

# Assessment report



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<b>Scottish public authority:</b>	University of Glasgow
<b>Dates of on-site assessment:</b>	15 and 16 September 2009
<b>Assessors from OSIC:</b>	Jill Walker and Claire Stephen
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## Executive summary

This report sets out the findings of an assessment of the University of Glasgow's (the University) practice in relation to its obligations under the Freedom of Information (Scotland) Act 2002 (FOISA) and the Environmental Information (Scotland) Regulations 2004 (EIRs), carried out by the Office of the Scottish Information Commissioner. This assessment considered all aspects of the University's handling of information requests, in relation to compliance with FOISA, the EIRs and the associated Codes of Practice.

During the assessment various areas of good practice were identified in the manner in which the University handled information requests, including its systems for the logging and monitoring of requests, the structure of FOI coordinators throughout the University, the culture of openness and the high profile and level of recognition the centralised Data Protection and Freedom of Information Office (FOI Office) has throughout the organisation. There were some areas of the University's practice identified where there was some scope for improvement.

In conclusion the Commissioner would like to commend the University for its culture and practice with regard to its obligations under FOISA and the EIRs. It is clear that the University has invested in both its training and administrative systems to improve its performance under FOISA. In conducting this assessment the Commissioner has recognised the commitment and dedication of the FOI Office staff in particular and their recognition of the need for continuous improvement. The Commissioner highlights this report as an example of good practice for all organisations in the Higher Education sector. The assessors' recommendations in light of the minor areas identified for improvement are set out below.

### Recommendations

Section	Recommendation	Priority
Identification of requests	The University needs to take immediate steps to conduct refresher training for one particular department and its recognition of requests.	Priority 1
	It is recommended that the University develops a formal definition of "business as usual" requests and take steps to ensure that this is consistent throughout the University.	Priority 2
Content of notices	Alteration of standard letters to provide full instructions as to the applicant's right of review and appeal to the Commissioner.	Priority 2
Review process	It is recommended that the University puts in place written procedures for carrying out reviews, highlighting guiding principles.	Priority 3
Training and Awareness	Update training materials to account for EIRs	Priority 3



<b>Priority 1: Urgent (immediate) action required</b>
<b>Priority 2: Medium term action required (to be completed within 3 months)</b>
<b>Priority 3: Long term action required ( to be completed within 6 months)</b>

## 1. Scope and objectives of assessment

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- 1.1 This report sets out the findings of an assessment of the University by representatives of the Scottish Information Commissioner (the Commissioner). The purpose of the assessment was to establish whether the University is complying with good practice in dealing with requests for information in terms of the **Freedom of Information (Scotland) Act 2002 (FOISA)**, the **Environmental Information (Scotland) Regulations 2004 (EIRs)** and the associated Codes of Practice<sup>1</sup>, and to identify and make recommendations in relation to areas where procedure and practice were not in line with expected good practice.
- 1.2 The assessment considered all aspects of the University's handling of information requests. The following areas were identified for particular consideration and discussion following review of the University's response to the pre-assessment questionnaire and supporting documents supplied to the Commissioner:
- Procedures for handling FOI and EIR requests, and internal reviews
  - The internal processes and systems used when managing and monitoring FOI and EIR requests
  - Identification of requests for environmental information under the EIRs
  - Working definition of an FOI request
  - Content of responses to requests for information, or responses to requests for review
  - The extent of searches undertaken to identify information falling within the scope of requests
  - The level of advice and assistance provided to applicants
  - The University's procurement practice in light of FOISA/the EIRs.

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<sup>1</sup> The relevant Codes of Practice are the Scottish Ministers' Code of Practice on the Discharge of Functions by Public Authorities Under the Freedom of Information (Scotland) Act 2002 (referred to in this report as "the section 60 Code of Practice") and the Code of Practice on the Environmental Information (Scotland) Regulations 2004 for Scottish Public Authorities (referred to in this report as the "section 62 Code of Practice"). It should be noted that the assessment did not assess compliance with the Freedom of Information (Scotland) Act Code of Practice on Records Management (commonly referred to as "the section 61 code").



