissioner's analysis and findings

24. In coming to a decision on this matter, the Commissioner has considered all of the submissions made to him by both CaL and Scottish Water and is satisfied that no matter of relevance has been overlooked.

Section 14(1) – Vexatious requests

25. As noted above, in response to the Commissioner's request for submissions Scottish Water advised that it now considered section 14(1) of FOISA to be applicable in relation to each of the requests under consideration in this decision, including those for which it had previously provided a substantive response.
26. Section 14(1) of FOISA states that section 1(1) (which confers a general entitlement to access information held by a Scottish public authority) does not oblige a public authority to comply with a request for information if the request is vexatious.



Whether a request is vexatious

27. FOISA does not define the word "vexatious." However, the Commissioner's *general* approach is that a request (which may be a single request, the latest in a series of requests, or one among a large number of individual requests) may be vexatious where it would impose a significant burden on the public authority and one or more of the following conditions can be met:
- (a) it has the effect of harassing the public authority; and/or
 - (b) it does not have a serious purpose or value; and/or
 - (c) it is designed to cause disruption or annoyance to the public authority; and/or
 - (d) it would otherwise, in the opinion of a reasonable person, be considered to be manifestly unreasonable or disproportionate.
28. While the Commissioner's view is that the term "vexatious" must be applied to the request and not the requestor, he also acknowledges that the applicant's identity, and the history of their dealings with a public authority, may be relevant in considering the nature and effect of the request and surrounding circumstances. It may be reasonable, for example, for the authority to conclude that a particular request represents a continuation of a pattern of behaviour it has deemed vexatious in another context.
29. In this case, it is relevant to note that CaL's requests for information have been made within the wider context of its contractual relationship (which the Commissioner understands has now ended) and an associated ongoing commercial dispute with Scottish Water.
30. Scottish Water has maintained that the number and timing of CaL's requests has resulted in a significant burden being placed on Scottish Water due to the workload generated, and had the effect of harassing the staff involved in processing them. It indicated that in order for all of the information to be provided, a disproportionate amount of time would have to be diverted from other tasks. Scottish Water recognised its duty to be open and transparent but in this case took the view that the impact, number and timing of the requests meant that they were vexatious.
31. Scottish Water concluded that the requests created a significant burden; lacked serious purpose or value; were designed to cause serious disruption or annoyance; were manifestly unreasonable and had the effect of harassing Scottish Water.
32. In response to Scottish Water's submissions, CaL submitted that:
- the requests have a serious purpose and the questions asked were part of a serious and genuine investigative process that was being conducted on the basis of suspected financial irregularities and maladministration;
 - at no time had it submitted a frivolous question or a question that did not have a genuine purpose connected directly to the subjects under investigation;



- all requests submitted have been done so in accordance with FOISA, with no harassment, rudeness, wilful annoyance or disruption ;
 - due to the serious nature of the reasons that it sought the information, no reasonable person could view these requests as manifestly unreasonable or disproportionate.
 - it did not believe its requests to be of a significant burden on Scottish Water, given the size of the authority and the resources it has available to deal with the requests, and
 - its requests had been spread out, and in some cases weeks or months apart, and could not be viewed as disproportionately inconvenient to a large public authority.
33. Although they are not set out in full in this decision, the Commissioner has considered all of the submissions received from both Scottish Water and CaL. His consideration of whether any or all of the requests made by CaL are vexatious in terms of section 14 of FOISA has focussed on the criteria set out in paragraph 27 above.

Significant burden?

34. As recognised in *Decision 108/2010 Mr Mark Irvine and South Lanarkshire Council*, the Commissioner's general approach to the question of whether a request is vexatious is that it will require a significant burden on the public authority. This does not exclude the possibility that, in any given case, one or more of the other listed criteria may be of such overwhelming significance that it would be appropriate to consider the request vexatious in the absence of significant burden.
35. In the Commissioner's briefing on section 14 of FOISA¹, he has indicated that a request will impose a significant burden on a public authority where dealing with it would require a disproportionate amount of time and the diversion of an unreasonable proportion of its financial and human resources away from its core operations.
36. In considering significant burden, Scottish Water acknowledged that some of CaL's requests would, on their own, not meet this criterion, but when considered collectively they would impose a significant burden.
37. Scottish Water noted that the majority of CaL's requests related to Scottish Water Horizons (Horizons), a subsidiary of Scottish Water involved in non-core, commercial activities, which underwent a significant reduction in workforce and income stream since the economic downturn. Scottish Water argued that, accordingly, processing the requests would have a deeper impact on Scottish Water as many of the people who were involved with Horizons are no longer employed by Scottish Water, resulting in a greater amount of time and effort to be spent on processing CaL's requests.

¹ <http://www.itspublicknowledge.info/nmsruntime/saveasdialog.asp?IID=2513&SID=2591>



38. Scottish Water explained that a substantial amount of the information which is subject to these requests is no longer of operational use to Scottish Water and is stored in a non-indexed format and that searching through the material in order to respond to these requests would result in a disproportionate diversion of its resources. Recognising this, Scottish Water stated that it invited CaL to visit the office where the information is stored to inspect the information and meet with relevant people to discuss the issues of concern to the applicant, neither of which offers, Scottish Water stated, were taken up.
39. Scottish Water also argued that the type of requests added to the level of burden, detailing that many of the requests are interlinked with other and subsequent requests for information, which together with the number of requests, added to the burdensome processing that would be required in order to provide the information where held.
40. As noted above, CaL submitted in response to these points that it did not consider its requests to place a significant burden on Scottish Water. In reaching this conclusion, CaL took account of the size and resources available to Scottish Water and the resources it had in place for dealing with its requests. Furthermore, CaL highlighted that its requests were spread out and in some cases weeks and months apart and so, it maintained, could in no way be viewed as disproportionately inconvenient to a large public authority.
41. Scottish Water provided evidence demonstrating that extensive correspondence has passed between CaL and Scottish Water dating back to June 2009. The Commissioner notes that the correspondence relates to a relatively narrow range of issues which have a clear relation to the subject matter of the dispute between the parties. It is also clear to the Commissioner from the log of correspondence provided that the relationship between the parties has become increasingly acrimonious.
42. The Commissioner recognises that, in many cases, the vexatious nature of a request will only emerge after considering the request within its context and background. As part of that context the past dealings with the public authority can be taken into account. Even if the request appears reasonable in isolation, it may be vexatious if it demonstrates a continual pattern or behaviour or represents a significant burden when considered collectively. In this context the fact that the requests deals with the same broad subject matter as a previous request or requests may be relevant, even if they are not so similar as to invoke section 14(2) of FOISA.
43. The Commissioner accepts, from the evidence presented to him that a clear pattern of requests had developed. Furthermore he notes that the requests showed no signs of abating, latterly increasing in number and being submitted in close succession (in many cases on the same day).
44. He considers that the volume and nature of the requests made by CaL would impose a significant burden on a public authority of any size. While the scope of the requests varies considerably, the task of processing each, locating relevant information and preparing responses would be significant.



