

Diane Scott
[request-25099-c8c58exx@xxxxxxxxxxxxxxxxxxx.xxx]

4 February 2010

Our Ref: FOI 2009/214 – F0082080

Dear Ms Scott,

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

Thank you for your email which was received by the University on 23 December 2009 timed 23:05 hours, requesting the following information:

On 8 June 2009 you sent me a report entitled Internal Audit 2007/08 having previously sent me the first 2 pages of the report in response to an earlier request.

Can you please send me the equivalent report for 2008/09 ie the complete report and not just the first 2 pages.

We apologise for the delay in responding and thank you for your patience.

University's Response

The information requested (the Internal Audit Update 2008/09 Annual Report dated 4th November 2009) is located in Appendix A attached, subject to the following redactions.

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 that certain sections of the information you requested should not be disclosed. That is, it is considered that it is not in the interests of the public for the requested information to be disclosed at this time, therefore this information has been redacted.

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).

DATA PROTECTION AND FREEDOM OF INFORMATION OFFICE

Main Building, University of Glasgow, Glasgow G12 8QQ

Data Protection: Telephone: 0141-330-3111 E-Mail: data.prot@xxx

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

The University of Glasgow, charity number SC004401

The University of Glasgow considers that some of the information would be likely to prejudice substantially the commercial interests of the University and the Faculty of Veterinary Medicine.

The University refers to the decisions of the Scottish Information Commissioner ("SIC") where the SIC notes that each case must be considered on its own facts and circumstances, having regard to factors such as the timing of the request and the competitive environment in which the parties operate. In terms of timing, the University notes that the redacted information relates to recommendations and actions that have not yet reached resolution. The decision of the UK Information Commissioner in *Derry Council / Ryanair* illustrates the importance of timing when considering exemptions to disclosure; in this decision, the airport was well established at the time of the request for details of the agreement between Derry Council and Ryanair. The timing of the request was a major factor in the Information Commissioner's decision.

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.

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 Faculty of Veterinary Medicine operates within a very competitive environment and the public interest is in ensuring the continuing success of the University and its activities. The disclosure of the requested information, at this time, would be likely to be detrimental to the public interest by inhibiting organisations from entering into relationships and working with the Faculty and the University. This in turn would threaten a major source of clinical income and could lead to the gaining of competitive advantage by rivals. This possible failure to achieve maximum income potential would substantially prejudice the commercial interests of the Faculty of Veterinary Medicine and the University of Glasgow.

The University has genuine concerns that releasing such information into the public domain at this point in time would prejudice substantially its position to successfully provide services in the near future, given that possible competitors could identify and exploit recognised areas that require improvement. Together with the fact that efforts to resolve these areas are still ongoing, the University is of the opinion that this harm remains real, significant and not merely hypothetical.

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 at this time would prejudice substantially the market position of the Faculty of Veterinary Medicine in

respect to the provision of services. The public interest in withholding the information is greater than the public interest in its release.

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: xxx@xxx.xx.x 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/>)
All complaints regarding requests for information will be handled in accordance with this
procedure.

Yours sincerely,

Data Protection and Freedom of Information Office