## 2. Assessment process

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2.1 The University was notified of the Commissioner's intention to conduct an assessment of its practice in a letter dated 16 March 2009, which informed of it of the assessment objectives set out above. Jill Walker and Claire Stephen (the assessors) conducted the on-site assessment on behalf of the Commissioner on 15 and 16 September 2009. The assessors were in contact with University's FOI and DP Office (the FOI Office). During the two day assessment the assessors met the following members of University staff:

- Mr David Newall, Secretary of Court
- Ms Johanna King, Head of FOI and DP Office
- Ms Claire McMullan, Freedom of Information Administrator
- Mr Alec Scrimgeour, Principal's Office, Executive Assistant to the Principal
- Dr Anne Mitchell, Court Office, Corporate Projects Manager
- Ms Annie Vaz, Corporate Communications, Deputy Director
- Ms Julia Kerr, Deputy Head of Purchasing
- Ms Ann Galbraith, Health Safety and Wellbeing, Environmental Adviser and Administrative Office

2.2 In conducting the assessment, the assessors worked through a list of questions which had been prepared in advance of the on-site assessment, based on the responses received to the pre-assessment questionnaire, together with policies and procedures and an analysis of a sample of requests supplied to the Commissioner in advance of the on-site assessment. The assessors also reviewed the University's recently approved publication scheme and training materials. Additional questions arose in the course of discussion and from consideration of the handling of individual requests.

2.3 The assessors also made reference to the assessment checklist published within the Commissioner's Investigations and Enforcement Procedures<sup>2</sup> to ensure that each relevant area of practice had been considered and appropriate evidence gathered. The University cooperated fully and openly with the assessment process, providing full access to its systems for handling requests and further providing the assessors with the opportunity to meet with relevant staff.

2.4 At the end of the assessment, a concluding meeting was held with Mr Newall and Ms King. This meeting provided an opportunity to feed back the key findings of the on-site assessment. The feedback provided in that meeting is reflected and expanded upon the points raised below.

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[http://www.itspublicknowledge.info/web/FILES/publication\\_scheme/Investigations\\_Enforcement\\_Proc\\_v9.pdf#search="Investigation and enforcement procedures"](http://www.itspublicknowledge.info/web/FILES/publication_scheme/Investigations_Enforcement_Proc_v9.pdf#search=)



### 3. Overview: culture and practice

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- 3.1 The University has a clear understanding of its obligations under FOISA. There is evidence of a culture of openness and transparency within the University extending beyond its centralised FOI Office and more importantly a clear recognition of the need for continuous improvement. There is evidence that the FOI Office has a degree of autonomy and independence from the general departmental and administrative aspects of the University, allowing it to offer a specialist and objective approach to requests received throughout the University. Its position within the University's organisational structure provides direct access to the University Court Office as and when required, signifying the degree of importance placed upon FOI within the University as a whole.
- 3.2 It was apparent through discussions with the FOI Office that the University is striving toward a culture of openness and transparency and aims to operate within the spirit of FOISA and to comply with its formal requirements.
- 3.3 The assessors identified a number of areas of good practice in the University's approach to FOISA. For example, there was a clear indication that the University wishes to continually improve its performance in terms of FOISA and the EIRs and had recently undertaken a full review of its policies and practice. There is also a strong network of FOI coordinators representing each department within the University.
- 3.4 The University receives a high number of enquiries every day. Although recognising that each request for information is a valid request under the terms of FOISA, the University deals with many requests as "business as usual", that is providing the information requested without reference to FOISA.
- 3.5 Generally requests from prospective students relating to course-specific details are dealt with as "business as usual". The University deals with all requests received through its dedicated FOI email address as requests for information under FOISA. It was apparent that each department individually assesses each request received directly at a departmental level. Those which the department considers as requiring a response under FOISA are forwarded to the centralised FOI Office for formal response. It was apparent, however, that each department uses different criteria for recognising requests under FOISA. The consistent recognition of requests was an area the assessors identified as requiring development throughout the organisation.
- 3.6 The University recognised the need for continual development of training materials and internal processes. It was clear that the centralised FOI Office is highly regarded and respected throughout the organisation. Generally, the processes for dealing with requests, once identified, were consistent throughout the departments considered, reflecting the prominent status provided to the FOI Office throughout the University.
- 3.7 There was no evidence in its response to the pre-assessment questionnaire of the University having dealt with requests for environmental information under the EIRs. However, in the period of time leading up to the on-site assessment the University informed the assessors that



it had received and identified a request for environmental information. The University recognised the need to make the handling of requests for environmental information more prominent in its training material. The University developed its training material in respect of the EIRs during the preparation of this report.

