

James McNeel
request-130xxxxxxxxxxxxx@xxxxxxxxxxxxxxxxx.xxx

19 October 2012

Our Ref: FOI 2012/204 – F0237977

Dear Mr McNeel,

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

Thank you for your email which was received by the University on 18 September 2012 timed 11:28 hours, requesting the following information:

- a. Please send me copies of all procurement/contract related email exchanges between Sandy Macdonald and Thomas Mcara since 1st January 2012.**
- b. Please send me copies of all procurement/contract related email exchanges between Sandy Macdonald and David Newall since 1st January.**
- c. Please send me copies of all procurement/contract related email exchanges between David Newall and Thomas Mcara since 1st January 2012.**
- d. Please supply me with a copy of the University of Glasgow's procurement policy and procedures.**

University's Response

We apologise for the delay in responding to your request.

- a. Please send me copies of all procurement/contract related email exchanges between Sandy Macdonald and Thomas McAra since 1st January 2012.**

Please refer to Schedule of Documents attached, Appendices A - N.

- b. Please send me copies of all procurement/contract related email exchanges between Sandy Macdonald and David Newall since 1st January.**

Please refer to Schedule of Documents attached.

DATA PROTECTION AND FREEDOM OF INFORMATION OFFICE

Main Building, University of Glasgow, Glasgow G12 8QQ

Data Protection: Telephone: 0141-330-3111 E-Mail: ~~xxx~~

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

The University of Glasgow, charity number SC004401

c. Please send me copies of all procurement/contract related email exchanges between David Newall and Thomas Mcara since 1st January 2012.

Please see Appendices O and P attached.

Where information has been withheld by redaction/omission in the attached Schedule of Documents, the following exemptions have been applied.

Exemption applied: Section 30(b)(ii)

The University considers that the disclosure of information contained in the emails would, or would be likely to, inhibit substantially the free and frank exchange of views for the purposes of deliberation. Section 30 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 inhibit substantially the free and frank exchange of views for the purposes of deliberation. 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’s senior managers from engaging in the free and frank discussions required to allow them to make robust decisions for the benefit of the University. This potential to fail to adequately represent the University’s best interests would substantially damage the position of the University of Glasgow.

The University therefore concludes that the “public interest test”, as required when applying section 30 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.

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 disclosure of information contained within the emails/attachments would be likely to prejudice substantially the commercial interests of both the University and the person/s recorded in the documents.

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 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 third party organisations from entering into relationships and working with the University. This potential to fail to achieve best value would substantially prejudice the commercial interests of the University of Glasgow.

In addition, the University must also consider the commercial interests of other person/s. This person/s operates in a very competitive environment and any release of information concerning its relationship with the University would be likely to lead to their competitors gaining an advantage. This would in turn be likely to adversely affect the commercial position of the organisation, causing real and significant substantial prejudice to their commercial interests. This would also thus potentially jeopardise the ability of the University of Glasgow to achieve best value.

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 38 Personal information

The identity and contact detail of individuals external to the University 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 information on 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.

d. Please supply me with a copy of the University of Glasgow's procurement policy and procedures.

Please find attached in Appendix Q, extract from the University's Financial Regulations which relates specifically to procurement procedures.

Further Information for All Suppliers of Goods and Services to the University of Glasgow can be found at:

<http://www.gla.ac.uk/services/purchasingoffice/informationforsuppliers/>

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.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/>)

All complaints regarding requests for information will be handled in accordance with this procedure.

Yours sincerely,

Data Protection and Freedom of Information Office