



Scottish Information
Commissioner

**Decision 055/2005 Russ McLean, Chief Executive of Argyll
Group plc, and Caledonian MacBrayne Limited**

***Refusal to provide a copy of the general arrangement plans of the MV
Bute***

**Applicant: Russ McLean, Argyll Group Plc
Authority: Caledonian MacBrayne Limited
Case No: 200501603
Decision Date: 22 November 2005**

**Kevin Dunion
Scottish Information Commissioner**

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Decision 055/2005 – Russ McLean, Chief Executive of Argyll Group plc, and Caledonian MacBrayne Limited

Request for plans of a ferry currently in service – health and safety – section 39 of the Freedom of Information (Scotland) Act 2002 (FOISA) – whether release would prejudice substantially the commercial interests of any person – section 33 of FOISA – consideration of the public interest

Facts

Mr McLean faxed Caledonian MacBrayne Limited (Caledonian MacBrayne) on 20 February 2005, requesting a copy of the general arrangement plans for the MV Bute (a new vessel recently added to Caledonian MacBrayne's fleet). Caledonian MacBrayne refused this request in a notice dated 14 March 2005, which cited section 25 of the Freedom of Information (Scotland) Act 2002 (FOISA) on the basis that plans were available on its website. Mr McLean then sought a review, noting that industry standard 1:100 general arrangement plans (as he required) were not reasonably accessible elsewhere. Following its review, Caledonian MacBrayne refused to provide copies of these on the grounds that they were exempt from release under sections 33 and 39 of FOISA. Mr McLean then applied to the Scottish Information Commissioner for a decision under section 47 of FOISA.

Outcome

The Commissioner concluded that Caledonian MacBrayne had acted in accordance with Part 1 of FOISA in refusing to provide a copy of the plans of the MV Bute. He agreed that the general release of these plans could endanger the health and safety of passengers and crew by risking the security of the vessel. He also agreed that the public interest in withholding the plans outweighed that in release.

The Commissioner found that Caledonian MacBrayne had failed to act in accordance with some technical aspects of FOISA in its responses to Mr McLean, by not providing him with advice and assistance in connection with his request for information and reasons for its review decision.



Appeal

Should either Mr McLean or Caledonian MacBrayne wish to appeal against my 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 of receipt of this notice.

Background

1. Mr McLean faxed Caledonian MacBrayne on 20 February 2005 to request copies of general arrangement plans for the MV Bute. The MV Bute is a new vehicle and passenger ferry that serves Caledonian MacBrayne's Wemyss Bay – Rothesay route. The vessel came into service in 2005.
2. Mr McLean's request was refused in a notice dated 14 March 2005. This stated that the plans were exempt from release by virtue of section 25, which applies to information that is reasonably accessible other than by making a request under FOISA. Caledonian MacBrayne stated that the information was available on its website here:
<http://www.calmac.co.uk/lowerfirthdrawings.html>.
3. The webpage that Mr McLean was directed to contains schematic diagrams of decks 2, 4 and 5 of the MV Bute. These are not general arrangement plans, however. Further, there are no diagrams on this page showing decks 1 and 3, or the vessel's bridge, and therefore the plans are incomplete. While the website contains a picture of the vessel in profile, this does not take the form of a diagram showing internal layout.
4. Mr McLean requested a review of Caledonian MacBrayne's decision in a fax of 15 March 2005. He again asked Caledonian MacBrayne to supply industry standard 1:100 general arrangement plans for the MV Bute. He noted that these were not reasonably available elsewhere.
5. Caledonian MacBrayne responded to this request for review in a letter dated 12 April 2005. This asserted that the information was exempt from release under section 33(1)(b) of FOISA, on the grounds that release of the requested information would substantially prejudice the commercial interests of the companies involved, and section 39(1), on the grounds that release could endanger the physical health or safety of individuals. This letter made no reference to consideration of the public interest in relation to Mr McLean's request.



6. Mr McLean applied to me for a decision on 28 April 2005. He noted that Caledonian MacBrayne had previously supplied 1:100 general arrangement plans to his company for two other vessels; the MV Pioneer and the MV Lochmor. He asked why Caledonian MacBrayne should block his requests for similar information now.
7. An investigating officer was assigned to this case.