## 4. Detailed outcomes and findings

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This report summarises the findings from the first assessment of the University of Glasgow, in the fourth year of the operation of FOISA. Findings are set out in following sections: adequacy of administrative arrangements, timescales for compliance, content of notices, adequacy of searches, review process, training and awareness, procurement practice and FOISA, FOI requests and “business as usual” requests and the recognition of requests for Environmental information . Each of these sections also addresses key issues and concerns facing the University.

No comment is made in this report on areas where there was no evidence of practice.

### **Adequacy of Administrative arrangements**

#### Infrastructure and resources

- 4.1 The University has a centralised Data Protection and Freedom of Information Office (the FOI Office) which is also responsible for records management. Departments are provided with templates to respond to requests where section 17 (Information not held) and section 25 (information otherwise accessible) apply. Generally however, requests dealt with under FOISA are channelled through the FOI unit.
- 4.2 The University also has a network of FOI coordinators throughout its organisation with a representative from each department, both administrative and academic. This network is coordinated through the centralised FOI Office.
- 4.3 The University's Freedom of Information coordinators are local contacts, across the University, for advice on FOISA issues<sup>3</sup>. When appropriate the coordinator may pass the issue on to the FOI Office. In addition, when the FOI Office is handling an information request and is seeking to locate the relevant information, it will liaise with the appropriate coordinator(s) and the departmental response will be routed back to the FOI Office through the coordinator.
- 4.4 The role of the FOI coordinator is as follows; to raise staff awareness of freedom of information issues; to resolve any routine freedom of information queries which may arise; to liaise with the FOI Office, as appropriate, to resolve complex queries or where exemptions might apply in a particular request; to help the FOI Office in promptly locating and extracting information held in their area; to comment on centrally produced guidance and training materials; to advise the FOI Office of areas where further guidance or clarification is required.
- 4.5 The FOI Office holds briefing sessions three times a year for to all FOI coordinators<sup>4</sup>, which provide updates as to recent developments in FOI, recent cases and appeals with the

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<sup>3</sup> <http://www.gla.ac.uk/services/dpfoioffice/policiesandprocedures/foisa-coordinators/>



Commissioner. Where the FOI coordinator is unable to attend the briefing, another departmental representative must attend in their place.

#### Receipt of requests, monitoring and logging

- 4.6 The FOI Office has a presence on the home page<sup>5</sup> of the University's website, from which the public can make requests directly<sup>6</sup>. The University also has a dedicated FOI email address to which requests can be made directly ([foi@gla.ac.uk](mailto:foi@gla.ac.uk)).
- 4.7 The University deals with many requests for information as “business as usual”, that is providing information requested without reference to FOISA, where a requestor has sought information of a type which is regularly and routinely provided. These requests, where received at a departmental level, are not channelled through the centralised Office. All requests received directly to the centralised Office through the dedicated email address are dealt with under FOISA.
- 4.8 The FOI Office is responsible for responding to all requests sent to it directly. Departmental staff and coordinators are familiar with the process by which requests, other than those handled as “business as usual”, are passed to the FOI Office for consideration and response when received at a departmental level. The University's definition of “business as usual” requests will be discussed further below.
- 4.9 Once a request is received by the FOI Office, whether that be directly or from a department, it is acknowledged and logged onto the University's monitoring system, Hornbill System's Supportworks. Supportworks gives each request a unique identifier. Each member of the FOI Unit has access to the system to allow monitoring of requests in periods of staff absence.
- 4.10 Following acknowledgement the FOI Office issue a standard memo to the department(s) concerned asking the department(s) to identify the relevant information. Where a request is received directly by the FOI Office the identity of the applicant is not automatically divulged to the department concerned in responding to the request.
- 4.11 Each department is given a strict timeframe in which to respond to the FOI Office. Access to a relevant contact within each department allows for the retrieval of information as efficiently and effectively as possible.
- 4.12 Responsibility for determining whether an exemption should be applied to the information ultimately falls to the FOI Office. Sensitivities relating to the information will be highlighted by the department concerned and discussions will take place between the FOI Office and the department to establish a suitable outcome where there is a divergence of opinion on whether or not the information should be withheld.
- 4.13 The FOI Office has regular meetings with the Corporate Communications Department and submits a weekly report to the Principal and Secretary of Court on the requests received.

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<sup>4</sup> <http://www.gla.ac.uk:443/services/staffdevelopment/training/programme.php?groupname=Information%20Management#GUFOI>

<sup>5</sup> <http://www.gla.ac.uk/>

<http://www.gla.ac.uk/services/dpfoioffice/><sup>6</sup>



4.14 The FOI Office recently recruited two replacement members of staff. Although these staff are primarily involved in records and information management systems they also undertake compliance work making a total of 5 staff, all of which have access to the Supportworks system. The FOI Office recognised the importance of multi-skilling amongst its staff to ensure consistency and adherence to timeframes throughout times of staff absence.