45. The fact that groups of requests were sent by CaL in rapid succession (for example, 12 of the requests under consideration were submitted on 29 March 2010 and 11 on 11 May 2010) would contribute further to the burden of responding to these requests. While Scottish Water has substantial resources at its disposal, the Commissioner considers that the task of responding to the requests under consideration in line with the requirements of Part 1 of FOISA could only have been achieved via the diversion of significant resources to the task, at the expense of Scottish Water's wider functions and responsibilities.
46. The Commissioner has considered whether the criterion of significant burden is met in relation to all of the requests under consideration, noting that the initial five requests under consideration were made in October 2009, while the remaining 55 were made from March 2010 onwards. The Commissioner considers the pattern of request-making by CaL appears to have increased significantly from March 2010, and notes that it includes further requests that are not under consideration in this case.
47. Although the requests 1 – 5 precede the escalation of CaL's request making pattern in March 2010, the Commissioner accepts that these requests, when considered together and within the wider pattern of CaL's requests, also created at that time a significant burden for Scottish Water. These five requests were made over a 10 day period, but also following a series of numerous information requests and other correspondence with Scottish Water over the preceding three months.
48. The Commissioner considers that although it may not have been the explicit intention of CaL, the effect of the requests under consideration in this case, along with CaL's wider information requests leading up to and across the period in which they were made, was to impose a significant and unreasonable burden on Scottish Water. The volume of correspondence received by Scottish Water containing the requests, and follow up questions or requests on the same theme, would have clearly taken a significant length of time, and both financial and human resources, for Scottish Water to deal with.
49. Having had regard to the timing of the requests and the range, nature and volume of the information these encompassed, the Commissioner accepts that each of these requests (when set in context as part of an ongoing series of correspondence) would impose a significant burden on Scottish Water.

Serious purpose or value?

50. Scottish Water stated that a number of the CaL's requests lacked serious purpose or value, having stemmed either from a previous disclosure of information or response or by asking for information under FOISA when it was (and is, it stated) available to CaL under the contractual arrangement between Scottish Water and CaL. Scottish Water took into account that some of the information requested was generated by CaL's own personnel and in respect of most of the information CaL's employees had access to, during the time when CaL was performing work for Scottish Water.



51. In response to this point CaL argued that its requests for information have a very serious purpose and were being requested as part of an investigative process that it was undertaking on the basis of suspected financial irregularities, maladministration and matters it considered to have harmed a business and exposed matter which have a much wider importance to the public interest and public finances.
52. The Commissioner's guidance on this issue is clear to the effect that public authorities should not reach the conclusion that the request has no serious purpose or value lightly. Even if a public authority thinks that a request lacks serious purpose or value, the applicant might, from a subjective and reasonable point of view, have a genuine desire and/or need to obtain the information. Furthermore, the applicant is not obliged to share his/her motives for seeking the information with the public authority. The inclusion of this criterion simply recognises that some requests may be so obviously lacking in serious purpose or value that they can only be seen as vexatious.
53. The Commissioner is not in any position to come to a view as to whether CaL's concerns have any foundation or not. However he is unable to accept Scottish Water's argument that CaL's requests lack any serious purpose or value. Given CaL's reasons for making its requests (as stated to the Commissioner) and the wider context of its relationship with Scottish Water, it is clear that CaL has a recognisable purpose for seeking information about the matters to which its requests relate.
54. However that does not mean that no regard need be taken as to the volume, or frequency of requests or the extent and nature of the information sought and the effect that this could have upon an authority.

Disruption, annoyance and/or harassment?

55. Scottish Water submitted that many of the requests made by CaL were intended to cause serious disruption or annoyance, given their number, nature and timing. It maintained that the requests were relentless to the extent that no reasonable person would consider that they were merely genuine requests for information.
56. It went on to maintain that the collective effect of the requests (intended or otherwise) was to harass Scottish Water. It noted that the staff who were best placed to respond to CaL's requests felt overwhelmed by them and CaL's wider allegations.
57. In addition, Scottish Water noted that CaL has submitted requests for information across Scottish Water and its group of companies despite it requesting that all requests are submitted to a single point of contact. This, it maintained had the effect of frustrating its attempts to streamline the process of handling CaL's requests.
58. Although CaL acknowledges that it has submitted over 90 requests for information over the course of a year, it highlighted that each one was made in accordance with the requirements of FOISA, with proper timescales adhered to, no harassment or questions between requests, no rudeness or misbehaviour or wilful annoyance or disruption.



59. The Commissioner acknowledges this point. However, having considered all of the above, the Commissioner accepts that the effect of the requests under consideration, whether intended or not, was to cause disruption, annoyance and harassment of Scottish Water and the staff involved in the handling of its requests.

The Commissioner's conclusion

60. Cases such as this are far from straightforward. Clearly the provisions of section 14(1) should not be used to shield an authority from probing requests. However whilst each request may have a purpose, as stated above that does not mean that no regard need be taken as to the volume, or frequency of requests or the extent and nature of the information sought and the effect that this could have upon an authority. The Commissioner, having considered all the submissions before him has concluded that each of CaL's requests, when set within the context of CaL's wider correspondence and pattern of making information requests to Scottish Water, would impose a significant burden on Scottish Water. He also accepts that, whether this was intended or not, these requests collectively had the effect of causing disruption and annoyance, and of harassing Scottish Water and the staff dealing with the requests.
61. Although the Commissioner does not accept every aspect of Scottish Water's submissions, the Commissioner is satisfied that Scottish Water was entitled to apply the terms of section 14(1) of FOISA to each of the requests under consideration in this case.
62. In reaching this conclusion the Commissioner must emphasise that it is the nature of the requests on this matter, as opposed to the requestor, which he concludes were correctly identified as vexatious. In light of this, Scottish Water must not assume that any future information requests made by CaL will automatically fall foul of section 14(1).

Comments on Scottish Water's request handling

63. The Commissioner's briefing on section 14(1) of FOISA, indicates that where an authority intends to take account of prior dealings with an applicant, it should consider whether its own actions may have contributed to the situation. For example, where an authority has provided partial, ambiguous, or inconsistent responses to requests for information.
64. Scottish Water accepts that there was a failure to respond on time, or at all, on many occasions, which may have irritated CaL. However, it states that there was no attempt to stonewall the applicant.
65. Scottish Water submitted that it has not taken the decision to treat the applicant's requests as vexatious lightly. It highlighted that it has provided a very considerable amount of information to the applicant and was trying to find a pragmatic solution to progress CaL's remaining requests but believes these attempts were rejected by CaL. Scottish Water concluded that, on balance, it did not contribute to the state of affairs regarding the requests and believed this to be the sole product of CaL's design and intent.



