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**From:** Nick Smith  
**Sent:** 17 June 2010 13:33  
**To:** Dave Anderson; Alan Coyle; Donald McGougan; Marshall Poulton; Alastair Maclean  
**Subject:** FW: DRP Summary: Strictly Private and Confidential: Not for onward circulation  
**Sensitivity:** Confidential

I had a long discussion with Cllr Mackenzie re this this morning during which I gave away very little. However, he wanted my take on tie's DRP summary which I will also forward for your info. My view is set out below. He is clearly concerned that the public want to see the full picture re the DRPs on a won/lost basis. I advised that we should resist this even though it may be politically difficult.

Kind regards

Nick

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*Please note that I am not in the office on a Monday*

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**From:** Nick Smith  
**Sent:** 17 June 2010 13:29  
**To:** Gordon Mackenzie  
**Subject:** RE: DRP Summary: Strictly Private and Confidential: Not for onward circulation  
**Sensitivity:** Confidential

***LEGAL ADVICE NOT TO BE RELEASED AND FOISA EXEMPT***

Cllr Mackenzie

I have reviewed the short summary and, with regard to the actual adjudication decisions which I have reviewed in detail (ie the ones which had major contractual interpretation impact (Hilton, Gogarburn, Carricknowe and Russell Road)), the summary is broadly accurate.

However, you should note that it is a very high level summary of what are extremely complex issues. It is almost impossible to distil 80 pages of adjudication interpretation to a few sentences and accurately sum it up in an comprehensive manner. Some of the summary for certain DRPs is missing some further interpretation detail which I have been provided verbally by tie. However, it is not possible to expand on this detail in any meaningful way in such a summary as it requires a full understanding of all the legal issues behind it. I should also point out that I have concentrated on the legal impacts rather than the financial values in the report but I have no reason to doubt their validity.

As discussed, in my view release of any DRP detail (other than eg the generalities in the CEC report) into the public domain *could* prejudice CEC and tie's ability to defend itself against an FOI

claim for release of legal advice and may also be a breach of the Infraco contract terms. Accordingly in my view it would be entirely inappropriate to do so. I appreciate that the public would wish to see the detail but this is simply not advisable or indeed contractually compliant. Even summarising the results in terms of percentages won or lost risks giving a false picture of reality.

I hope this assists.

Kind regards

Nick

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**From:** Gordon Mackenzie  
**Sent:** 17 June 2010 11:26  
**To:** Nick Smith  
**Subject:** FW: DRP Summary: Strictly Private and Confidential: Not for onward circulation  
**Importance:** High  
**Sensitivity:** Confidential

Comments please

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**From:** Steven Bell [mailto:Steven.Bell@tie.ltd.uk]  
**Sent:** 07 June 2010 17:41  
**To:** Gordon Mackenzie  
**Cc:** Mandy Haeburn-Little; Richard Jeffrey  
**Subject:** DRP Summary: Strictly Private and Confidential: Not for onward circulation  
**Importance:** High  
**Sensitivity:** Confidential

Gordon

As requested at today's meeting. Please do not circulate or distribute further. If you have any questions, please call me on my mobile.

Regards

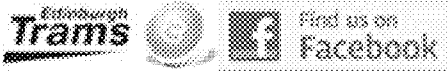
Steven

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