#### Transferring requests between authorities

4.15 Regulation 14 of the EIRs (Transfer of a request) provides that a public authority receiving a request for environmental information which it does not hold may transfer that request to another authority which it believes does hold the information.

4.16 FOISA does not contain any equivalent provision, and so for any request for information to be valid under section 1(1) of FOISA, it must be submitted directly by the applicant to the authority that subsequently responds. The Commissioner is aware that guidance contained in the Section 60 Code of Practice suggests that it may be good practice to transfer a request in similar circumstances to those set out in regulation 14 of the EIRs. However, he has concluded that this is incorrect, as such a transfer would mean that the request had not been made by the requestor to the receiving authority in line with section 1(1) of FOISA. The Commissioner understands that this discrepancy will be addressed in the new section 60 Code of Practice.

4.17 When questioned, the University explained that it had not been required to transfer a request for information but that it would have followed the Section 60 Code of Practice if such circumstances arose. In response, the assessors highlighted the Commissioner's stance with regard to transferring a request for information.

#### Conclusions

4.18 The assessors were satisfied that the University's administrative arrangements were adequate to ensure compliance with FOISA and the EIRs. The assessors recognised that in such a large and varied organisation, such as the University, the existence of FOI coordinators in each department, administrative or academic area provides a comprehensive and consistent approach to fulfilling FOI/EIR requests, which are then handled quickly and effectively as the channels of communication are well established. This is an area of particular good practice. The assessors requested that the University be mindful of the differences between FOISA and the EIRs when transferring a request for information. The assessors also recognised that the systems currently in place for the monitoring and logging of requests demonstrated good practice.

#### **Timescales for compliance**

4.19 In terms of FOISA and the EIRs the University has 20 working days in which to respond to requests for information and requests for review<sup>7</sup>. In response to the Commissioner's questionnaire, the University indicated that in 2006-2007 it had responded to 86% of requests

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<sup>7</sup> Sections 10 (Time for Compliance), 21 (Review by Scottish public authority) of FOISA and regulations 13 (Refusal to make information available) and 16(Review by Scottish public authority) of the EIRs.



within the 20 working day period allowed. In the period of 2007-2008, the University responded to 79% of requests within the required timeframe.

- 4.20 During the course of the assessment the assessors analysed the requests that had been dealt with by the University in 2009. Of the 138 requests dealt with in 2009 up to the time of the assessment, 96% of requests were dealt with within the 20 working day period.
- 4.21 The University acknowledged that there were areas in the past where its adherence to timescales could be improved. The University explained that request tracking has been improved by moving to a new system for logging and managing requests (Supportworks). Timescales have also been set for each stage of the processing of requests, with departments given a one week deadline within which to reply to the FOI Office with their response. This provides greater impetus for departments to deal with requests promptly and allows more time for the collation of more complex responses. This approach has eased pressure on both the departments and the FOI Office. It has also clarified timescales for response, with a view to reducing the number of instances where the University fails to respond to applicants within the prescribed 20 working day deadline.
- 4.22 The assessors were impressed with the University's new electronic system for logging and monitoring request, Supportworks. This system provides each request, request for review and appeal to the Commissioner with a unique identifier and produces soft copy weekly reports for the FOI Office staff, showing the progress of each request and forthcoming deadlines. The system also produces daily reports for the real-time monitoring of requests. In addition, it records all correspondence associated with the handling of the request. These new systems have clearly had a positive impact on the monitoring of requests, with only 4% falling outwith the 20 working day period. Of the 5 requests falling outwith the timeframes set out in FOISA, the longest delay was 5 working days.

## Conclusion

- 4.23 The investment by the University in this new electronic method of recording and monitoring of requests, Supportworks, is an area of good practice recognised by the assessors. Analysis of more recent requests dealt with by the University indicates that the University is now able to deal with the vast majority of requests within the timescales required. The assessors are satisfied that the administrative arrangements now in place are suitable for ensuring compliance with the timeframes set out in FOISA and the EIRs.

## **Content of notices**

- 4.24 The content of notices provided in response to requests and requests for review must fulfil certain statutory requirements<sup>8</sup>. In particular, responses provided to requestors by the University must provide details of the University's procedure for dealing with complaints about its handling of requests for information, the requestor's right to review and application to the Commissioner<sup>9</sup>.

