



The Scottish Parliament  
Pàrlamaid na h-Alba

Robert Wilson  
Chair  
Creative Scotland

The Scottish Parliament  
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By e-mail

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Dear Mr Wilson,

### **Creative Scotland Funding: Rein**

May I thank you and Mr Munro for attending the Committee yesterday. The Committee has now considered the evidence provided.

We firstly wish to reiterate as stated in our letter to Mr Munro dated 25 March, and as discussed during yesterday's evidence session, that we recognise that it would not be appropriate for the Committee or the Scottish Government to be involved in individual funding decisions. We also recognise and strongly support the provision within [Part 4 of the Public Services Reform \(Scotland\) Act 2010](#) which states that "the Scottish Ministers may not give directions so far as relating to artistic or cultural judgement in respect of the exercise of Creative Scotland's functions under section 37(1) or (3), 38(3) or 39(4)." The Committee is very clear in response to Mr Munro's letter dated 16th April, that we do agree that "artistic freedom is to be encouraged and supported."

We also note that Creative Scotland has a legal responsibility to promote equality, inclusion and diversity and we welcome your statement this morning that neither is it Creative Scotland's "role to act as censor or be the arbiter of cultural taste but to support cultural and artistic diversity as an expression of human rights."

The Committee, however, has a number of concerns around how Creative Scotland handled its response to the funding of Rein once that decision had been publicly challenged.

In Mr Munro's letter dated 16 April, he stated that "one new and significant difference emerged which took the project into unacceptable territory. That was the intention to

include real sex, as opposed to performance depicting simulated sex, in the work. This represented a significant change to the approved project, moving it from 'performance' into actuality, and into a space that was, in Creative Scotland's view, inappropriate for public funding." In Mr Munro's subsequent letter to the Committee dated 22 May, he stated that it "is also important to note that the artist did not contest the reasons for withdrawal of the grant and has repaid the funding."

However, there is no mention in either letter that, in a meeting with Mr Munro on 13 March, the artist disagreed with Creative Scotland's interpretation that there had been a significant change to the approved project. In a note of the meeting published following FOI requests, the artist is recorded as stating "we said genital contact. I am confused by the idea that it wasn't clear." Mr Munro subsequently referenced the disagreement in his Chief Executive's report to the Creative Scotland Board on 21 March, also released under FOI. Mr Munro stated that the artist "expressed a fundamental disagreement" with Creative Scotland's "analysis and decision" when he met with her in-person. Mr Munro confirmed this fundamental disagreement in evidence to the Committee this morning. The Committee is concerned that this information was not made available to us in the correspondence provided by Mr Munro.

In our letter dated 25 March, we stated that in the interests of accountability and transparency, consideration should be given to publishing the original funding application. In his response dated 16 April, Mr Munro stated—

"As regards your encouragement that we publish the application materials associated with the project, we intend to do so, but not until we have completed a thorough review of these materials to remove any personal information, any business confidential information, or any information that, if publicly disclosed, could pose a threat to an individual. We will also be taking legal advice on what we issue, prior to doing so to ensure that we comply with our legal obligations, including those under applicable data protection legislation."

Our clerks subsequently reiterated this request in emails to Creative Scotland dated 2 May and 21 May. The application was published alongside other documents in response to a number of FOI requests on 21 May. At no point was there any communication with the Committee that these FOI requests had been made and that publication of the application was being dealt with as part of that process. Indeed, we were not aware of the intention to publish the application as part of the FOI process until after publication and discussion in the media. We subsequently received a letter with the application materials from Mr Munro at 5.34pm on 22 May.

The Committee is concerned that there was no mention of any FOI requests, or that our request for the application to be published was being considered as part of the

FOI process, in Mr Munro's letter dated 16 April, or in subsequent communication with the clerks. While the Committee recognises the challenges in dealing with a large number of FOI requests, it is not clear why the application wasn't published earlier given Mr Munro's commitment to do so following a "thorough review" of the application materials. It is also unclear why we were not, as a minimum, provided with the application on 21 May.

The Committee's view is that much of the controversy surrounding this application could have been avoided by Creative Scotland being more open and transparent around how it handled the funding of Rein once the decision had been publicly challenged. The initial letter dated 16 April did not provide the Committee with the full picture and this is regrettable. In our view, much of the information which was provided to the Committee in oral evidence yesterday should have been communicated much earlier and it is unclear why it was not.

This raises questions around the extent to which Creative Scotland has sought to be open and transparent with us in addressing this matter. The Committee requests that the Board considers whether it is content that Creative Scotland has been fully open and transparent in its communication with the Committee.

The Committee also requests that the Board considers the extent to which Creative Scotland's handling of this matter has caused reputational damage not only to its own role, but also to the cultural sector more widely, and most importantly, the Rein artists. The Committee would also welcome being kept updated on what actions both the Board and the Chief Executive intend to implement to repair that reputational damage.

Lastly, the Committee welcomes that Creative Scotland has been undertaking a review of its processes to strengthen the scrutiny of all applications, with actions being scoped and due to be permanently implemented from June. We request that you keep the Committee up to date on the outcome of the review and on any actions which have been implemented. The Committee also welcomes the "deeper review" and "further revisions and changes that will be built into the guidance moving forward" which Mr Munro mentioned yesterday, and again asks to be kept informed as this work progresses.

We would welcome a response by Friday 21 June.

Yours sincerely,



Clare Adamson MSP, Convener of the Constitution, Europe, External Affairs and Culture Committee