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Our ref: BV/2880/13

Date: 12/06/2014

Dear

**BALLANTINE PROPERTIES LIMITED (NOW DISSOLVED)
SUBJECTS: SITE OF AUTOMATIC TELEPHONE EXCHANGE AT INCHTURE**

Thank you for your request dated 26 May (received 28 May) under the Freedom of Information (Scotland) Act 2002 (FOISA) firstly, asking to whom or what organisation the Title and property at Inchure now belongs and secondly, to be provided with copies of all letters and enclosures such as emails, affidavits, et al., relating to all correspondence between us and Gillespie Gifford & Brown LLP, 135 King Street, Castle Douglas.

With regard to the first strand of your enquiry, as the title to the subjects in question stood in the name of the company and the company no longer exists, it was appropriate that they should be considered *bona vacantia*. *Bona vacantia* means literally ownerless property and such property in Scotland, which would include the present subjects is dealt with by the QLTR as the Crown's representative. She has various options for such property including disposing of it for value or waiving the Crown interest.

As regards the second strand Gillespie Gifford & Brown LLP have advised they act for you and a Court of Session judgment – Glasgow City Council and Dundee City Council v Scottish Information Commissioner [2009] CSIH 73 (issued on 30 September 2009) – clarified that FOISA gives a right to information, not documents, and that information requests must identify the information sought.

A request is not valid if it does not, in accordance with section 8(1)(c) of FOISA, describe the information requested. As the second part of your request is a general request for documents, etc which does not reasonably clearly identify the particular information you are looking for, we do not to that extent consider it to be a valid request in line with the Court of Session decision. Accordingly, we are not obliged to respond to it.

However, if you wish to rephrase your request to clearly describe the information you are looking for, rather than simply for documents, we would be able to consider your request and respond in accordance with FOISA. If you need any further advice and assistance to rephrase your request, please contact us.

If you were to do so however, I would draw to your attention that under section 25(1) of FOISA, we are not required to provide any information in response to a request if it is already reasonably accessible to you. Accordingly, if your request was directed at obtaining information we hold which has been received from Messrs Gillespie, Gifford & Brown LLP, or it is information which we have sent to them in a response to them, as those solicitors have advised that they are acting for you as one of their clients, we are likely to consider that the information would be reasonably accessible to you as you would be able to obtain it from that firm as you are their client. Since that firm have indicated that they are acting for you as your agents consequently you may wish to ask them for a copy of their file in relation to this matter.

If you are dissatisfied with the way in which your request has been handled, you do have the right to ask us to review it. Your request should be made within 40 working days of receipt of this letter and we will reply within 20 working days of receipt. If you require a review of our decision to be carried out, please write to The QLTR, Unit 5, 14 South St Andrew Street, Edinburgh EH2 2AZ, or for requests sent by e-mail to coqltr@copfs.gsi.gov.uk.

The review will be undertaken by staff not involved in the original decision making process.

If our decision is unchanged following a review and you remain dissatisfied with this, there is a right of appeal to the Scottish Information Commissioner under section 47(1) of FOISA.

Should you subsequently wish to appeal against the Commissioner's decision on such an appeal, there is a right of appeal to the Court of Session on a point of law only.