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<sup>8</sup> Sections 16 (Refusal of request) and 19 (Content of certain notices) of FOISA and regulation 13 (Refusal to make information available) of the EIRs.

<sup>9</sup> Sections 20(1) (Requirement for review of refusal etc.) and 47(1) (Application for decision by the Commissioner) of FOISA and regulation 17(Enforcement and appeal provisions) of the EIRs.



- 4.25 The University has a set of standard template letters used in responding to requests. Of the sample requests analysed by the assessors and following discussions with the FOI coordinators, it was clear that these template letters are used consistently throughout the University when responding to an information request. Although these notices fulfil most of these requirements, the assessors were concerned that instructions as to how a requestor should request a review may be considered inaccessible. Details of how to request a review of the University's initial response are currently given by reference to a website link rather than being set out in the template itself. The assessors raised issues regarding accessibility of this approach and recommended that the University amend its standard templates as to provide brief instructions as to how to request a review. The assessors offered to provide sample template letters which would provide an example of the form such notices could take. Sample template letters were provided to the University following the assessment visit.
- 4.26 In addition, the University was asked, as a matter of good practice, to include within its standard letters the timeframe in which requestors have in order to make a valid application to the Commissioner (6 months)<sup>10</sup>.
- 4.27 The University has recently added to its suite of standard template letters, templates for responding to requests under the EIRs. The assessors were given access to these during the course of the assessment.

### Conclusion

- 4.28 Overall the assessors were satisfied, subject to the addition of explicit instructions providing requestors with instructions as to how to request a review, that the standard template letters used by the University meet the statutory requirements laid down in FOISA.

### **Adequacy of Searches**

- 4.29 Prior to the on-site assessment the assessors had concerns arising from analysis of the log of 2009 requests supplied prior to the assessment. These concerns related to the number of times the University had advised the applicant that the information was not held<sup>11</sup>.
- 4.30 It is essential to successful request handling that an authority is able to identify and retrieve the information it holds on receipt of a request. The University recognised the importance of good records management and it is an area which is under continuous development. In particular the University recognises the need for effective records management practice in order to readily locate information which may fall within the scope of a request. The FOI Office provides detailed good practice guides on records management<sup>12</sup>.
- 4.31 Through discussions with the FOI coordinators it was clear that their roles and responsibilities within each department meant that they had a good understanding of their department as a whole. Each FOI coordinator, although not necessarily conducting the searches themselves, had a clear understanding of who would be the most appropriate individual to conduct the

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<sup>10</sup> Section 21(10) of FOISA

<sup>11</sup> Section 17 of FOISA (Notice that information is not held)

<sup>12</sup> <http://www.gla.ac.uk/services/dpfoioffice/guidanceonrecordsandinformationmanagement/>



searches. All coordinators spoken to recognised the need to search both hard copy and electronic files.

- 4.32 The FOI Office, where presented with a nil return from the department in question, would probe the department further where the nature of the request is one in which it would generally be accepted that the information was held.
- 4.33 During the course of the onsite assessment the assessors analysed 6 sample requests and 3 reviews from 2009 closely and questioned the searches undertaken in respect of those requests. As a result, the assessors were satisfied that adequate searches were being undertaken and concluded that in some instances the manner in which the requests had been recorded in the monitoring log was misleading as to the nature of the request, which in turn resulted in the concerns raised by the assessors. In one instance (F0061646) the assessors noted that although the University's response was logged as citing section 17 of FOISA (Notice that information is not held), on closer inspection of the request and correspondence related to it, it was clear that the information in question was provided in full and this was merely a recording error.
- 4.34 Although it was evident from the correspondence analysed and through discussions with the FOI Office and interviews with the FOI coordinators that searches were being undertaken to identify the information in question, no formal record of the searches undertaken were being maintained by the FOI Office or the departments concerned.

### Conclusions

- 4.35 Through the analysis of further requests during the course of the on-site assessment and questioning of departmental staff, the assessors were satisfied that the University has adequate safeguards in place to ensure that proper search processes were followed to identify information which would fall within the scope of the request.
- 4.36 However, the need to retain records of searches undertaken within the University when responding to information requests was discussed with the FOI Office, in relation to evidence which the Commissioner might require in investigating any possible applications for decision to his Office.

