

Our ref: F12/106

Your ref:

28 September 2012

Dear Mr McCart

Freedom of Information (Scotland) Act 2002 - Information requested

Your request for information has been considered and the information is enclosed. You were interested in:

1. The number of students who attend UWS, who are from South Ayrshire.
Below is the number of students with a South Ayrshire postcode:

	2010-11	2011-12
South Ayrshire	989	968

Please note that the figures for 2011-12 from our Student Information System (SIS) have not been validated and may be subject to change. The figures for 2010-11 are from our annual return to HESA and have been validated.

2. The number of students who drop out per annum
 - a) with a breakdown of those who are from South Ayrshire.

	2010-11	2011-12
All UWS students	487	364
South Ayrshire	18	21

'Drop out' was interpreted as students, who withdrew from their programme of study and did not transfer to other HEIs. It does not include students, who died, but does include any students, who left to take up employment. Please note that enrolment is not completed for 2012-13 so it is not possible to look at continuation for 2011/12 students into 2012/13 academic year.

b) courses studied

2010/11, the 18 students who 'dropped out' studied 13 different programmes

2011/12, the 21 students who 'dropped out' studied 15 different programmes.

We have provided the maximum data that we can, since we do not provide any personal information less than five in keeping with the Higher Education Statistics Agency (HESA) and research practice. Under the terms of the Freedom of Information (Scotland) Act, a request for information can be refused where one or more exemptions listed in the Act apply. In this case the University is claiming the following exemption to some of the information that you have requested:

Personal Information in S38(1)(b) of the Act. Where the number of individuals involved is less than 5, we believe that the data is personal and individuals may be identified. Personal data is defined in the Data Protection Act 1998 (DPA 1998) as 'data which relate to a living individual who can be identified-

(a) from those data, or
(b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller,
and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any person in respect of the individual.'

The University, as the data controller, is in possession of other data, which can identify the individuals. Hence the data requested is personal.

Under s38(1)(b) of FOISA we can release personal data only if we satisfy certain conditions, which include not contravening the eight Data Protection Act principles to safeguard personal data. The first data protection principle consists of two elements. Personal data must be processed fairly and lawfully and must not be processed unless at least one of the conditions for processing in Schedule 2 or Schedule 3 (for sensitive data) of the Data Protection Act is satisfied. The only conditions, which in my view, may apply from Schedule 2 of the DPA are:

1. Consent of the individual.

We do not have the consent of the students to publish this information and they would not expect their data to be released to the public. To contact all students for permission and action the responses would involve a disproportionate effort since we may not have up-to-date contact details.

6(1). The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject.

There is no presumption in favour the release of personal data under the general obligation laid down in FOISA. Accordingly, your legitimate interests would have to outweigh the rights, freedoms or legitimate interests of the data subjects before condition 6(1) will permit the personal data to be disclosed. If the two are evenly balanced, we must refuse to disclose the personal data requested. We are not aware of any legitimate interest that you may have in this information. However the information requested relates to the individual student's private life and any disclosure may prejudice the rights of the individual under the Human Rights Act. Such individuals would not expect such personal information to be placed in the public domain and be subject to scrutiny. When assessing fairness in deciding if release of the information to you as a third party would breach the first data protection principle, the following questions were relevant:

- a. whether the information relates to the individual's public life (i.e. their work as a public official or employee) or their private life (i.e. their home, family, social life or finances).
- b. the potential harm or distress that may be caused by the disclosure.
- c. whether the individual has objected to the disclosure
- d. the reasonable expectations of the individuals as to whether the information would be disclosed.

