

13/06/2007

Mr LK Shields
LK Shields Solicitors
39/40 Upper Mount Street
Dublin 2
Co.Dublin
Ireland

FOI/0051/2007

Dear Mr Shields,

I refer to the request you have made under the Freedom of Information Act for access to records held by this Department in connection with All correspondence between DCMNR and EC re the safety tonnage proceedings which were adjudicated upon by the European Court of First Instance..

I wish to advise you that it is my decision that this request be refused on the following grounds:

1. Section 10(1)(c) of the 1997 Act states that a head the Minister in this instance may refuse a request for information where:

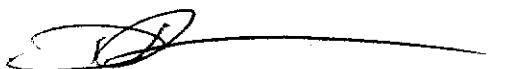
“in the opinion of the head, granting the request would, by reason of the number or nature of the records concerned or the nature of the information concerned, require the retrieval and examination of such number of records or an examination of such kind of the records concerned as to cause a substantial and unreasonable interference with or disruption of the other work of the public body concerned,”;

2. The request, which specifies that you wish to be provided with access to any and all notes, memoranda and correspondence between the Department and the European Commission regarding the safety tonnage proceedings which were adjudicated upon by the European Court of First Instance, since those proceedings were instituted covers such a wide ranging number of files and records that in my opinion as decision maker would involve at a conservative estimate at least 100 hours of research to process.
3. Also, this estimate does not take account of the number of volumes associated with individual named files or reports (which would likely add significantly to the number of records to be examined) – this would, however, add significantly to the quantity involved;
4. The number of records relevant to your request (incl. memos, factual information, letters, reports, etc.) requiring to be examined/ assessed is, therefore, not possible to quantify in full;
5. The nature of the records requested are such as to be, in many instances, of a highly complex nature, which would necessitate careful scrutiny prior to any decision being made as to their release;
6. As you are no doubt aware, the Department would, of course, also be obliged to contact third parties referred to in specific documents, prior to a decision being taken by me on the granting of access to these documents;
7. It would not be possible, therefore, given the volume of information requested, to process your request within the standard 4 weeks (or 8 weeks, were we to request an extension) normally taken to process FOI requests;

8. Indeed, between search and retrieval of the considerable volume of relevant documentation / files (including documents kept in storage), assessment of same, recording the nature of each document, checks with third parties as to whether particular documents can / should be released, photocopying and arranging for transport, the time it would take to process this request (not allowing for other work) is impossible to calculate;
9. The proposal that such a voluminous task be undertaken must, necessarily, be balanced against the other work carried out by the Divisions concerned;
10. The nature of the request, as submitted, is such that it would impose a substantial and unreasonable administrative interference and disruption on the work of the relevant Divisions (and, by extension, the Department) were I to agree to the processing of this request;
11. In conjunction with the full review of all documentation associated with the request, as well as all other associated administrative tasks (e.g. phone calls and letters to third parties seeking their permission to release certain documents and the photocopying of same), there would be a manifestly disproportionate negative impact on the day-to-day work of the Department;
12. It is also the case that an opportunity has been afforded to you to amend the nature of your request such that it does not fall into the category outlined in 1. Specifically, I refer to my colleague's telephone conversation of 28th May. To date, no response has been forthcoming with regard to this offer;
13. Given the opportunity provided to you to re-examine the details of your request further, the Department has made all reasonable steps to facilitate your requirements with regard to this request;
14. The Department has, therefore, met its obligations under section 10(2) of the Act with regard to the provision of assistance to amend your request.
15. However, you may wish to note that, were the Department to pursue your request, the associated costs (€20.95 per hour devoted to the task of search and retrieval, €0.04 per sheet of photocopying) to be recouped from you / your client would be significant.

You may appeal this decision by writing to the Freedom of Information Unit, Elm House, Earlsvale, Cavan, seeking internal review of the matter. Please note that a fee applies for such an appeal. The level of this has been set at €75. Payment should be made by way of bank draft, money order, postal order or personal cheque, and made payable to the Department of Communications, Marine and Natural Resources. Please refer to this decision in your letter. You should make your appeal within 4 weeks from the date of this notification, however, the making of a late appeal may be permitted in appropriate circumstances. *A week is defined in the Act to mean 5 consecutive weekdays, excluding Saturdays and public holidays (Sundays are also excluded, as they are not weekdays).* Any appeal lodged will involve a complete reconsideration of the matter by a more senior member of the staff of this Department, and the decision will be communicated to you within 3 weeks.