66. The Commissioner notes that Scottish Water failed to provide responses to many of CaL's information requests within the timescale required by section 10(1) of FOISA. This has already been noted in relation to requests 1-5 on *Decision 045/2010* (and so these breaches will not be discussed further in this decision). The Commissioner would additionally note in this decision that Scottish Water failed to provide any response to requests 6 – 23, 25 – 32 and 57-60 within the timescale required by section 10(1) of FOISA, and in so doing it breached Part 1 of FOISA.
67. The Commissioner notes also that after failing to provide a response to requests 1-5, CaL purported to provide substantive responses, before indicating that it considered these to be vexatious in terms of section 14(1) during the investigation.
68. The Commissioner considers that Scottish Water's failure to respond to earlier requests within the required timescales has been a factor which influenced CaL's increasing volume of requests. It is clear that Scottish Water's failure to provide responses was a cause of frustration that contributed to the increasingly difficult relationship between the parties to this case.
69. However, it is also clear that, by the time that the first requests under consideration in this decision were received by Scottish Water, it had already been dealing with a significant volume of correspondence and requests for information submitted by CaL over the preceding months. The Commissioner, having recognised the burden these requests had already caused by October 2009, can appreciate that Scottish Water was experiencing severe difficulties in responding to these requests within the required timescales.
70. The Commissioner considers that these difficulties could have been lessened had Scottish Water taken swifter action to recognise that the burden caused by these requests was such that the cumulative effect of CaL's requests was that section 14(1) was applicable. Scottish Water's failure to do so, or to provide any other substantive response to Scottish Water's requests has left it open to reasonable criticism, and the risk that its own actions could be perceived as being the central cause of CaL's requests becoming vexatious.
71. In all the circumstances, however, the Commissioner does not consider that Scottish Water's technical failings were the primary cause of CaL's requests being vexatious, and so the above observations do not affect his conclusions with respect to the applicability of section 14(1).

DECISION

Having found that Scottish Water was entitled to apply section 14(1) of FOISA to each request set out in Appendix B to this decision, the Commissioner has concluded that Scottish Water was not obliged to comply with these requests.

The Commissioner therefore concludes that Scottish Water acted in compliance with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) where it gave notice to CaL Solutions (Billingham) Ltd in terms of sections 16(5) or section 21(9) of FOISA.



However, the Commissioner has found that Scottish Water failed to provide responses to requests 6-23, 25-32 and 57-60 within the timescales required by section 10(1) of FOISA. In so doing, it breached the requirements of Part 1 of FOISA.

Given that Scottish Water subsequently provided responses to these requests, the Commissioner does not require any action to be taken in response to these breaches in response to this decision.

Appeal

Should either CaL Solutions (Billingham) Ltd or Scottish Water wish to appeal against this decision, there is an appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days after the date of intimation of this decision notice.

Kevin Dunion
Scottish Information Commissioner
20 December 2010



Appendix A

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002

1 General entitlement

- (1) A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority.

...

- (6) This section is subject to sections 2, 9, 12 and 14.

10 Time for compliance

- (1) Subject to subsections (2) and (3), a Scottish public authority receiving a request which requires it to comply with section 1(1) must comply promptly; and in any event by not later than the twentieth working day after-

- (a) in a case other than that mentioned in paragraph (b), the receipt by the authority of the request; or

...

14 Vexatious or repeated requests

- (1) Section 1(1) does not oblige a Scottish public authority to comply with a request for information if the request is vexatious.

...

16 Refusal of request

...

- (5) A Scottish public authority which, in relation to such a request, claims that section 14 applies must, within that time, give the applicant a notice which states that it so claims; except that the notice need not be given if-



- (a) the authority has, in relation to a previous identical or substantially similar such request, given the applicant a notice under this subsection; and
- (b) it would in all the circumstances be unreasonable to expect it to serve a further such notice in relation to the current request.

21 Review by Scottish public authority

- (1) Subject to subsection (2), a Scottish public authority receiving a requirement for review must (unless that requirement is withdrawn or is as mentioned in subsection (8)) comply promptly; and in any event by not later than the twentieth working day after receipt by it of the requirement.
- ...
- (8) Subsection (1) does not oblige a Scottish public authority to comply with a requirement for review if-
 - (a) the requirement is vexatious; or
 - (b) the request for information to which the requirement for review relates was one with which, by virtue of section 14, the authority was not obliged to comply.
- (9) Where the authority considers that paragraph (a) or (b) of subsection (8) applies, it must give the applicant who made the requirement for review notice in writing, within the time allowed by subsection (1) for complying with that requirement, that it so claims.



Appendix B

Request 1 (case reference 201001081)

“...would you provide us with the following information:

1. The recorded information held within the minutes of all board meetings of Scottish Water Horizons Ltd.
2. The recorded information held within all of the due diligence reports on acquisitions made by Scottish Water Horizons Ltd.
3. The recorded information held within the management account reports of Scottish Water Horizons Ltd.
4. The recorded information held within the Accounts of Scottish Water Horizons Ltd. Relating to current Assets and Liabilities.”

History

- Request submitted – 22 October 2009 16:29
- Request for review submitted – 19 November 2009 10:40
- Response to request for review – 12 March 2010
- Application for decision – 24 May 2010

Request 2 (case reference 201001083)

“ In accordance with the Freedom of Information Act would you please supply me with the following, 1-6 below:

1. A copy of the information contained within the administration arrangements put in place by Scottish Water for the following:
 - 1.1 Scottish Water Contracting
 - 1.2 Scottish Water Horizons Ltd
 - 1.3 Transfer costing between 1.1 and 1.2 above
2. A copy of the information contained within the governance procedures for 1.1, 1.2 and 1.3 above
3. A copy of the information contained within the report or information provided to the Ministers as to the administrative arrangements that it has put in place as a result of its corporate governance arrangements.
4. A copy of the information set in any itemised reports to the Scottish Ministers in which expenditure exceeded the thresholds set out in Schedule 1 of the Scottish Water Governance Regulations



5. Item 9 of Section 1 of The Scottish Governance Directions 2009 (Water Industry (Scotland) Act 2002) says with the exception of its licensed retail subsidiary, Business stream, these directions apply to any subsidiary formed or promoted by Scottish Water. Please provide me with a copy of all the information provided in documents relevant to the aforementioned directions in respect of Scottish Water and Scottish Water Horizons Ltd.
6. Item 5 of Section 3 of the Scottish Water Governance Directions sets out balance sheet requirements. Please provide me with a copy of the information contained to show any separate amounts falling due within 12 months for Scottish Water Horizons Ltd accounts for the financial year 2008-2009 and for 2007-2008.”

