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If calling please ask for

Mr K McKaig on (01382) 434577

Our Ref	KMcK/AG
Your Ref	
Date	22 January 2013

Dear Madam

**FREEDOM OF INFORMATION (SCOTLAND) ACT 2002**

**OUR REFERENCE: 20120704004**

**APPEAL TO THE SCOTTISH INFORMATION COMMISSIONER**

I refer to the above and to my letter of 22 November 2012. Dundee City Council have decided to reconsider its position regarding the information which it has decided not to provide to you.

We therefore enclose herewith a large number of papers.

I would advise, however, that Section 36(1) of the Freedom of Information (Scotland) Act 2002 advises that information is exempt and does not have to be disclosed if it is information in respect of which a claim to confidentiality of communications can be maintained in legal proceedings.

The opinion of an in-house solicitor is information in respect of which a claim to confidentiality of communications could be maintained in legal proceedings because such an opinion attracts legal advice privilege and litigation privilege. Some of the information you have requested is legal advice from an in-house solicitor is therefore exempt information.

While Section 36(1) is subject to the public interest test, this Council has long recognised the strong public interest in maintaining the right to confidentiality of communications between legal advisers, including in-house legal advisers and their clients on administration of justice grounds and therefore takes the view that the public interest in disclosing information is outweighed by the public interest in maintaining the exemption.

In addition, under Section 30(b)(i) and Section 30(b)(ii) and Section 30(c) of the Freedom of Information (Scotland) Act 2002, information is exempt if it would be likely to inhibit substantially the free and frank provision of advice or the free and frank exchange of views for the purposes of deliberation; or would otherwise be likely to prejudice substantially the effective conduct of public affairs.

If you have trouble understanding English please contact the address below

اگر آپ کو انگریزی سمجھنے میں مشکل پیش آتی ہے تو برائے مہربانی نیچے درج پتے پر رابطہ کریں:

ਜੇਕਰ ਤੁਹਾਨੂੰ ਇੰਗلیش سمجھنے میں مشکل پیش آتی ہے تو براہ کرم نیچے دیئے گئے پتے پر رابطہ کریں:

Jeżeli masz trudności w zrozumieniu języka angielskiego, skontaktuj się na poniżej podany adres:

如果你對英語理解有困難，請聯絡以下地址：

Dundee Translation & Interpretation Service, Mitchell Street Centre, Mitchell Street, Dundee DD2 2LJ.  
Tel: 01382 435825 Fax: 01382 435805

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It is the Council's view that when considering whether external funders are complying with certain standards, in particular, the delicate and sensitive area in which Eighteen and Under operates, there requires to be the ability of the Council to have discussions which are not tempered by the requirement to publish these discussions.

The ability to have a frank discussion when considering these matters which are sometimes matters of detailed nuance, is vital to the Council's ability to carry out its function in this area properly.

While Section 30 is subject to the public interest test, the Council takes the view that there is a strong public interest in maintaining effective conduct of public affairs in this area and I therefore take the view that the public interest in disclosing the information is outweighed by the public interest in maintaining the exemption.

As far as information prior to June 2009 is concerned, you made a Freedom of Information request at the time and a response was issued to your solicitors, MacRoberts. Albeit that that response did not disclose all the information, you did not ask for a review of this decision or appeal it. Given at the time you were represented by MacRoberts, you certainly had the opportunity to question this matter at the time.

Yours faithfully



Legal Manager

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