Yours sincerely,



Dermot Donegan
Higher Executive Officer
Seafisheries Administration Division
PH: 01 - 6782000



Department of Communications, Marine and Natural Resources
Roinn Cumarsáide, Mara agus Acmhainní Nádirtha

25th May, 2007

LK Shields Solicitors
39/40 Upper Mount Street
Dublin 2

FOI/0051/2007

~~FOI/0052/2007~~

Dear Mr. Shields,

I refer to the Freedom of Information request received in this office on 17th May, 2007 along with the associated fee.

The officer dealing with part 1 of your request will be Mr. Kevin Moriarty, Seafood Policy and Development Division, Department of Communications, Marine & Natural Resources, Clonakilty, Co. Cork. He can be contacted at 01 678 3332. The officer dealing with part 2 of your request will be Mr. Dermot Donegan, Sea Fisheries Administration, Leeson Lane, Dublin 2. He can be contacted at 01 678 2474

A final decision on your request will normally be sent to you within 4 weeks of receipt of your request. This means that you can expect to receive your decision by the 15th June, 2007.

If you have not heard from us when the time allocated has expired, you are automatically entitled to appeal to the Department for a review of the matter. This review proceeds on the legal basis that the initial request is considered to be refused once the specified time for responding to it has expired.

You should also be aware that you are entitled to a review of the decision if your request is refused, or if you are for any reason dissatisfied with the outcome of your request. The review is a full and new examination of the matter carried out by a more senior member of staff of this Department. In the event that you need to make an appeal, you can do so by writing to Mr. Frank O'Brien, FOI Unit, Department of Communications, Marine & Natural Resources, Elm House, Earlsvale Road, Co. Cavan. Please note that there is a charge for all appeals of FOI requests. This charge is currently €75.00. A reduced fee of €25.00 applies if you are the holder of a Medical Card.

Please note that the Department of Communications, Marine & Natural Resources has a policy of posting a summary of your request, your name and address and the subsequent reply on the Department's website for reference purposes.

Yours sincerely,

Mary Rabbitte
FOI Unit
PH: 01 6782903

LK SHIELDS
S O L I C I T O R S

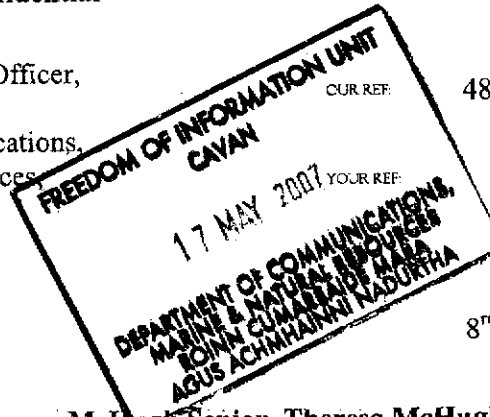
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Private Personal & Confidential

Ms Nuala Free,
Freedom of Information Officer,
FOI Unit,
Department of Communications,
Marine & Natural Resources,
Leeson Lane,
Dublin 2.

By Registered Post



4833-001/EC/SR/070501L1

8th May, 2007

Re: Our Clients: Eamon McHugh Senior, Theresa McHugh of Greenhills, Flintra Road, Killybegs, County Donegal & Antarctic Fishing Company Limited

Dear Ms Free,

We are instructed and authorised to make this request pursuant to the Freedom of Information Act, 1997 and the Freedom of Information (Amendment) Act, 2003 (Amalgamated).

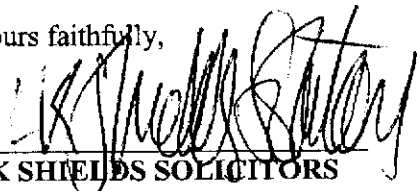
We enclose cheque in the sum €15.00 in respect of your fee in relation to this matter.

Our clients require the following information held by the Department of Communications, Marine and Natural Resources ("the Department") namely:-

- i. Copies of all notes/minutes of meetings between the Department and pelagic fishermen and pelagic fish processors from 1992;
- ii. All notes, memoranda and correspondence between the Department and the European Commission regarding the safety tonnage proceedings which were adjudicated upon by the European Court of First Instance, since those proceedings were instituted;

We note that our clients' previous Freedom of Information requests have not been dealt with satisfactorily by the Department. Our clients trust that this request will be dealt with expeditiously and comprehensively.

Yours faithfully,



LK SHIELDS SOLICITORS

Encls.