History

- Request submitted – 26 October 2009 17:15
- Request for review submitted – 22 December 2009 13:02
- Response to request for review – 20 May 2010
- Application for decision – 24 May 2010

Request 3 (case reference 201001085)

“Would you provide me with a copy of the information contained within all the documents you possess for the following please;

1. The generic and specific governance rules managing the transfer costing of work ordered by Scottish Water Horizons from Scottish Water and Scottish Water Contracting.
2. The governance rules covering the transparency of contracts that are held with Scottish Water Horizons Ltd and subcontracted to Scottish Water and Scottish Water Contracting.
3. The governance rules and information concerning Quotations between Scottish Water and Scottish Water Horizons Ltd.
4. Internal audit documents concerning the financial transactions between Scottish Water, Scottish Water Contracting and Scottish Water Horizons Ltd.
5. Contracts between the external companies and Scottish Water Horizons Ltd and Contracts between Scottish Water Horizons Ltd. And Scottish Water and Scottish Water Contracting.”

History

- Request submitted – 28 October 2009 10:11
- Request for review submitted – 26 November 2009 12:38
- Response to request for review – 20 May 2010
- Application for decision – 24 May 2010

Request 4 – (case reference 201001084)

“Would you supply me with the following information please:



A copy of the information contained in the following associated with the 2008-2009 Accounts;
Proportion of the below attributable to trading with Scottish Water Contracting;

1. Turnover
2. Cost of Sales
3. Gross Profit
4. Operating Profit
5. Non Trading Income
6. Interest Payable
7. Retained Profit
8. Stock
9. Trade Debtors
10. Tangible Fixed Assets
11. Intangible Assets
12. Miscellaneous Current Assets
13. Creditors falling within 1 Year
14. Trade Creditors"

History

- Request submitted – 28 October 2009 17:25
- Request for review submitted – 26 November 2009 12:41
- Response to request for review – 20 May 2010
- Application for decision – 24 May 2010

Request 5 (case reference 201001086)

“In the Scottish Water Horizons Limited Financial Statements 31 March 2009.

At page 11, item 11 states: The Company acquired the trading assets and liabilities of Scottish Water non core business for £3m in cash. Please provide us with a copy of all the information you possess in association with item 11

At page 19, item 22 states: The company has no contingent liabilities at the balance sheet date. Please provide a copy of all the information you possess in relation to this item.

At page 19, item 23 states; The company has taken advantage of the exemption in FRS 8. Please provide a copy of all the information you possess in relation to this item.

In association with these accounts please provide us with a copy of all the information in respect of any trade debtors or debt at risk involved or transferred to Scottish Water Horizons Ltd as part of the above referenced acquisition process.”

History



- Request submitted – 31 October 2009 17:46
- Request for review submitted – 23 December 2009 10:25
- Response to request for review – 20 May 2010
- Application for decision – 24 May 2010

Request 6 (case reference 201001158)

“Please provide us with a full list of all ex-CaL employees who were in any way involved in Alliance works who are now working for Scottish Water or SWH or for you (like [named individual]) through HR Connect or any other agency?”

History

- Request submitted – 22 March 2010 13:59
- Request for review submitted – 7 May 2010 11:09
- Response to request for review – 31 May 2010
- Application for decision – 07 June 2010

Request 7 (case reference 201001154)

25 March 2010 16:32

“Would you provide us with a copy of the information contained in the following please:

1. Scottish Water Horizons Board Minutes January to March 2010 inclusive.
2. Divisional P&L Analysis for Scottish Water Horizons Period 11 and 12 when it is available.”

History

- Request submitted – 25 March 2010 16:32
- Request for review submitted – 30 April 2010 10:46
- Response to request for review – 31 May 2010
- Application for decision – 03 June 2010

Request 8 (case reference 201001154)

“In paragraph 6 of the Scottish Water Horizons Board Minutes dated 14 January 2009, it is stated that [name] is preparing a Framework to regulate the relationship between Horizons and Scottish Water.

Please would you please provide us with a copy of the information contained in this Framework”

History



- Request submitted – 29 March 2010 14:01
- Request for review submitted – 30 April 2010 10:15
- Response to request for review – 31 May 2010
- Application for decision – 03 June 2010

Request 9 (case reference 201001154)

“In paragraph 13 on page 4 of the Scottish Water Horizons Board Minutes dated 6.02.09, it was reported that a Service Level Agreement with Scottish Water Legal and the Board approved the signature.

Would you please provide us with a copy of the information contained in this Service Level Agreement.”

History

- Request submitted – 29 March 2010 14:08
- Request for review submitted – 30 April 2010 10:17
- Response to request for review – 31 May 2010
- Application for decision – 03 June 2010

Request 10 (case reference 201001154)

“In paragraph 12 of the Scottish Water Horizons Board Minutes dated 6.02.09 Mr. Bennett presents a paper on Delegated Levels of Authority in connection with tenders.

Please would you provide us with a copy of the information contained in this paper and a copy of the information in any associated documents”

History

- Request submitted – 29 March 2010 14:14
- Request for review submitted – 30 April 2010 10:19
- Response to request for review – 31 May 2010
- Application for decision – 03 June 2010

Request 11 (case reference 201001154)

“In the Scottish Water Horizons Board Minutes dated 11.09.08 on page 3 and underlined it is stated; The SWC Governance Report on Debt Management was noted.

Please would you supply us with a copy of the information contained in the SWC Governance Report on Debt Management.”



History

- Request submitted – 29 March 2010 14:19
- Request for review submitted – 30 April 2010 10:21
- Response to request for review – 31 May 2010
- Application for decision – 03 June 2010

Request 12 (case reference 201001154)

“In Scottish Water Horizons Board Minutes dated 7.11.08 on page 3 paragraph 11 refers to a 09/10 Budget for SW.

Please would you provide us with a copy of the information contained in this report.”

History

- Request submitted – 29 March 2010 14:56
- Request for review submitted – 30 April 2010 10:23
- Response to request for review – 31 May 2010
- Application for decision – 03 June 2010

Request 13 (case reference 201001154)

“In the Scottish Water Horizons Board Minutes date 3 April 2009, on page 5 in paragraphs 11 and 13 there is a mention of two contracts respectively, draft heads and terms and thereafter draft heads of agreement and a Framework agreement with SWC. Both are associated with Fibre in Pipes.

Please provide us with a copy of the information contained in the documents.”