Investigation

8. Mr McLean's application was validated by establishing that he had made a request for information to a Scottish public authority, and had appealed to me only after requesting that the authority review its response to his request. Caledonian MacBrayne, being a company wholly owned by Scottish Ministers, is a publicly owned company (and therefore a Scottish public authority) for the purposes of section 3(1)(b) of FOISA.
9. The process of validation took a considerable amount of time in this case because the investigating officer wrote to Mr McLean three times before receiving a response that confirmed he was not able to supply copies of all correspondence relating to his request to Caledonian MacBrayne (but that the missing documents should be in Caledonian MacBrayne's possession).
10. A request was issued to Caledonian MacBrayne for copies of relevant correspondence on 16 June 2005. These were received on 28 June 2005.
11. A letter was then sent to Caledonian MacBrayne on 29 June, confirming that Mr McLean's application to me was valid and that a full investigation would commence. Caledonian MacBrayne was invited to comment on the application in terms of section 49(3) of FOISA. It was also asked to provide
 - a) copies of the information withheld,
 - b) detailed reasons for the application of the exemptions in this case, in particular identifying the nature of the substantial prejudice that would be caused to the commercial interests of the companies involved by the release of the plans, and
 - c) detailed reasons for the belief that the public interest in this matter would be better served by withholding rather than releasing the plans.



Caledonian MacBrayne's submission

12. Caledonian MacBrayne's response to this letter was received on 15 July 2005. This did not include a copy of the plans under consideration as, during telephone conversations with the investigating officer, it was agreed that these would be viewed on a site visit to Caledonian MacBrayne offices (on which see below).
13. Caledonian MacBrayne stated that the exemption in section 33(1)(b) of FOISA was applied in this case because it was felt that there were likely implications for the commercial interests of the company that provided the plans for the vessel. It stated that Caledonian MacBrayne does not own the plans, but they and the intellectual property in them were retained by this other company. Caledonian MacBrayne suggested that release could have substantial effects for this company because it was possible that another company could use the plans for its own ends and financial gain, without recourse to the originating company.
14. Caledonian MacBrayne also stated that this exemption applied in relation to its own commercial interests. It noted that there were plans for a second vessel to be built to operate on the same route as the MV Bute and asserted that the release of the Bute's plans could affect the price to be paid for this vessel.
15. In relation to the exemption in section 39(1), which applies where release would or would be likely to endanger the physical or mental health of an individual, Caledonian MacBrayne stated that release could have serious implications for passengers and crew on board the vessel. It noted that health and safety of passengers and crew was paramount, and that information that could reveal sensitive areas on board a vessel could endanger these individuals' safety and security.
16. Caledonian MacBrayne's submission recognised that there was a certain amount of public interest in viewing certain areas of a vessel. However, it felt that this was satisfied by providing access to schematic diagrams on the internet and on public view aboard vessels. Caledonian MacBrayne asserted, however, that recent events had reinforced its view that the public interest was best served through not releasing full industry standard arrangement plans as requested.
17. In further comments, Caledonian MacBrayne noted that its initial response of pointing Mr McLean to the website for access to the plans was done in an attempt to be helpful in the spirit of FOISA and offer an alternative of the publicly available schematic diagrams.



18. Caledonian MacBrayne also highlighted a range of legislation and codes that it must comply with in relation to the safety and security of its vessels and passengers. In particular it pointed out that it was governed in this respect through Transec (the Transport Security Directorate within the Department for Transport), which was responsible for advising on the security measures appropriate to the level of threat and notifying shipping companies of these. Caledonian MacBrayne noted that two requirements set out by Transec would be compromised by release of detailed drawings. These were:
- a) Ensuring that there be a controlled access procedure for vessels' crew and authorised personnel only; and
 - b) Ensuring that sensitive areas of the vessel remain secure at all times.

Site visit

19. At this point, responsibility for this case was handed to a different investigating officer who was charged with taking forward all ongoing investigations relating to Caledonian MacBrayne.
20. As I have received a number of such applications, it was decided that it would be helpful for this officer to visit Caledonian MacBrayne offices in Gourock to allow discussions with a range of staff. The purpose of this visit was to allow better understanding of Caledonian MacBrayne and the environment in which it operated and overarching issues that might be relevant to consideration of requests under FOISA. It also allowed the opportunity to view some documents on site and discuss them with the members of staff who best understood their content.
21. The (new) investigating officer spent a full day at Caledonian MacBrayne's head office in Gourock on 8 September 2005. During this visit, she met with Caledonian MacBrayne's Safety, Environmental and Security Manager to view the plans of the MV Bute and discuss the application of exemptions to these.
22. Prior to the visit, Caledonian MacBrayne had been sent a document outlining issues that the investigating officer would like to discuss in relation to this case. This included:
- a) Identification of "sensitive" parts of the vessel in the general arrangement plans. How does the level of detail shown on the industry standard plans compare with the schematic diagrams on the internet?
 - b) Health and safety. How would release compromise requirement that there be a controlled access procedure for crew and authorised personnel, and that sensitive areas remain secure at all times?



