

redacted 11(2)

Your ref:

Our ref:
FOI/19/011280

Date:
7 June 2019

Dear ^{redacted 11(2)}

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

Your request

Thank you for your request dated 13 May under the Environmental Information (Scotland) Regulations 2004 (EIRs) for the following information:

- “1. I would like to know as to why Transport Scotland decided to install LED street lights.
2. I would like to know when the decision was made.
3. I would like to know how much money it is going to take
4. I would like to know how long it is going to take”

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 exemption 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 exemption 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 exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption, 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.

Response to your request

I have numbered our response for ease of reference.

1 and 2. While our aim is to provide information whenever possible, under the exception at regulation 10(4)(b) of the EIRs a public authority may refuse a request for information if it is ‘manifestly unreasonable’. The Scottish Information Commissioner’s guidance on the regulation 10(4)(b) exception at: <http://www.itspublicknowledge.info/Law/EIRs/EIRsExceptions.aspx> says that in deciding whether a request is ‘manifestly unreasonable’, “The Commissioner will take into

account the same kinds of considerations as when reaching a decision as to whether a request is vexatious under FOISA”.

The Commissioner's guidance on vexatious requests under FOISA at:

http://www.itspublicknowledge.info/Law/FOISA-EIRsGuidance/Section14/Vexatious_or_repeated_requests.aspx says that “The following factors will be relevant to a finding that a request (which may be the latest in a series of requests or other related correspondence) is vexatious:

- (i) it would impose a significant burden on the public authority;
- (ii) it does not have a serious purpose or value;
- (iii) it is designed to cause disruption or annoyance to the public authority;
- (iv) it has the effect of harassing the public authority;
- (v) it would otherwise, in the opinion of a reasonable person, be considered to be manifestly unreasonable or disproportionate.”

We consider that (iii) and (iv) of these factors apply to your request. Transport Scotland has replied to these questions in FOI response FOI/19/00033 and FOI/19/01214. For these reasons, we consider that your request is manifestly unreasonable and so we are refusing it under regulation 10(4)(b).

As the exception is conditional we have applied the ‘public interest test’. This means we have, in all the circumstances of this case, considered if the public interest in disclosing the information outweighs the public interest in applying the exception. We have found that, on balance, the public interest lies in favour of upholding the exception. While we recognise that there may be some public interest in information about why and when Transport Scotland decided to instal LED lights on the trunk road network this is outweighed by the public interest in ensuring the efficient and effective use of public resources by not complying with information requests which are manifestly unreasonable.

3. Estimated costs of installing LED lights across the Trunk Road Network is £25.1m, (as of March 2015).

4. There is no confirmed programme to complete the conversion of all street lights to LED technology on the Trunk Road Network, however by the end of the current financial year we expect in excess of 90% of road lighting assets on the Trunk Road Network to be upgraded with new LED technology.

I hope this is helpful, but if you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to Roy Brannen, Chief Executive at the above address or alternatively email chiefexecutive@transport.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 and tell you the result, within 20 working days from the date when 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 at:

<http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>.

Yours sincerely