History

- Request submitted – 29 March 2010 16:02
- Request for review submitted – 30 April 2010 10:29
- Response to request for review – 31 May 2010
- Application for decision – 03 June 2010

Request 14 (case reference 201001154)

“In Scottish Water Horizon Board minutes dated 10.6.09, in paragraph 5 [name]hands out a paper on the restructuring model and cash flow scenarios.

Please provide us with a copy of the information contained in these papers”

History



- Request submitted – 29 March 2010 16:19
- Request for review submitted – 30 April 2010 10:32
- Response to request for review – 31 May 2010
- Application for decision – 03 June 2010

Request 15 (case reference 201001154)

“In Scottish Water Horizons Board Minutes dated 3.12.09, in page 3, paragraph 9, it is stated Internal Audit were being invited to carry out a wider Audit Report following the Report on the Ayr to Knockjader project.

Please provide us with a copy of the information contained in the Report and the Wider Report and all associated documentation.”

History

- Request submitted – 29 March 2010 16:46
- Request for review submitted – 30 April 2010 10:35
- Response to request for review – 31 May 2010
- Application for decision – 03 June 2010

Request 16 (case reference 201001154)

“In Scottish Water Horizons Board Minutes, dated 18 December 2009 page 2, paragraph 8 it states that [name and [name] met [name] and 30 Final Accounts were agreed.

Please provide us with a copy of the information contained within these accounts”

History

- Request submitted – 29 March 2010 17:03
- Request for review submitted – 30 April 2010 10:38
- Response to request for review – 31 May 2010
- Application for decision – 03 June 2010

Request 17 (case reference 201001154)

“In Scottish Water Horizon Board Minutes, dated 18.12.10, on page 4 paragraph 2 mentions a draft business plan covering rebranding, restructuring and remodelling.



Please provide us with a copy of the information in this draft business plan and any subsequent revisions or final or accepted plan.”

History

- Request submitted – 29 March 2010 17:13
- Request for review submitted – 30 April 2010 10:40
- Response to request for review – 31 May 2010
- Application for decision – 03 June 2010

Request 18 (case reference 201001154)

“Please provide us with a copy of the information contained in all the Board Minutes for Scottish Water Horizons Holdings.”

History

- Request submitted – 29 March 2010 17:20
- Request for review submitted – 30 April 2010 10:42
- Response to request for review – 31 May 2010
- Application for decision – 03 June 2010

Request 19 (case reference 201001154)

“It has come to our attention that SWC/CID work was stopped in January and February 2009.

Would you please provide us with details of this and how this occurred and what costs were incurred and on whose authority this decision was made.”

History

- Request submitted – 29 March 2010 15:02
- Request for review submitted – 30 April 2010 10:26
- Response to request for review – 31 May 2010
- Application for decision – 03 June 2010

Request 20 (case reference 201001157)

“In the Scottish Water Horizons Board Minutes dated 7 May 2009, page 4, in paragraph 1 a process to appraise tenders is approved by the Board.

Please would you provide us with a copy of the information contained in the approval process.”

History



- Request submitted – 30 March 11:20
- Request for review submitted – 04 May 2010 11:09
- Response to request for review – 31 May 2010
- Application for decision – 04 June 2010

Request 21 (case reference 201001157)

“In the Scottish Water Horizons Board Minutes, dated 10 June 2009, page 4, paragraph 11, [name] presents 3 papers.

Please would you provide us with copies of the information contained within the 3 papers.”

History

- Request submitted – 30 March 11:42
- Request for review submitted – 04 May 2010 11:11
- Response to request for review – 31 May 2010
- Application for decision – 04 June 2010

Request 22 (case reference 201001157)

“In Scottish Water Horizons Board Minutes dated 29 October 2009, on page 2, last paragraph, action by yourself, we note there is a request from an MSP regarding losses in Contracting.

Please provide us with a copy of the information contained in the response to the MSP and any copies of the information in associated documentation.”

History

- Request submitted – 30 March 19:46
- Request for review submitted – 04 May 2010 11:13
- Response to request for review – 31 May 2010
- Application for decision – 04 June 2010

Request 23 (case reference 201001157)

“ In the Scottish Water Horizon Board Minutes dated 18 December 2009, page 4, paragraph 7 we note Human Resources is having difficulty understanding why Horizons is looking for redundancies whilst Horizons continues to sub contract works and there is an issue of flexibility and [name] is to speak to Human Resources.



Please provide us with a copy of the information contained in the explanations of flexibility and the requirements to sub contract whilst redundancies are being sought. Please provide us with copies of the information contained in any associated documents.”

History

- Request submitted – 30 March 19:56
- Request for review submitted – 04 May 2010 11:15
- Response to request for review – 31 May 2010
- Application for decision – 04 June 2010

Request 24 – (case reference 201001230)

“Please provide us with a copy of the information contained in the following:

1. The report on the investigation findings provided by Dundas and Wilson to Scottish Water referred to in the letter of 30 March 2010 from [name] to CaL Solutions (Billingham) Limited
2. Any supporting information that refers to CaL solutions (Billingham) Limited in connection with these matters
3. The documentation outlining the reasons for the decision reached by Scottish Water referred to in the letter of 30 March 2010 from [name] to CaL Solutions (Billingham)Limited
4. The documentation containing details of the appropriate internal action taken referred to in the letter of 30 March 2010 from [name] to CaL Solutions (Billingham) Limited
5. The instruction from Scottish Water to Dundas and Wilson in respect of investigating serious allegations by CaL Solutions (Billingham) Limited as referred to in the letter of 17 December 2009 from [name] to CaL Solutions (Billingham) Limited
6. The Scottish Water procedural documentation including any internal audit documentation to manage the information submitted by CaL Solutions (Billingham) Limited.”

History

- Request submitted – 12 April 2010 15:52
- Response to request – 12 May 2010
- Request for review submitted – 13 May 2010 15:40
- Response to request for review – 31 May 2010
- Application for decision – 14 June 2010

Request 25 (case reference 201001233)



“In the Minute of the forty-seventh meeting of the Water Industry Commission for Scotland, held 2 June 2009 in Stirling, Item 6.2 Investment Update (CP75/09) on page 4 paragraph 2 the Commission agrees that the Chief Executive should write to Richard Ackroyd to explain its concerns with regard to the programme overspend and seek Scottish Water’s view. This in conjunction with an increase of £8.2m of investment overhang not included in Scottish Water’s March 09 business plan and not highlighted at the Joint Board Meeting 6 May 09, as described in the same item.

Please provide us with a copy of the information contained in Richard Ackroyd or Scottish Water’s response to the Chief Executive of the Water Industry Commission’s letter to Richard Ackroyd and all associated information referred to above.”

