

Paul Philips  
request-152xxxxxxxxxxxx@xxxxxxxxxxxxxxxx.xxx

25 August 2009

Our Ref: FOI 2009/134 - F0065600

Dear Mr Philips,

**Re: Freedom of Information (Scotland) Act 2002 (The Act) – Request for Information**

Thank you for your email which was received by the University on 27 July 2009 timed 23:09 hours, requesting the following information:

- 1. Names of all spin out companies formed in the past five years, their dates of incorporation and named directors;**
- 2. Set-up costs for each company;**
- 3. The amount of any income generated by each company;**
- 4. The names of those companies which have made sales and which have made profits.**

**University's Response**

**1. Names of all spin out companies formed in the past five years, their dates of incorporation and named directors**

Please see **Appendix A** attached for names of all spin out companies formed in the past five years, their dates of incorporation and named directors. Please note we have interpreted the term "spin out company" as any company formed either by the University or formed by a third party in which the University has a shareholding with the aim to commercialise intellectual property generated at the University.

Please also be advised that the incorporation date provided is the original incorporation date. Some of the companies have changed name since that date.

**2. Set-up costs for each company**

The set up costs for each company are not held on an individual basis but can be estimated as a total cost of £790k.

We have interpreted set-up costs to mean salary and legal costs paid out by the University. There may be other costs that would be borne by the company and the investors.

### **3. The amount of any income generated by each company**

Section 1 of the Act sets out the right of any person requesting information from a Scottish Public Authority, such as the University of Glasgow, but this general right is subject to a number of exemptions. After careful consideration and having applied both the “harm test” and the “public interest test” set out in the terms of the Act where appropriate, the University has reached the conclusion, after consultation with the relevant companies, that the requested income details should not be disclosed. That is, we consider that it is not in the interests of the public for the requested information to be disclosed.

#### ***Section 33 (1)(b) Commercial interests and the economy***

The disclosure of the information would, or would be likely to, **prejudice substantially** the commercial interests of any person (including the University).

The University of Glasgow considers that the release of the amount of income for the spin out companies is likely to prejudice substantially the commercial interests of both the University and the spin out companies.

The University has considered the public interest by applying the “public interest test”. That is, the University has balanced whether the release of the information is in the public interest against whether disclosure would substantially prejudice its own, or another person’s commercial interests. The view of the Office of the Scottish Information Commissioner (OSIC), in its advice on the application of the “public interest test”, is that the public interest should not be interpreted as “of interest to the public”. That is, the potential release of the information must be in the interests of the public and not merely of individual interest. The public interest in the disclosure of the information requested is slight. The University of Glasgow operates in a very competitive environment and the public interest is in ensuring the continuing success of the University. The disclosure of the requested information would be likely to be detrimental to the public interest by inhibiting organisations from entering into relationships and working with the University.

In addition, the University must also consider the commercial interests of other person(s)/companies. These organisations also operate in a very competitive environment and any release of the information requested would be likely to adversely affect the commercial position of the organisations, causing real and significant substantial prejudice to their commercial interests. The University therefore concludes that the “public interest test”, as required when applying section 33 of the FOISA, is met as the disclosure of the information requested would cause real and significant substantial prejudice to the commercial interest of the person/s in question. The public interest in withholding the information is greater than the public interest in its release. The University therefore concludes that the public interest is in

withholding the requested information and consequently the exemption under section 33(1)(b) applies.

We can, however, advise that the aggregate income for spin out companies formed in the past five years was £26.761M. This figure does not include Cara Therapeutics Inc, which is registered in the United States.

#### **4. The names of those companies which have made sales and which have made profits.**

Section 1 of the Act sets out the right of any person requesting information from a Scottish Public Authority, such as the University of Glasgow, but this general right is subject to a number of exemptions. After careful consideration and having applied both the “harm test” and the “public interest test” set out in the terms of the Act where appropriate, the University has reached the conclusion the names of those companies that have made sales and profits should not be disclosed. That is, we consider that it is not in the interests of the public for the requested information to be disclosed.

#### **Section 33 (1)(b) Commercial interests and the economy**

The disclosure of the information would, or would be likely to, **prejudice substantially** the commercial interests of any person (including the University).

The University of Glasgow considers that the release of the names of those companies that have made sales and profits is likely to prejudice substantially the commercial interests of both the University and the spin out companies.

The University has considered the public interest by applying the “public interest test”. That is, the University has balanced whether the release of the information is in the public interest against whether disclosure would substantially prejudice its own, or another person’s, commercial interests. The view of the Office of the Scottish Information Commissioner (OSIC), in its advice on the application of the “public interest test”, is that the public interest should not be interpreted as “of interest to the public”. That is, the potential release of the information must be in the interests of the public and not merely of individual interest. The public interest in the disclosure of the information requested is slight. The University of Glasgow operates in a very competitive environment and the public interest is in ensuring the continuing success of the University. The disclosure of the requested information would be likely to be detrimental to the public interest by inhibiting organisations from entering into relationships and working with the University.

In addition, the University must also consider the commercial interests of other person(s)/companies. These organisations operate in a very competitive environment and any release of the information requested would be likely to adversely affect the commercial position of the organisation, causing real and significant substantial prejudice to their commercial interests. The University therefore concludes that the “public interest test”, as required when applying section 33 of the FOISA, is met as the disclosure of the information requested would cause real and significant substantial prejudice to the commercial interest of

the person/s in question. The public interest in withholding the information is greater than the public interest in its release. The University therefore concludes that the public interest is in withholding the requested information and consequently the exemption under section 33(1)(b) applies.

We can advise that the aggregate sales figures for all spin out companies formed in the past five years was £25,403M. This figure does not include Cara Therapeutics Inc, which is registered in the United States.

The abbreviated accounts for the companies listed in Appendix A, with the exception of Cara Therapeutics Inc, are available from Companies House, details of which are located on the following URL: <http://www.companieshouse.gov.uk/>. Please be advised Senectus Therapeutics Ltd and Pathfinder LLC are new companies formed in 2009 and who may not yet have filed accounts.

The supply of documents under the terms of the Freedom of Information (Scotland) Act 2002 does not give the applicant or whoever receives the information any right to re-use it in such a way that might infringe the Copyright, Designs and Patents Act 1988 (for example, by making multiple copies, publishing or otherwise distributing the information to other individuals and the public). The Freedom of Information (Scotland) Act 2002 (Consequential Modifications) Order 2004 ensured that Section 50 of the Copyright, Designs and Patents Act 1988 ("CDPA") applies to the Freedom of Information (Scotland) Act 2002 ("FOISA").

Breach of copyright law is an actionable offence and the University expressly reserves its rights and remedies available to it pursuant to the CDPA and common law. Further information on copyright is available at the following website:

<http://www.ipo.gov.uk/copy.htm>

### **Your right to seek a review**

Should you be dissatisfied with the way in which the University has dealt with your request, you have the right to require us to review our actions and decisions. Please refer to the Review Procedure (<http://www.gla.ac.uk/services/dpfoioffice/policiesandprocedures/foisacomplaintsandreview/>) for further information. All complaints regarding requests for information will be handled in accordance with this procedure.

Yours sincerely,

Data Protection and Freedom of Information Office