

# Decision Notice



Decision 070/2011 Mr Craig Moore and the University of Glasgow

Student numbers for MA/MSc Archives Administration course

Reference No: 201002300  
Decision Date: 31 March 2011

[www.itspublicknowledge.info](http://www.itspublicknowledge.info)

**Kevin Dunion**  
Scottish Information Commissioner

Kinburn Castle  
Doubledykes Road  
St Andrews KY16 9DS  
Tel: 01334 464610



## Summary

This decision considers whether the University of Glasgow (the University) complied with the technical requirements of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to information request made by Mr Craig Moore (Mr Moore).

## Background

---

1. On 19 October 2010, Mr Moore wrote to the University requesting information relating to any decision regarding student numbers for its Archive Administration MA/MSc course.
2. No response was received from the University to this request.
3. On 30 November 2010, Mr Moore wrote to the University requesting a review of its handling of his information request.
4. Mr Moore received no response to his request for review and on 25 February 2011 wrote to the Commissioner, stating that he was dissatisfied with the failure of the University to respond to both his request and his request for review and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
5. The application was validated by establishing that Mr Moore had made a request for information to a Scottish public authority and had applied to the Commissioner for a decision only after asking the authority to review its response to that request. The case was then allocated to an investigating officer.

## Investigation

---

6. On 1 March 2011, the University was notified in writing that an application had been received from Mr Moore and was invited to comment on the application as required by section 49(3)(a) of FOISA.
7. The University responded on 15 March 2011, acknowledging that it had received both Mr Moore's request and his request for review and indicating that the failure in this case was due to the request and request for review being received at a particularly busy teaching time. It indicated that pressure of work meant that the recipient of the messages had neglected to respond.



8. The University informed the Commissioner that that both the department to which the request and request for review were submitted and the University as a whole understood that this was a serious procedural breach and were committed to ensuring that such an oversight does not occur in future.
9. The University also informed the Commissioner that it had sent an email to remind all staff within the relevant department that requests for information can come into any member of staff. This email had also directed them to guidance available to staff on dealing with information requests. The University has also apologised for the breach of its procedures in dealing with Mr Moore's request and request for review.
10. The University issued a response to Mr Moore's request for review, which also extended an apology to him, on 15 March 2011.

## **Commissioner's analysis and findings**

---

11. Section 10(1) of FOISA gives Scottish public authorities a maximum of 20 working days following the date of receipt of the request to comply with a request for information, subject to certain exceptions which are not relevant in this case.
12. The University acknowledged that the request was received by the relevant department and that it did not respond to this. The Commissioner therefore finds that the University failed to respond to Mr Moore's request for information within the 20 working days allowed under section 10(1) of FOISA.
13. Section 21(1) of FOISA gives public authorities a maximum of 20 working days following the date of receipt of the requirement to comply with a requirement for review, again subject to exceptions which are not relevant to this case.
14. Section 21(4) of FOISA states that, on receipt of a requirement for review, an authority may do the following in respect of the information request to which it relates:
  - a. confirm a decision complained of, with or without such modifications as it considers appropriate;
  - b. substitute for any such decision a different decision; or
  - c. reach a decision, where the complaint is that no decision had been reached.
15. The Commissioner's view is that, where no response has been made to an information request, the first two options are unavailable to the authority, and so the only appropriate review outcome in a case such as this is for the authority to reach a decision where none has been reached before, in line with section 21(4)(c) of FOISA.



16. Section 21(5) then requires the public authority to give the applicant notice in writing of what it has done under subsection (4) and a statement of its reasons for so doing.
17. The University acknowledged that the requirement for review was received by it, but for the reasons set out in paragraph 7, it failed to provide a response to this. The Commissioner therefore finds that the University failed to respond to Mr Moore's requirement for review of 30 November 2010 in accordance with section 21 of FOISA, and, in particular, sections 21(4) and (5) of FOISA, within the 20 working days allowed by section 21(1) of FOISA.
18. As the University subsequently provided a response to Mr Moore dated 15 March 2011, containing the outcome of his request for review, the Commissioner does not require it to take any further action in relation to the matters subject of this decision notice.

## DECISION

The Commissioner finds that the University of Glasgow (the University) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in dealing with the information request made by Mr Moore, in particular by failing to respond to Mr Moore's request for information and requirement for review within the respective timescales laid down by sections 10(1) and 21(1) of FOISA.

Given that the University has now provided a response to Mr Moore's requirement for review, the Commissioner does not require the University to take any action in response to these failures.

## Appeal

---

Should either Mr Moore or the University of Glasgow wish to appeal against this decision, there is an appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days after the date of intimation of this decision notice.

**Claire Sigsworth**  
**Deputy Head of Enforcement**  
**31 March 2011**



## Appendix

---

### Relevant statutory provisions

#### Freedom of Information (Scotland) Act 2002

##### 1 General entitlement

- (1) A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority.

....

- (6) This section is subject to sections 2, 9, 12 and 14.

.

##### 10 Time for compliance

- (1) Subject to subsections (2) and (3), a Scottish public authority receiving a request which requires it to comply with section 1(1) must comply promptly; and in any event by not later than the twentieth working day after-

- (a) in a case other than that mentioned in paragraph (b), the receipt by the authority of the request; or

##### 21 Review by Scottish public authority

- (1) Subject to subsection (2), a Scottish public authority receiving a requirement for review must (unless that requirement is withdrawn or is as mentioned in subsection (8)) comply promptly; and in any event by not later than the twentieth working day after receipt by it of the requirement.

- (4) The authority may, as respects the request for information to which the requirement relates-

- (a) confirm a decision complained of, with or without such modifications as it considers appropriate;
- (b) substitute for any such decision a different decision; or
- (c) reach a decision, where the complaint is that no decision had been reached.



- (5) Within the time allowed by subsection (1) for complying with the requirement for review, the authority must give the applicant notice in writing of what it has done under subsection (4) and a statement of its reasons for so doing.