History

- Request submitted – 15 April 2010 11:53
- Request for review submitted – 18 May 2010 10:10
- Response to request for review – 31 May 2010
- Application for decision – 14 June 2010

Request 26 (case reference 201001233)

“Scheme, Dunfermline Eastern Expansion, Auto code no. 36049, appears in the Scottish Water Division A programme of works dated 23.06.09 and in the Scottish Water Annual Return dated 11.06.09 (Reference Water Industry Commission Document for Scotland). Please provide me with a copy of the information provided in the following:

1. Works order or procurement order or purchase order or contract order or contract award for all parts or sections of the above referenced works.
2. Names of the suppliers carrying out the works
3. All internal memoranda and minutes of whatsoever format relating to the above referenced scheme or sections of the above referenced scheme.”

History

- Request submitted – 18 April 2010 16:22
- Request for review submitted – 21 May 2010 11:07
- Response to request for review – 31 May 2010
- Application for decision – 14 June 2010

Request 27 (case reference 201001233)

“The Kilmarnock Standard News carried an article 19.03.10 titled Kilmarnock Firm in Scottish Water Contract Row.



The article concerning [name] , Scottish Water Delivery Manager, [name] and his company MUS states accusations and says, Scottish Water are conducting an internal investigation.

Please provide us with copies of the information contained in the following:

1. Full disclosure of the internal investigation
2. Full disclosure of the process used to carry out the investigation
3. Full disclosure of any interim and final actions taken by Scottish Water
4. Full disclosure of any related or associated investigations
5. Full disclosure of any proposed actions in relation to the investigation
6. Full disclosure of any third party involvement in the investigations
7. All minutes of meeting held in association with the investigation or related to the investigation.”

History

- Request submitted – 21 April 2010 16:48
- Request for review submitted – 25 May 2010 10:55
- Response to request for review – 31 May 2010
- Application for decision – 14 June 2010

Request 28 (case reference 201001233)

“The Kilmarnock Standard carried an article 19.03.10 titled Kilmarnock Firm in Scottish Water Contract Row.

The article, regarding [name], Scottish Water Delivery Manager, [name] and his company MUS, says Scottish Water are committed to ethical and transparent procurement and any allegation would be subject to stringent investigation.

Please provide use with a copy of the information contained in the following:

Full disclosure of the investigation carried out by Scottish Water into the procurement of services using MUS”

History

- Request submitted – 21 April 2010 16:57
- Request for review submitted – 25 May 2010 11:00
- Response to request for review – 31 May 2010
- Application for decision – 14 June 2010

Request 29 (case reference 201001233)



“Please provide us with a copy of the information contained in the following:

1. All information relating to the approval of MUS as a supplier to Scottish Water.
2. All information relating to the approval of MUS as a supplier to Scottish Water Horizons Ltd
3. A complete list of contracts between Scottish Water Horizons Ltd. and MUS.
4. All supporting documentation in relation to 1-3 above.”

History

- Request submitted – 22 April 2010 11:49
- Request for review submitted – 26 May 2010 10:30
- Response to request for review – 31 May 2010
- Application for decision – 14 June 2010

Request 30 (case reference 201001233)

“ In the Scottish Water Board Meeting minutes 27 January 2010 at page 2, item 3 Action 1 [name]; the strategy for Scottish Water Horizons Future Strategy is to be reported to the March Board. The March Board having past, please provide us with a copy of the information contained in this report to the Board.”

History

- Request submitted – 26 April 2010 14:02
- Request for review submitted – 28 May 2010 10:42
- Response to request for review – 31 May 2010
- Application for decision – 14 June 2010

Request 31 (case reference 201001233)

“Please provide us with a copy of all the information contained in the following;

1. All contracts between Scottish Water and company no.SC280385 IUS Innovative Utility Service Ltd.
2. All contracts between Scottish Water Horizons and company no.SC280385 IUS Innovative Utility Services Ltd.
3. All documents associated with the qualification of company no.SC280385 in respect of 1 and 2 above.
4. All documentation associated with the change of name of the company no. SC280385 in respect of 1, 2 and 3 above. “

History



- Request submitted – 26 April 2010 14:10
- Request for review submitted – 28 May 2010 10:43
- Response to request for review – 31 May 2010
- Application for decision – 14 June 2010

Request 32 (case reference 201001233)

“We wish to know the following;

1. Does Scottish Water or Scottish Water Horizons procure anything from the following companies;
 - 1.1 Company no. 36048 Multi Utilities Ltd.
 - 1.2 Company no. SC316459 Countrywide Civil Engineering Ltd
 - 1.3 Company no. 07031585 Hollocks Placements Ltd

Have any of the three companies mentioned above qualified to work for Scottish Water or Scottish Water Horizons Ltd. As a sub contractor or supplier or sub supplier in any way.

Please provide us with the answers to the above questions and a copy of any and all information in respect of the Scottish Water, Scottish Water Horizons and the three companies in 1.1, 1.2 and 1.3 above. “

History

- Request submitted – 26 April 2010 14:36
- Request for review submitted – 28 May 2010 10:46
- Response to request for review – 31 May 2010
- Application for decision – 14 June 2010

Request 33 (case reference 201001718)

“ In the Scottish water Horizons Board Minutes 9 June 2008,item 4 [name] was asked to investigate and report on the position regarding developer agreements with Persimmons and Scotia Gas.

We request a copy of the information contained within the report. This request is made in the first instance through the contract and secondly in accordance with the Freedom of Information Act”

History

- Request submitted - 11 May 2010 11:37
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 13:39
- Response to request for review – 06 August 2010



- Application for decision – 13 August 2010

Request 34 (case reference 201001718)

“The Scottish Water Horizons Board Minutes 9 June 2009, item 4, [name] is proposing to stop the metering contract as it is losing money. There were 16 people involved who may need to be TUPE'd

Please explain the rationale used by Scottish Water Horizons to consider TUPE in this instance and please provide us with a copy of the information contained within all the documents to support this decision and facilitate this exercise.

The Scottish Water Horizon Board Minutes 18 December 2009, page 4 it is noted that a number of ex CaL staff have been taken on.

Please explain the rationale used by Scottish Water/Scottish Water Horizons not to apply TUPE in this instance and please provide us with a copy of all information to support this decision.

This request for Information is made in accordance with the Alliance Contract and also in accordance with the Freedom of Information (Scotland) Act.”

History

- Request submitted - 11 May 2010 11:54
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 13:41
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 35 (case reference 201001718)

“The Scottish Water Horizons Board Minutes 11 September 2009, item 5 the board considered the opening balance sheet.

Please provide us with a copy of the information contained within the opening balance sheet.

The same minute notes the opening balance sheet awaits ratification from Scottish Water.

