

To: Fiona Marshall
From: Robert Latimer (email address redacted)
Date: 12/18/2015 11:24AM
Cc: <email addresses redacted>
Subject: Re: Decision V/9n concerning compliance by the United Kingdom

Dear Fiona

Re: Decision V/9 concerning compliance by the United Kingdom – invitation to comment on the second progress report.

If I start by saying I am a member of the public, not a group, or with other members of the public, just me and I feel it is important I say that. After reading the correspondence to the Aarhus Convention from Carol Day on behalf of the RSPB, FOE of England and Scotland and C&J Black Solicitors of Belfast, this response confirms what I have always believed; that to proceed to take the UK Authorities to Court is a non starter. The uncertainty of the cost and how long it will take is shown in Carol Day's letter and is enough to put any member of the public off.

My attempt to obtain environmental information from DEFRA under the EIR, as you can see has taken almost two years, the correspondence is piling high - had I used a lawyer I could not estimate the cost.

Where at first I found the Environmental Information Regulations were most helpful in obtaining information as shown in ACCC/C/2008/33, now the UK Authorities have found a way round the Regulations as can be seen in the determinations above. If you do proceed to Court and the exception under the EIR used by the UK Authorities does not fit then the Judge will use another, as in this case. But more - the whole EIR process falls down when first you request the information, they refuse using some feeble exception, they refuse again following an internal review this then goes to the Information Commissioner. My experience then is that there is an appeal process but it is said to only consider the previous actions of the IC, not to reconsider the original request. There is therefore a bias to find the IC was correct, and it has been confusing to find that then there **IS** reference to the original requests – all very puzzling for a member of the public and, unlike DEFRA and the EA, I could not possibly afford to have a barrister.

My point is that, reading the Opinions above, and judging from my own experience, any kind of legal proceeding here is totally tied up with bureaucratic red tape so as to prevent access – and the recent reforms obviously are made to complicate the process even more despite the agreement of the UK Government to the Aarhus Convention. I must also point out that in my experience the machinations of the court process are completely removed from the reality of environmental pollution events – and this seems to be the intention.

Best regards

Bob Latimer