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UNIVERSITY SECRETARY'S GROUP

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Jamie Mann

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Dear Jamie Mann

Your freedom of information review request

Thank you for your email of 21 December 2020 requesting a review of the University's handling of your request for information about the sale of University assets.

I have carried out the internal review of your request as I was not involved in the original handling of your request. I have given careful consideration to your request and the University's obligations under freedom of information and data protection law.

Sale prices of land

You asked for an internal review of the University's decision to withhold the sale prices of the land sold at Bilston Moor Road and Penicuik Road.

Our original response

In our response dated 20 December 2019, we disclosed that the University had sold two areas of land. The first plot of land was on Bilston Moor Road in Bilston and was sold on 31 July 2019 to Barratt Development West Trading Limited. The second plot of land was on Penicuik Road, Roslin and was sold to CALA Management Ltd in two lots on 16 March 2017 and 18 September 2018.

The response explained that we had not provided the sale prices for the two areas of land. This was because disclosing this information would be likely to substantially damage the effective conduct of the University's legitimate business, and would also be likely to substantially damage the University's commercial interests. The Freedom of Information (Scotland) Act 2002 (FOISA) does not require us to provide this sort of information as it is exempt under sections 30(c) and 33(1)(b). The Environmental Information (Scotland) Regulations 2004 (EISR) do not require us to provide this sort of information as it is exempt under Regulation 10(5)(e).

We went on to explain that these FOISA exemptions and EISR exception are subject to the public interest test. There is clear public interest in openness, transparency and the accountability of public authorities. This is why we are disclosing other information about the land sales. However, there is also inherent and strong public interest in allowing the University to operate its business in a way to compete commercially, and undertake management planning with the purpose of maximising revenue, which is reinvested in our estate or used for the procurement of equipment, that are used for teaching, research and related activities. This includes maintaining the confidentiality of information where disclosure could harm the University's position in future negotiations with potential buyers. If the University disclosed how much it previously sold land for this could compromise any future negotiations on land sales and adversely affect the sale price. In this case, the University considers that the public interest in withholding the redacted information outweighs the public interest in releasing it.

Internal review response

I have considered whether the University was correct to withhold the sale prices. I have concluded that the University should have disclosed the sale price of the land at Penicuik Road and the information is now provided in this letter. However, I have also concluded that the University was correct to withhold the sale price of the land on Bilston Moor Road at this time, although we should have withheld the information under the Confidentiality exemption under section 36(2) of FOISA. Further details are provided below.

Penicuik Road

The release of sale price information into the public domain through the Registers of Scotland is a key consideration. I note that the value of the land does not appear on the face of the records available to those who are not registered users of the system. However, a broad range of individuals and businesses are able to become registered users of the system and agents of members of the general public. I would therefore conclude that once a sale is registered on the Registers of Scotland website the information is then public.

As the sale of land at Penicuik Road has been registered, I can disclose that the sale price was £8,485,000.

Bilston Road

The sale of land at Bilston Road has not yet been registered. This is because the sale of the land at this site is being concluded in two transactions. The University has only received the funds for the first transaction and the second is not due to be concluded until April 2020.

The sale price is information provided by the purchaser and their expectation is that the sale price should remain confidential while the process is still underway. The full price is not included in the missives and the April payment is not in the disposition. However, once the second transaction has concluded the sale will be registered and the University will be able to disclose the information.

Finally, I have concluded that the sale price alone is not environmental information, therefore we are considering your internal review request only under FOISA.

Please note that in reaching this decision regarding your internal review request I have noted the decision of the Scottish Information Commissioner in [Decision 048/2007 Mrs Stella Stephen and Aberdeenshire Council](#).

Right to appeal

If you are dissatisfied with our response under FOISA, you may ask the Scottish Information Commissioner to investigate. You must do so within six months of receipt of this response. [The Scottish Information Commissioner's guidance on making an appeal](#) describes the process for making an appeal to the Commissioner, including the application form.

If you do not have access to the Internet, I can provide a copy of the relevant web pages, or you can contact the Commissioner's Office using the details below. When the appeal process has been completed, if you are still dissatisfied, you have the right to appeal to the Court of Session, but on a point of law only.
Office of the Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS
Telephone: 01334 464610
Fax: 01334 464611

Privacy notice

[The University of Edinburgh's request privacy notice](#), which describes how we use the information you have supplied about yourself and your request, is published on the University website.

Yours sincerely



Tracey Slaven
Deputy Secretary, Strategic Planning