Please provide us with a copy of the information contained in this ratification”

History

- Request submitted - 11 May 2010 12.07
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 13:43
- Response to request for review – 06 August 2010



- Application for decision – 13 August 2010

Request 36 – (case reference 201001718)

“The Scottish Water Board Minutes 11 September 2008 page 3 item 6 a radical restructuring was being considered.

Please provide us with the details of this restructuring and a copy of the information contained within all the documentation relating to this.”

History

- Request submitted - 11 May 2010 12.23
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 13:46
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 37 (case reference 201001718)

“ In the Scottish Water Horizons Board Minutes 15 October 2008 Action 5 page 2, considering staffing levels within Scottish Water Contracting. [Name] was expected to complete his report by 31 March. And progress was being made and options were being explored.

Please provide us with a copy of the information contained in [name]’s report and explain please the options referenced above and provide us with a copy of all the information related to these options.”

History

- Request submitted - 11 May 2010 12.32
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 13:48
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 38 (case reference 201001718)

“The Scottish Water horizon Board Minutes 6 February 2009, page 3 item 5 says Scottish Water Horizons was carrying accrued income of £1.4m which was still to be recharged to Scottish Water Core Business, and that [name] agreed to prepare a short paper explaining the position and that the matter would be raised at the Scottish Water Horizons Holdings Board Meeting.



Please provide a copy of the information contained within the report referenced above and the holdings board minute referred to above and a copy of the information contained in the supporting information.”

History

- Request submitted - 11 May 2010 14:12
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 13:50
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 39 (case reference 201001718)

“ In the Scottish Water Horizons Board Minutes 6 February 2009, page 3, item 5 [name] confirmed that work will stop in big jobs were payment is not received from CID.

1. Please explain the Authority given for this statement.
2. Please reference the contract provision for this to take place.
3. Please provide a copy of the information contained in the list of jobs this would have and did apply to.

Please provide a copy of the information contained in all information relating to this decision by Horizons and information relating to the effect of this decision.

This information is required in the first instance in accordance with the contract and in accordance subsequently with the Freedom of Information (Scotland) Act.”

History

- Request submitted - 11 May 2010 14:27
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 13:53
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 40 (case reference 201001718)

On page 3 of the Scottish Water Horizons Ltd. Board Minutes 31 July 2009, in item 5 [name] is forecasting a turnover of £20m.

Please provide us with a copy of the information contained in the forecast for this statement and a copy of the information relating to a list of schemes making up this £20ml.”



History

- Request submitted - 11 May 2010 15:37
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 14:07
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 41 (case reference 201001718)

“In the Scottish Water Horizons Ltd. Board Minutes 18 December 2009, page 2 it says Leith Docks is now progressing.

Please inform us who is carrying out Leith Docks including any contracts or sub contracts to external suppliers and please provide us with a copy of the information contained in the programme for this work”

History

- Request submitted - 11 May 2010 15:55
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 14:03
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 42 (case reference 201001718)

“In the Scottish Water Horizon Ltd Board Minutes 18 December 2009, it states Leith docks has started.

Please provide us with the following:

1. A copy of any sub contracts for this works.
2. A programme for the works.”

History

- Request submitted - 11 May 2010 16:00
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 14:13
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010



Request 43 (case reference 201001718)

“There is currently an investigation being carried out by the internal audit team in respect of [name] and MUS Multi Utility services Ltd Company no. SC280385 (The company is now known as IUS Innovative Services Ltd.) – Reference letter [name] to CaL Solutions (Billingham) Ltd. 12 May 2010 item 4.

Please tell us the date the internal audit was commenced.”

History

- Request submitted - 11 May 2010 16:22
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 14:17
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 44 (case reference 201001718)

“Please provide us with copies of the information contained in documents referred to in our e mail 2 October 2009

This information was requested through the Alliance contract and has not been provided. We now make this application in accordance with the Freedom of Information (Scotland) Act.

Present as used below now refers to the date of this email 17.05.10”

Enclosed email of 2 October 2009:

“Please provide us with copies of

1. Scottish Water Contracting Divisional Reports – Division C Periods 1-12 2008-2009
2. Scottish Water Contracting Divisional Reports – Division C Periods 1 – Present 2009-2010
3. Breakdown and detail of the allocation, in a transparent manner, of the non project specific costs for Division C at Divisional level for 2008 to present
4. Breakdown of adjustments, In a transparent manner, made to 2008-2009 for Division C self lay income to account for previous debt or adjustments to accruals within the P and L relating to periods outside 2008-2009
5. Breakdown of any adjustments, in a transparent manner, made to 2009 – present P and L for Division C or any subsequent replacement of Division C or noncore activity.
6. Details of all transfer costing between Division C, noncore and Horizons 2008-present.”

History

- Request submitted - 17 May 2010 11:38



- Response – 31 May 2010
- Request for review submitted – 04 August 2010 14:19
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 45 (case reference 201001718)

“We request a copy of the information contained in the information and documents referred to in the emails below. Your failure to provide this information in accordance with the Alliance Contract is noted and we now make this request in accordance with the Freedom of Information (Scotland) Act”

Enclosed email of 23 March 2010:

“Please provide us with rebate information for 2009-2010 (to date).

...

[P]lease, provide us with all the financial information relating to these matters for 2009-10.”

History

- Request submitted - 17 May 2010 11:51
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 14:22
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 46 (case reference 201001718)

“You have not provided the information requested below in accordance with the Alliance Contract.

Please provide us with copies of the information requested in our e mail 2 October 2009. This information is requested in accordance with the Freedom of Information (Scotland) Act”

enclosed email is that of 2 October 2009, set out in request 44

History

- Request submitted - 17 May 2010 15:12
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 14:24
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010



Request 47 (case reference 201001718)

“Scottish Water used two Alliance Contracts with CaL Solutions (Billingham) Ltd. From 1 April 2007 that operated a profit share mechanism.

Please provide us with a copy of the information contained in the following:

1. The profit share from the Alliance Contract Allocated to Scottish Water for the 5 financial years ends 31 March 2006-31 March 2010.
2. The profit share from the Alliance Contract Allocated to Scottish Water Horizons Ltd. For the 3 financial years 31 March 2008 – 31 March 2010.
3. The information related to 1 and 2 above supplied to both companies auditors in respect of the profit shares.
4. All supporting documentation to show or prove the validity the figures in 1,2 and 3 above.

This request for information is made in accordance with the contract between Scottish Water and Cal Solutions (Billingham) Ltd and in the second instance in accordance with the Freedom of Information (Scotland) Act.”

History

- Request submitted - 21 May 2010 13:57
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 14:44
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 48 (case reference 201001718)

Scottish Water and Scottish Water Horizons Ltd. Use a contractor company no. SC280385 please provide us with a copy of all the information contained in all the documents related to their qualification as an approved supplier for Scottish Water and Scottish Water Horizons Ltd.”

