



Our Ref: IM-FOI-2018-1001

Date: 18th June 2018

FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 – INTERNAL REVIEW

In accordance with section 20(1) of the Freedom of Information (Scotland) Act 2002, you have requested a review of the decision communicated to you 26th April 2018 in respect of your original request for information, received on 19th April 2018.

Original Request

I request that the Service's Standard Operating Procedure titled 'Under Age Sexual Activity' is disclosed.

Request for Review

I am dissatisfied with the way in which my request was handled. I am requesting an internal review.

I ask the following of the Service in this review; How was the public interest test applied to this request (i.e. In what way does the public interest in maintaining the exemption outweigh that in disclosure of the information?), as no details have been provided in the response?; When is the information intended for publication - is it still intended as before the 5th of July as the response states?; What makes the information not suitable for publication at the present time? Would the information, if published at the present time, be inaccurate, misleading, or not suitably redacted, or in some other way compromise the reputation of the Service?

My role is to consider the response issued and determine whether or not your request was handled in accordance with the provisions of the Freedom of Information (Scotland) Act 2002 (the Act).

In reviewing the response I have studied all documentation relevant to the request, including that which documents both the research carried out and the decision making process.

The Under Age Sexual Activity Standard Operating Procedure (SOP) is on course to be published by 5th July 2018 as indicated in the original response to your request. Thus I am satisfied that the section 17(1) exemption of the Act was correctly applied.

However, I note that no public interest test was applied to the exemption. Section 27(1) of the Act is a Non Absolute exemption and as such is subject to the Public Interest Test.

Public Interest Test:

Public awareness would favour disclosure as it would contribute to public debate surrounding the subject matter of the requested SOP. It would also enhance scrutiny of decision making processes and thereby improve accountability.

However, I would contend that it is reasonable in all the circumstances for the information to be withheld until the planned date of publication, which is by 5th July 2018. This publication date is a little more than two weeks away from this response. There is a public interest in withholding the document to ensure that proper checking and collation of the report will be completed before publication. This is a new SOP that has not previously existed, therefore it is of public interest to have this process fully checked and approved by those departments involved.

Accordingly, I consider that the public interest in disclosing the information requested is outweighed by that in maintaining the exemptions detailed above.

Taking all of the above into account, I am not satisfied that your request was handled in accordance with the Freedom of Information (Scotland) Act 2002 and in terms of section 21(4)(b) of the Act, I modify the original response of Section 17 to include a Public Interest Test.

Should you require any further assistance concerning this matter please contact Information Management – Stirling on 01786 456321 quoting the reference number given.

If you remain dissatisfied following the review of this case, you then have six months in which you may appeal to the Scottish Information Commissioner who can be contacted as follows:

Online appeal service - www.itspublicknowledge.info/Appeal

Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS

Telephone: 01334 464610
Email: enquiries@itspublicknowledge.info

Should you wish to appeal against the Scottish Information Commissioner's decision, there is an appeal to the Court of Session on a point of law only.