### **Review process**

- 4.37 Neither FOISA nor the EIRs are prescriptive about the form of review that should be undertaken following a request for review<sup>13</sup>. However, the Section 60 and 62 Codes of Practice provide guidance as to good practice with regard to the conduct of review, which includes:
- Authorities should have in place procedures for handling reviews, which should be fair and impartial and enable different decisions to be taken if appropriate
  - The procedures should be straightforward and capable of producing a decision promptly and in line with the statutory timescales

<sup>13</sup> Section 21 (Review by Scottish public authority) of FOISA and regulation 16 (Review by Scottish public authority) of the EIRs.



- A review should be handled by a person who was not involved in the original decision.
- 4.38 The University does not currently have any written procedures for handling reviews. Reviews received by the University are undertaken by the Secretary of Court (Mr David Newall) or one of two other individuals identified by him, should he be absent or have had some influence on the original outcome, or where in any other respect there is a clear conflict of interest.
- 4.39 The other two reviewers identified are senior employees with an understanding of the University as a whole and no link to a particular department.
- 4.40 There is a clear understanding that reviews are undertaken free of influence of the FOI Office who will have dealt with the original request. Standard practice is that a briefing document is provided to the reviewer, alongside all correspondence relating to the request. Where the reviewers are unclear on any aspect of the case they may seek further guidance from the FOI Office, or request further information directly from the department concerned.
- 4.41 The assessors analysed some of the reviews undertaken by the University and the process used to carry out the review was discussed in interview. At the time of the assessment the University had dealt with 14 requests for review in 2009. The assessors analysed 3 of these reviews during the course of the assessment. The process used to carry out reviews was discussed in interview with one of the three individuals identified as responsible for conducting reviews. Although reviewers are clearly recognised as having the authority to make an amended decision on behalf of the University where necessary, there are no clear, formal written procedures followed by the reviewers.
- 4.42 To ensure independence and autonomy in the process of carrying out a review, the responses to the reviews are prepared and sent out from a separate email address by the reviewer. Once a review is complete a copy of the response is sent to the FOI Office to ensure that a complete record is retained.

### Conclusions

- 4.43 It is recommended that the University puts in place written procedures for carrying out reviews, highlighting guiding principles. This will help achieve compliance with FOISA in this process, and also consistency of practice in future, should there be staff changes or should other staff become involved in the process. It was suggested that the review process is documented, perhaps in the form of a standard checklist to ensure consistency and for any possible future appeals to the Commissioner

### **Training and Awareness**

- 4.44 The assessors noted that due to the scale of the University, successful compliance with FOISA and the EIRs depends in a large part upon staff awareness, both in terms of staff recognising requests and forwarding these to the FOI Office as soon as they are received.
- 4.45 The University supplied the assessors with copies of its training materials used during the induction of new staff and specialist training provided to each coordinator. The assessors were presented with evidence showing that awareness of FOI is promoted in a variety of ways



and the importance of maintaining such awareness is recognised – for example, by commitment to induction training and three meetings per annum for all FOI coordinators.

- 4.46 During the interview process it was apparent that all FOI coordinators had received consistent training and were responsible for cascading that training throughout their respective departments, although recognition of FOI requests as opposed to “business as usual” varied between departments. Despite this, all FOI coordinators had a practical and consistent knowledge of the University’s obligations under FOISA.
- 4.47 Workshops facilitated by the FOI Office, open to all members of staff, provide an opportunity to discuss issues arising from requests and allow the sharing of experience to identify areas for continuous improvement. The University has also recognised the need to create a balance between practical knowledge and technical knowledge. It provides general training to all but advises all employees to contact the FOI Office where there is a more technical issue at hand. The FOI Office hold general training sessions 3 or 4 times a year but if there is a particular issue it will tailor a training session for the department in question.
- 4.48 The FOI Office emphasised that training is available to all employees of the University and simple guidance is offered on the University’s intranet. All employees are encouraged to contact the FOI Office should they have an FOI query.
- 4.49 The University recognised, due to the increasing prominence of the EIRs, its need to supplement its training materials with specific reference to the requirements of the EIRs. This was undertaken during the course of the assessment. In discussion with a representative from a University department which, in the assessors’ opinion, was likely to hold environmental information, there was a clear understanding of its obligations under the EIRs.

### Conclusions

- 4.50 Overall the assessors were satisfied that adequate training was available to University staff, including induction training and refresher sessions for existing coordinators. The assessors felt that the University had made good use of the in-house training resources available in providing general training to all staff and ensuring technical knowledge was available from the FOI Office. However, as recognised during the assessment, the University needs to ensure its training is applied consistently across all departments in relation to the recognition of requests. The University and the assessors also recognised the need to tailor training to account for the EIRs.