History

- Request submitted - 21 May 2010 14:05
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 14:46
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 49 (case reference 201001718)



“The Water Industry Commission for Scotland, Annual Return 2009 Table G – Investment Plan sets out by individual auto codes and project titles, schemes carried out by Scottish Water.

Columns 18-21 inclusive in table G set out actual expenditure pre 2006-2007 to 2008-2009 inclusive. Column 22 sets out proposed expenditures for 2009-2010.

Scottish Water used 2 Alliance Contracts with CaL Solutions (Billingham) Ltd to complete and carry out a number of these schemes.

For every scheme included in Table G of the Annual Report 2009 that involved work carried out using the Alliance Contracts, referred to in this email, please provide a copy of the information contained in the following:

All figures, scheme by scheme, project title by project title, broken down by auto codes and showing all build ups to final figures provided by Scottish Water to the Water Industry Commissioner to facilitate the compilation of columns 18-22 inclusive of Table G referred to above.”

History

- Request submitted - 21 May 2010 14:35
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 14:49
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 50 (case reference 201001718)

“In a letter from Scottish Water to CaL Solutions (Billingham) Ltd. Signed by [name] dated 20 May 2010 referenced Freedom of Information (otherwise unreferenced), it states:

Scottish Water Horizons Ltd doesn't trade with Scottish Water Contracting as it is part Scottish Water Horizons.

Please confirm that this is the case (or otherwise) and please provide us with a copy of all the information contained in the documentation to support the statement that Scottish Water Contracting is part of Scottish Water Horizons Ltd. (or otherwise).”

History

- Request submitted - 21 May 2010 16:49
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 14:51
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010



Request 51 (case reference 201001718)

"We are in receipt of a letter from you dated 20 May 2010 referenced Freedom of Information but otherwise unreferenced.

You state that Scottish Water Contracting is part of Scottish Water Horizons Ltd.

Please provide us with a copy of all the information contained in the documentation to support this statement"

History

- Request submitted - 21 May 2010 16:56
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 14:53
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 52 (case reference 201001718)

"In a letter from [name] to Cal Solutions (Billingham) Ltd. Dated 15 December 2009, [name] says the Allegations which have been made of impropriety on the part of Scottish Water personnel in relation to the Framework Agreements are, I am advised disputes which require to be resolved in accordance with the provisions of the Agreement.

Please provide us with a copy of the information contained in the advice given to Richard Ackroyd referred to above."

History

- Request submitted - 25 May 2010 11:21
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 15:02
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 53 (case reference 201001718)

"Please can you tell me when was the position you refer to verbally reported to the board" [refers to attached string of emails]

History

- Request submitted - 25 May 2010 17:20
- Response – 31 May 2010



- Request for review submitted – 04 August 2010 15:05
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 54 (case reference 201001718)

“The Scottish water Horizons Limited Board Minutes 23 April 2008 under item 5 Compliance Issues it was agreed to adopt a Publication Scheme under the Freedom of Information Act and it was agreed to complete and submit the scheme to the FOI Commissioner for approval.

Please would you provide us with a copy of the information contained in the above referenced document.”

History

- Request submitted - 25 May 2010 18:12
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 15:06
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 55 (case reference 201001718)

“In the Scottish Water Horizons Ltd. Board Minutes 23 April 2008, under policies and procedure it was agreed the company adopt Scottish Water Policies and Procedures including Financial Delegated Levels of Authority and any amendments to these policies would be completed within the Scottish Water Governance Framework.

Please provide us with a copy of the information held within the above referenced documentation and a copy of all the information contained within the supporting information. “

History

- Request submitted - 25 May 2010 18:20
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 15:07
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 56 (case reference 201001718)



“Scottish Water’s Board Minutes for March April and May have not appeared on the Scottish Water website.

Pleas provide us with a copy of the information contained within the three Board Meeting Minutes referred to above.”

History

- Request submitted - 26 May 2010 16:09
- Response – 31 May 2010
- Request for review submitted – 04 August 2010 15:09
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 57 (case reference 201001718)

“Please provide us with a copy of the information contained in the following:

1. Directors Liability – Subsidiary Company Explanatory Notes re. Directors Responsibilities
2. D&W Directors Conflict of Interest Explanatory Notes re Directors Responsibilities

This information was provided to Strategic Management Consultants Ltd. for a report on RAR 5 for the Water Industry Commissioner by Scottish Waters Regulation Tea.”

History

- Request submitted - 7 June 2010 15:19
- Request for review submitted – 04 August 2010 17:45
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 58 (case reference 201001718)

“The following information was provided by Scottish Water to strategic Management Consultants Ltd, for a report the Water Industry Commissioner (Provided by SW Regulation, included in section 8 Appendix 4 - Information provided in Transfer Pricing in the Scottish Water Industry: Scottish Water’s compliance with Regulatory Accounting Rule 5):

1. **Analysis of SW Horizons Opening Balance Sheet**
2. **Diagrams illustrating the changes in systems arising from the introduction of SW Horizons**

Please provide us with a copy of the information contained in the above items 1 and 2 referenced.”



History

- Request submitted - 7 June 2010 15:30
- Request for review submitted – 04 August 2010 17:46
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 59 (case reference 201001718)

“The following information was provided to the Strategic Management Consultants by Scottish Water Regulation Team (Reference Report for water Industry Commissioner for Scotland. Transfer pricing in the Scottish Water Industry: Scottish Water’s compliance with the Regulatory Accounting Rule 5, section 8 Appendix 4 – Information provided):

Accrued income project analysis.

Please provide us with a copy of the information contained in the following:

Accrued income project analysis 2006-2007

Accrued income project analysis 2007- 2008

Accrued income project analysis 2008- 2009

Accrued income project analysis 2009-2010

This request is made in accordance with the Alliance Contract and secondly in accordance with the Freedom of Information (Scotland) Act. “

History

- Request submitted - 7 June 2010 15:43
- Request for review submitted – 04 August 2010 17:47
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010

Request 60 (case reference 201001718)

“Please supply us with a copy of the information contained in the documents referenced and referred to below.

This request for information is made in accordance with the Freedom of Information (Scotland) Act.”

Enclosed email of 24 March 2010:



“You will be aware that we have not received any financial information beyond period 6 (Sept 2009) and period 6 has no back up information.

please supply the information as requested on 11th March 2010.”

enclosed email of 11 March 2010:

“please provide us with all financial information for this current year to date.”

History

- Request submitted - 8 June 2010 12:31
- Request for review submitted – 04 August 2010 17:50
- Response to request for review – 06 August 2010
- Application for decision – 13 August 2010