- c) Ownership of plans. What was the basis for Caledonian MacBrayne's assertion that they did not own the plans? What Intellectual property issues arose in relation to them?
 - d) Was company that owned the plans consulted to establish its views on release?
 - e) How would release affect the price to be paid by Caledonian MacBrayne for a new vessel?
 - f) What would be the impact for the company that produced/owned the plans?
 - g) Mr Mclean's assertion that the plans for other vessels were made available to his company. Why not release now if similar plans had been made available previously?
23. Responses to these points were provided during the Investigating Officer's visit, and in follow-up correspondence.

Security of the vessel and the health and safety of passengers and crew

24. During discussions with the investigating officer, Caledonian MacBrayne's Safety, Environmental and Security Manager identified sensitive areas of the vessel as shown on the general arrangement plans, noting that the most sensitive decks had not been included on the schematic diagrams of the vessel available on the internet.
25. He also stated that in Caledonian MacBrayne's view, to make publicly available the general arrangement plans for any of the decks of the Bute could risk the security of the vessel. The diagrams on the internet were shown to contain considerably less detail than the general arrangement plans.
26. In support of its assessment of the risk to health and safety, Caledonian MacBrayne referred the investigating officer to the International Ship and Port Security Code (the ISPS Code), a document produced by the International Maritime Organisation (available online here: http://www.turkloydu.org/EN/SEA/ISPS_Code_en.pdf). This Code was adopted in 2002 following a review of measures and procedures to prevent acts of terrorism that would endanger passengers, crew and the safety of ships.
27. The ISPS Code had been binding in relation to international shipping since July 2004, and (as a result of its implementation via an EU Regulation) would apply to Caledonian MacBrayne as an internal ferry operator from July 2007.



28. Caledonian MacBrayne pointed out that a key requirement for achieving the ISPS Code's objectives was to prevent unauthorised access to ships, port facilities and their protected areas. This was set out in section 1.3.3 of the Code. Section 7.2 went on to require that at security level 1 (the lowest of three levels that might be in place at any time), companies must, among other things, control access to the ship and monitor restricted areas to ensure that only authorized persons had access.
29. Section 9.21 of the Code provided examples of restricted areas of a vessel, which might include:
 - a) navigation bridge, machinery spaces and other control stations;
 - b) spaces containing security and surveillance equipment and systems and their controls and lighting system controls;
 - c) ventilation and air-conditioning systems and other similar spaces;
 - d) spaces with access to potable water tanks, pumps, or manifolds;
 - e) spaces containing dangerous goods or hazardous substances;
 - f) spaces containing cargo pumps and their controls;
 - g) cargo spaces and spaces containing ship's stores;
 - h) crew accommodation; and
 - i) any other areas as determined by the CSO, through the SSA to which access must be restricted to maintain the security of the ship.
30. Caledonian MacBrayne asserted that public release of general arrangement plans of a vessel would inhibit its ability to fulfil these requirements.

Intellectual property issues

31. During her conversation with Caledonian MacBrayne's Safety, Environmental and Security Manager the investigating officer asked for further information about the intellectual property issues raised in Caledonian MacBrayne's submission to me.
32. Caledonian MacBrayne confirmed its view that it was not the owner of the plans, and further noted that the contract for the building of the vessel contained explicit provisions that would prevent Caledonian MacBrayne from copying the plans as this could risk a breach of the builder's intellectual property rights by the recipient.
33. The investigating officer requested a copy of the relevant provisions within the contract between the builder and Caledonian MacBrayne in relation to this vessel and these were provided. The intellectual property arguments were advanced under the heading of commercial interests (regarding which see paragraphs 34. 35 and 54 to 64 below).



Commercial interests

34. When asked for further information about the effect of release on its own commercial interests and those of the company that built the vessel, Caledonian MacBrayne responded in a letter of 5 October that the security implications formed the basis of the refusal to release information.
35. As Caledonian MacBrayne chose not to provide further details to support its previous submission that the exemption in section 33(1)(b) applied to this information, I understand that it is no longer relying primarily upon this exemption to support its decision. In any event, the investigating officer could only respond to the limited arguments advanced by Caledonian MacBrayne at the beginning of the investigation.

Previous access to plans

36. In his application to me, Mr McLean pointed out that his company had previously been supplied with copies of general arrangement plans for two other Caledonian MacBrayne vessels. He asked why access could not be provided now to the plans for the Bute.
37. When asked about this, Caledonian MacBrayne confirmed that Mr McLean had been provided with copies of plans for the two vessels. However, it also pointed out that both of the vessels had been out of service and awaiting disposal at the time. These plans had been provided in the context of the sale of one of the vessels to Mr McLean's company, and the potential sale of the other.
38. Caledonian MacBrayne has confirmed that its standard practice is to make general arrangement plans available to potential purchasers. However, it has also pointed out to me that vessels would not be in service at this point, and that general arrangement plans would not normally be made available while a vessel was still in service.
39. Therefore, the previous access granted to Mr McLean as a potential purchaser of vessels that were no longer in service does not provide a parallel that should guide my decision in this case. Release under FOISA would make plans available to anyone who wished to access them while the vessel was still in service. My decision must therefore be based on considerations around these circumstances rather than those in which access was previously granted.