### **Procurement and public sector contracts**

- 4.51 The Section 60 and 62 Codes of Practice provide guidance as to formulation of public sector contracts. In general terms, the guidance provides that authorities should refuse to include terms which restrict the disclosure of information held by the authority and relating to the contract, beyond the restrictions permitted under FOISA or the EIRS.
- 4.52 From analysis of the requests received by the University and applications made to the Commissioner (Decision 050/2008 Mr Q and the University of Glasgow) and following



discussions with the FOI Office, it was apparent that a number of requests related to the University's procurement practice. The University's Procurement Department directs potential contractors to guidance offered by the FOI Office. The guidance offered by the FOI Office to external suppliers states:

*"Where the information request requires information to be disclosed which is subject to confidentiality obligations under a contract, the requirement to disclose may lead to the University breaching the contract. It is important that all contracts and tender submissions explicitly refer to the above legislation such that there will be no breach of contract if the party is required by law or by a court of competent authority to disclose."<sup>14</sup>*

- 4.53 Following discussions with a member of staff from the Procurement Department, it was apparent that a number of requests are dealt with as "business as usual" during the tendering process (further discussion on the University's definition of "business as usual" is expanded upon below). These requests, the Department explained, were generally requests for further information relating to the tender itself, which were disclosed as a matter of course and responded to via the Public Contracts Scotland Portal. Following the award of contract, the Procurement Department explained that each request for information is treated as a FOISA request and channeled through the FOI Office. Where requests are received in this area, the University will enter into consultation with the relevant parties and request that they identify if/where there are issues of commercial confidentiality. The University makes such parties aware that they will take such issues into account but that ultimately it is the decision of the University whether information is disclosed.

### Conclusion

- 4.54 Following discussion with the Procurement Department, and having reviewed the University's policies in relation to procurement, the assessors were satisfied that the organisation has been mindful of its obligations under FOISA in entering into public sector contracts.

### **FOI requests and "business as usual" requests**

- 4.55 The FOI Office recognises that all written requests for information are requests under FOISA. While the Commissioner accepts that, in practical terms, many routine requests for information will be dealt with as "business as usual" without reference to FOISA, it is essential that applicants' rights under FOISA/EIRs are protected.
- 4.56 The Commissioner considers that an authority should only deal with a request for information as a "business as usual" request in order to facilitate the routine provision of all information requested by the applicant. Information requests should not be treated as "business as usual" if there is any possibility that the applicant will be in any way dissatisfied with the response provided. If the public authority is unable or unwilling to provide all or some of the information requested, or has other grounds for suspecting that the applicant may not be completely satisfied by the response, the request should be dealt with under FOISA.
- 4.57 The University indicated that certain kinds of requests, largely for student information (e.g. prospectuses and course information), are generally dealt with as "business as usual" with the

<sup>14</sup> <http://www.gla.ac.uk/services/dpfoioffice/guidanceforsuppliersandcontractors/>



department concerned responding directly to the requestor without recourse to FOISA. Following discussion with the departmental coordinators it was apparent that each one had requests that were dealt with as “business as usual”. The factors taken into account when determining whether a request should be dealt with as “business as usual” varied amongst the departments, including the complexity of the request, the identity of the requestor and the subject matter of the request. Although the factors identifying “business as usual” requests varied between departments, it was apparent that if there was any possibility that information would be withheld or risk that the requestor would be dissatisfied with the response then the department would channel the request through the FOI Office.

- 4.58 There was, however, one department which stated that it would only deal with a request under FOISA if reference was made to FOISA within the request itself. This approach was clearly inconsistent with the training material provided by the FOI Office and the approach taken by all other departments. This issue was raised by the assessors with the FOI Office, who agreed to take immediate action to resolve this.
- 4.59 During the closing meeting with the FOI Office, it was highlighted that the University would have difficulties in providing uniform guiding principles for defining “business as usual” given the varying nature of each department.

### Conclusion

- 4.60 While the concerns of the FOI Office are noted, it is recommended that the University develops a formal definition of “business as usual” requests and takes steps to ensure that staff throughout the University are aware that any other written requests for recorded information must receive a response which complies with the statutory requirements in FOISA and the EIRs.
- 4.61 It is also recommended that the FOI Office provides refresher training to the particular department which required FOISA to be referenced within a request prior to it identifying it as a request under FOISA. The assessors recognised, however, that this department was an exception to the overall impression gained during the assessment.

