



University
of Glasgow

Louis Seaman
request-24497-4599311d@whatdotheyknow.com

15 January 2010

Our Ref: FOI 2009/210 – F0080873

Dear Mr Seaman,

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

Thank you for your email which was received by the University on 11 December 2009 timed 09:43 hours, requesting the following information:

'Could you please send me copies of all communications (including emails) between the Student Lifecycle Project Directors and the Secretary of the University Court regarding the Student Lifecycle Project since 01 October 2009.'

University's Response

Please find the University's response attached. Please note that some of the information pertinent to your enquiry is subject to exemptions and has been withheld either by omission or redaction. Where an exemption has resulted in information being redacted (in Appendix B Parts 1 & 2) this is shown in Appendix A – Schedule of Documents. Details of the relevant exemptions are listed below.

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 some of this information would be likely to prejudice substantially the commercial interests of both the University and the person/s recorded in the documentation.

Notwithstanding the result of the "harm test", section 33 of FOISA does not provide an absolute exemption to the general entitlement to information. The University has therefore considered whether, notwithstanding the exemption, it is in the public interest to release the information.

DATA PROTECTION AND FREEDOM OF INFORMATION OFFICE

Main Building, University of Glasgow, Glasgow G12 8QQ

Data Protection: Telephone: 0141-330-3111 E-Mail: data.protection@gla.ac.uk

Freedom of Information: Telephone: 0141-330-2523 E-Mail: foi@gla.ac.uk

The University of Glasgow, charity number SC004401

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 the University from achieving maximum results from this and future relationships and negotiations with third parties.

In addition, the University must also consider the commercial interests of third parties. The University values the relationship that it enjoys with the third party suppliers involved in this project. The release of the requested detailed information would potentially damage the commercial interests, not only of the third parties but of the University itself. This would consequentially also undermine this valued relationship between the two and may also potentially jeopardise the ability of the University of Glasgow to negotiate and engage in similar future relationships and projects.

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 prejudice substantially the negotiating position of the University in respect to achieving maximum return. The public interest in withholding the information is greater than the public interest in its release.

Section 36 (1) Confidentiality

In section 36(1) of FOISA, the phrase ‘confidentiality of communications’ includes information which attracts legal professional privilege (LPP). Information attracting LPP can broadly be defined as those communications with a legal adviser where advice is being sought or given (known as ‘legal advice privilege’).

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. As previously advised, 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 considers that the public interest in maintaining the exemption and withholding the information outweighs the public interest in disclosing it. There is a strong element of public interest inbuilt into legal professional privilege itself and at least equally strong countervailing considerations must be adduced for the public interest to weigh in favour of disclosure.

While there is a public interest in disclosing information that enables scrutiny of a public authority's actions and which encourages transparency in decision-making, in this particular case the public interest weighs in favour of maintaining the exemption as the issues remain live, and it is in the public interest that public authorities are not disadvantaged in their legal affairs and are allowed to conduct, in confidence, a free and frank exchange of information and views as to their legal rights and obligations with those advising them without fear or intrusion. The University demands and receives comprehensive advice which directly affects its decision making. Without that advice the quality of the decisions themselves would be reduced and such a scenario would be contrary to the public interest.

Section 38 Personal Information

The identity and position held of those persons recorded in the documents that constitute the University's response to your request for information have been redacted as (a) the identities are considered as personal data as defined in the Data Protection Act 1998, and (b) the release of the identities and position held by those individuals would be in breach of the data protection principles as defined in the Data Protection Act 1998. Therefore the exemption from release of the information applies as specified under sections 38(1)(b) and 38(2) of the Freedom of Information (Scotland) Act 2002. This exemption is an absolute exemption under the Freedom of Information (Scotland) Act 2002.

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. If you wish to request a review, please contact the University Secretary, University Court Office, Gilbert Scott Building, University of Glasgow, Glasgow, Scotland G12 8QQ or e-mail: foi@gla.ac.uk within 40 working days. Your request must be in a recordable format (letter, email, audio tape, etc). You will receive a full response to your request for review within 20 working days of its receipt.

If you are dissatisfied with the way in which we have handled your request for review you may ask the Scottish Information Commissioner to review our decision. You must submit your complaint in writing to the Commissioner within 6 months of receiving the response to review letter. The Commissioner may be contacted as follows:

The Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS
Telephone: 01334 464610
Fax: 01334 464611
Website www.itspublicknowledge.info
E-mail: enquiries@itspublicknowledge.info

An appeal, on a point of law, to the Court of Session may be made against a decision by the Commissioner.

For further information on the review procedure please refer to [\(http://www.gla.ac.uk/services/dpfoioffice/policiesandprocedures/foisa-complaintsandreview/ \)](http://www.gla.ac.uk/services/dpfoioffice/policiesandprocedures/foisa-complaintsandreview/)
All complaints regarding requests for information will be handled in accordance with this procedure.

Yours sincerely,

Data Protection and Freedom of Information Office