

Ms Diane Scott
Email request-28478-e6xxxxxx@xxxxxxxxxxxxxxxxxxx

5 March 2010

Our Ref: FOI 2010/31 – F0085746

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 6 February 2010 timed 01:01 hours, requesting the following information:

“Can you please send me the minutes of all of your audit committee meetings that were held in 2009. Where you do not have a finalised minute can you please send me your latest draft.”

University’s Response

Please find the University’s response enclosed in Appendices A – D.

Please note, in each of the documents some personal data has been redacted. This information concerns the identities of the employees of third-party organisations that supply audit services to the University. The University undertakes to protect their right to privacy in the context of their employment, and thus the employees’ expertise and experience, by certain accountancy firms. The University has applied the exemption to release of the information under section 38(1)(b) and 38(2) of FOISA as the release of the information would breach the basic Principles of the Data Protection Act 1998. This is an absolute exemption under FOISA.

With respect to the entry on “Hospitality Services” in the minutes of the meeting on 1 October 2009, the University considers that at this time the redacted information is exempt from release as this area is currently undergoing a review and to release this information at this time may prejudice the review and resultant recommendations.

Further, the University considers that the release of the information held in relation to the above issues at the present time would cause significant harm to the University and its operations. The University’s considerations on the above issue require input from a variety of sources. It is imperative that the individuals providing the input must not be inhibited from giving free and frank views relevant to the above issues. The Audit Committee must also be

able to give free and frank views and advice, and seek updates on progress and on the resolution of any issues in the University's operations. The University therefore considers that the "harm test", as required by section 30(c), is met.

Notwithstanding the result of the "harm test", section 30(c) 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 the provision of free and frank advice both to and by the Audit Committee on the above issues. 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 what is of interest to the public or a particular individual. The public interest in the disclosure, at the present time, is slight. The public interest is in ensuring the continuing success of the University which critically includes the ability to prepare for, seek free and frank views on, provide free and frank advice on, monitor and guide investigations into, the operations of the University in areas that are currently under review. The disclosure of the requested information at this time would be likely to be detrimental to the public interest by publicly identifying issues relating to the operation of the University that it is currently resolving, or about which further consideration and advice and action by the senior management is required prior to resolution. The University therefore considers that the "public interest test", as required by section 30(c), is in maintaining the exemption to release of the information.

The University of Glasgow considers that the redacted information in the minute of 1 October 2009 is also exempt under section 33(1)(b) as its disclosure would be likely to both substantially harm, and prejudice substantially, the commercial interests of the University. The information relates to current operations and a review thereof. The University operates in a very competitive environment, where the release of the information in question, would seriously damage its competitive position. The loss of such competitiveness would harm the position of the University. The University therefore considers that the "harm test" is met.

Notwithstanding the result of the "harm test", section 33(1)(b) 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.

As before, the University has also 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 position. 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 an individual interest. The public interest in the

disclosure of the information requested is slight. The University operates in a very competitive environment, where the release of some of the specified information would seriously damage its own competitiveness and business interests. The public interest is in ensuring both the continuing success and competitiveness of the University including its ability to review and address any issues identified as being in need of improvement.

The University therefore concludes that the “public interest test”, as required when applying section 33(1)(b) of the FOISA, is met as the disclosure of the information requested would prejudice substantially the competitive advantage and resultant business confidence in the University. 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.xx 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