



Our Ref 202100184

Scottish Information
Commissioner
it's public knowledge

Mr Bill Stevenson

By email to request-726691-7f119f89@whatdotheyknow.com

8 April 2021

Dear Mr Stevenson

Review of decision – modified decision

I am responding as the Scottish Information Commissioner to your email of 12 March 2021. You asked me to review the handling of your information request dated 12 February 2021 for correspondence between the Scottish Government and my office relating to the deployment of FOI Unit staff to Covid critical roles. You were dissatisfied with how a small amount of information had been withheld from disclosure under section 38(1)(b) of the Freedom of Information (Scotland) Act 2002 (FOISA) on the basis that disclosure would breach one or more of the data protection principles contained in data protection law.

Specifically, you stated that:

1. "Some information redacted does not constitute personal data.

Some information contained in email addresses does not constitute personal data. For example, the suffix "gov scot" in the email address of civil servants is not personal data and therefore should be disclosed. In communications between different organisation it is important to see, in order to aid understanding, which organisation is initiating or receiving the communication. This is impeded if email addresses are simply redacted in full. This problem can be seen in your Document 1, for example."; and

2. "Civil servants names and job titles should not be redacted.

It appears that the SIC have adopted an untested convention set by the Scottish Government of not disclosing the names and job titles of "junior" civil servants. This does not appear to be a sufficiently solid ground for redacting the information. Furthermore, when the SIC engages with the Scottish Government on the subject of the Intervention Report, the interaction must be at a senior level (it would not appear credible that the SIC engages with junior civil servants on such an important topic). Therefore, I believe the names and job titles of civil servants should be disclosed."

In this review, I can either:

- confirm the original decision, with or without modification, or

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- substitute a different decision.

In this case, I have decided that the original decision should be modified.

In relation to the first point of your dissatisfaction with the response to your information request, I have decided that we should not have withheld information under section 38(1)(b) of FOISA by redacting the full email addresses of individuals. Although we hoped it was clear from the terms of your request and from the response that the email addresses redacted were all Scottish Government email addresses, we could have simply redacted the names of the individuals from the email addresses, allowing you, in your words, to see, in order to aid understanding, which organisation is initiating or receiving the communication

In the present case, I can confirm that all of the redacted email addresses were “.gov.scot” email addresses. I am sorry that this was not provided to you at an earlier stage.

In relation to the second point of your dissatisfaction with the response to your information request, I agree with the decision to withhold the personal data of a number of civil servants, consisting of their names and job titles under section 38(1)(b) of FOISA. This is because I accept the detailed reasons set out in the refusal notice sent to you on 11 March 2021, and in particular in Appendix 4. I specifically note that the name and email of the Head of the FOI Unit has not been redacted despite him not being a senior civil servant, given the importance of the role carried out by him. The names, posts and full emails redacted were all more junior members of the FOI Unit.

Re-use of information

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If you are not satisfied

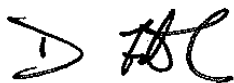
I hope you will be happy with this outcome. If not, you have no further right of appeal under FOISA. This is because, under section 48(a) of FOISA, I am not permitted to accept applications for decisions about my own handling of information requests.

I cannot consider complaints about my decisions, only about the way in which our office has treated you. Information about how to complain can be found on our website at <http://www.itspublicknowledge.info/home/AboutSIC/ComplaintsProcedure.asp>, or can be provided by post on request.

If you believe that there has been administrative failure, failure to provide a service, or failure in a service (provided that you have suffered injustice or hardship as a result of these failures), you can complain to the Scottish Public Services Ombudsman (the SPSO). Before contacting the SPSO, you should ask us to consider your complaint under our complaints procedure. The SPSO is unlikely to accept a complaint until you have been through the steps detailed in the our complaints procedure. You can contact the SPSO at Freepost SPSO, or phone them on 0800 377 7330 or 0131 225 5300.

For any potential legal remedies, you should seek independent legal advice.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D Fitzhenry'.

Daren Fitzhenry
Scottish Information Commissioner