Taking into account the questions above and the obligation of confidentiality within the student / University relationship, we considered that disclosure would contravene principle 1 of the Data Protection Act. Consequently section 38(1)(b) of the Freedom of Information (Scotland) Act as read in conjunction with section 38(2)(a)(i) is engaged:

SS38 Personal information

(1) Information is exempt information if it constitutes-
 (b) personal data and either the condition mentioned in subsection (2) (the "first condition") or that mentioned in subsection (3) (the "second condition") is satisfied;

(2) The first condition is-

(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of "data" in section 1(1) of the Data Protection Act 1998 (c.29), that the disclosure of the information to a member of the public otherwise than under this Act would contravene-

- (i) any of the data protection principles; or
- (ii) section 10 of that Act (right to prevent processing likely to cause damage or distress);

Thus disclosure would contravene principle 1 of the Data Protection Act. This exemption is an absolute exemption and is not subject to the public interest test. We have broken down the student numbers by Faculty:

	2010-11	2011-12
Business & Creative Industries	3	4
Science & Technology	2	6
Education, Health & Social Sciences	11	11
Lifelong Learning	2	0
Total	18	21

3. The number of students who become unemployed on graduation.
 The survey of employment destination of students is gathered from leavers six months after graduation in the Destination of Leavers in Higher Education (DLHE) survey. This is a snapshot at a point in time and does not provide a complete picture. Hence the information for 2011/12 graduates will not be available until May 2013. Therefore the University does not hold this information for 2011/12 graduates and is relying on the Freedom of Information (Scotland) Act 2002 Section 17 (1)(b) *Information not held*.

	2011 graduates
Assumed to be unemployed	197

- a) with a breakdown of those who are from South Ayrshire.

	2011 graduates
Assumed to be unemployed	12

b) courses studied

Seven different courses were studied by South Ayrshire students who were assumed to be unemployed. We have not given the individual courses since the information is personal data as above.

If you are not satisfied with the handling of your enquiry you have a right to review under the Act as laid out in the notices below.

Yours sincerely

Ann McGeachy
FOI & Records Manager

Notices

1. Complaints

In the event that you have any complaint about the handling of your request for information, you can invoke the University complaints procedure by writing to the Registrar/Secretary to Court at the address below:

Donna McMillan, Registrar/Secretary to Court, University of the West of Scotland, Paisley Campus, Paisley, PA1 2BE Email: Donna.McMillan@uws.ac.uk

A response to your complaint will be sent within the next 30 days.

2. Right of Review

In the event that you are dissatisfied with the handling of your request for information, you may also require us to review our actions and decisions relating to your request ('Review Request').

Your Review Request must be made to us in writing or in other durable form, stating your name and address for correspondence, specifying the request for information to which your Review Request relates and the matters that have given rise to your dissatisfaction.

It must be provided to us within 40 working days (which phrase excludes Saturdays, Sundays, Christmas Day and Scottish Bank Holidays) after the expiry of the period within which we were obliged under the Act to respond to your request for information.

You may withdraw your Review Request by notice to us in writing at any time.

Assuming your Review Request is not withdrawn, we are required to conduct our review and respond to you ('Review Response') within 20 working days (which phrase excludes Saturdays, Sundays, Christmas Day and Scottish Bank Holidays) after the date on which we received your Review Request. The request for review should be addressed to:

Donna McMillan, Registrar/Secretary to Court, University of the West of Scotland, Paisley Campus, Paisley, PA1 2BE Email: Donna.McMillan@uws.ac.uk

3. Right of Appeal

In the event that you have not withdrawn your Review Request and we have failed to respond to you within the proscribed time, or you are dissatisfied with our Review Response, you may apply to the Scottish Information Commissioner for a decision as to whether we have dealt with your request in accordance with the Act ('Appeal Application').

Your Appeal Application must be made to the Scottish Information Commissioner in writing or in other durable form, stating your name and address for correspondence, specifying the request for information to which your Appeal Application relates and the matters that have given rise to your dissatisfaction.

It must be provided to the Scottish Information Commissioner within six months after the date you received our Review Response or, in the event that we did not provide you with a Review Response within the proscribed time, within six months after the expiry of that period. The address of the Scottish Information Commissioner is:

Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS Tel 01334 464 610; Fax 01334 464 611; email: enquiries@itspublicknowledge.info; www.itspublicknowledge.info