### **Recognition of requests for Environmental Information**

- 4.62 Responses to the pre-assessment questionnaire from the University indicated that it had not received any requests for environmental information. Given the wide range of information held by the University, the identification of requests falling under the EIRs was a concern raised by the assessors. The FOI Office acknowledged during the course of the assessment that in the past it had not placed enough emphasis on the recognition of requests under the EIRs which, they explained, had mirrored the Commissioner’s approach at the time. However, the FOI Office recognised the need to become more aware of the recognition of requests for environmental information and had in fact received and logged a request under the EIRs relating to noise pollution prior to the assessors on-site assessment. The assessors also analysed one request closely from the full log of 2009 requests supplied by the University (F0057370). From the subject matter of this request recorded in the log the assessors felt it was possible that the request should have in fact been dealt with under the EIRs. On further inspection, however, it was apparent that the University was correct in dealing with the request under FOISA.



- 4.63 The assessors also conducted an interview with a FOI coordinator from Health Safety and Well being, one of the departments identified by the assessors as most likely to receive requests for environmental information. Following discussion with this representative it was apparent that they were fully informed on the obligations under the EIRs and aware of the important distinctions between the EIRs and FOISA.
- 4.64 The FOI Office recognised the need to update and develop its training material and approach to the EIRs and is well aware of the Commissioner’s development in this area through recent cases.
- 4.65 As previously stated the FOI Office, prior to the on-site assessment, had developed a standard template letter in relation to requests under the EIRs and was developing training materials in respect of the EIRs at the time of the assessment.

### Conclusions

- 4.66 Although there was no clear evidence to suggest that the University had received many requests for environmental information, the assessors and the FOI Office agreed that the recognition of requests for environmental information and training material in relation to the EIRs was an area which required development. The assessors received evidence during the preparation of this report that the University had already taken steps to address this issue.

## **5. Conclusion and summary of recommendations**

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- 5.1 Having concluded their assessment of the University’s practice, the assessors identified a number of areas of good practice in the University’s approach to FOISA and the EIRs. In particular the assessors noted that there was recognition of the need for openness and transparency, underlined with a recognition of the need for continuous development. The University has an excellent system for logging and monitoring requests and a strong network of FOI coordinators throughout the University
- 5.2 It is clear that the FOI Office is respected throughout the University as a source of advice and assistance. The structure of administrative arrangements ensures that there is consistency in responses.
- 5.3 The Commissioner commends the University for its approach to its obligations under FOISA and the EIRs and subject to certain minor improvements set out below , would highlight this report as a an example of good practice for other organisations within the Higher Education sector.
- 5.4 The assessors identified areas of the University’s practice which would benefit from some development and areas which were not fully compliant with good practice as set out in the Codes of Practice. These are set out below:



## Summary and recommendations

<b>Priority 1: Urgent (immediate) action required</b>
<b>Priority 2: Medium term action required (to be completed within 3 months)</b>
<b>Priority 3: Long term action required (to be completed within 6 months)</b>

<b>Section</b>	<b>Recommendation</b>	<b>Priority</b>
Identification of requests	The University needs to take immediate steps to conduct refresher training for one particular department and its recognition of requests.	<b>Priority 1</b>
	It is recommended that the University develops a formal definition of “business as usual” requests and take steps to ensure that this is consistent throughout the University.	<b>Priority 2</b>
Content of notices	Alteration of standard letters to provide full instructions as to the applicant’s right of review and appeal to the Commissioner.	<b>Priority 2</b>
Review process	It is recommended that the University puts in place written procedures for carrying out reviews, highlighting guiding principles.	<b>Priority 3</b>
Training and Awareness	Update training materials to account for EIRs	<b>Priority 3</b>

- 5.5 One of the recommendations set out in this report needs to be implemented by the University swiftly, to avoid the failure to recognise requests for information by one particular department within the University.
- 5.6 Whilst this recommendation could be implemented swiftly, the assessors recognised that others will require time to plan and implement. However, the assessors believe that all steps required to be taken can reasonably be completed within a period of 6 months.
- 5.7 At the end of the 6 month period, the assessors will ask the University to submit a report to the Commissioner explaining the measures put in place to address the issues identified in the assessment and the outcomes of the action plan. Following receipt of this report, the assessors may seek a follow-up meeting with the University to discuss progress and any outstanding issues.



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**Freedom of Information Officer**

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Report approved by

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