Consultation with the National Maritime Museum

40. Caledonian MacBrayne has asserted strongly in this case that its own practice is such that there is no likelihood of plans of the type under consideration being released to individuals outside the organisation while a vessel is still in service. However, it was not clear to me whether this was simply Caledonian MacBrayne's own practice, that might need to be reconsidered in the light of FOISA, or whether that this was standard practice in relation to active vessels.
41. To help broaden our understanding of the issues in this case, the investigating officer wrote to the National Maritime Museum (NMM) in Greenwich. The NMM has an archive of ships' plans that incorporates both historic and modern vessels. It is also a public authority under the Freedom of Information Act 2000, and so could be the recipient of requests similar to the one under consideration, which would need to be considered under legislative requirements similar to those under FOISA.
42. The NMM confirmed that it would consider each request for a vessel's plans on a case by case basis. It would not automatically refuse release if a request sought access to plans of a vessel that was in service. However, the NMM did note that where detailed plans were sought, considerations of safety and security might lead to a refusal of a request, following consultation with the operator of the vessel.

The Commissioner's analysis and findings

43. The key issue for consideration in this case is that of whether the exemption in section 39(1) of FOISA has been correctly applied to the plans of the MV Bute. I will address this in some detail before going on to consider whether the plans should be considered exempt under the commercial interests exemption in section 33(1)(b) and finally to address some technical issues around Caledonian MacBrayne's handling of this request.

The health and safety exemption

44. Section 39(1) of FOSIA states that information is exempt from release where release would or would be likely to endanger the physical or mental health or the safety of an individual. This is a broad exemption that does not specify that any threat should be imminent or of a particular magnitude before it applies: there must, however, be some reasonable apprehension of danger.



45. The plans sought by Mr McLean contain detailed information about the physical arrangement of the MV Bute, including, for example, the location of key machinery and control points, ventilation, fuel storage and the layout of crew accommodation. The plans show details of a number of the restricted areas (detailed in section 29 above) that the ISPS Code requires to be monitored and subject to controlled access.
46. I am satisfied that to release this information to the general public (as release under FOISA would entail) while the vessel is in service, could undermine Caledonian MacBrayne's responsibilities to monitor and control these areas and thereby ensure the safety and security of its vessel, passengers and crew.
47. I accept Caledonian MacBrayne's argument that release of the plans under FOISA would increase the vulnerability of the MV Bute, its passengers and crew to terrorist or similar acts. This vulnerability increases the risk to these individuals' health and safety, and security. Therefore, I conclude that the exemption in section 39(1) has been correctly applied in this instance.
48. In reaching this decision, I have taken note of the requirements of the ISPS Code. Although the ISPS Code does not currently apply to Caledonian MacBrayne, it provides a useful guide to international security standards in the shipping industry, and in particular the standards Caledonian MacBrayne should be working towards. A decision to require the release of the MV Bute's plans would, in my view, be contrary to the provisions of this Code, and would undermine Caledonian MacBrayne's future compliance with it.

The public interest

49. Section 39(1) is a qualified exemption. Once information has been identified as falling under its scope, the public interest must still be considered before a decision to withhold can be taken. Information should only be withheld where the public interest in doing so outweighs that in release.
50. Caledonian MacBrayne's submission noted that while there was a certain public interest in viewing certain areas of a vessel, it had concluded that the public interest was best served by withholding the general arrangement plans.
51. FOISA contains a presumption that openness and transparency by public authorities is in the public interest. A second public interest consideration favouring release is that the availability information about the layout of the Bute could arguably enhance the safety of its passengers, by allowing them to be aware of how to escape in an emergency.



52. However, information about the layout of the public decks of the Bute has already been provided in a less detailed form, via the schematic diagrams available on Caledonian MacBrayne's website and in the public areas of the vessels themselves. Mr McLean has requested considerably more detailed plans than is provided in these, and more than is required (and already available) to simply demonstrate to passengers the layout of the vessel.
53. In this case, I have concluded that the public interest in ensuring the health and safety of the vessel and its passengers (as described at paragraphs 44 to 48 above) outweighs the public interest in releasing the plans.

Commercial interests

54. In its response to Mr McLean's request for review, and its initial submission to me, Caledonian MacBrayne asserted that the exemption in section 33(1)(b) also applied to the plans of the MV Bute. In later correspondence, Caledonian MacBrayne did not provide further details in support of this assertion when requested to do so. Instead, it advised me that the health and safety concerns formed the basis for its decision to withhold in this case.
55. Although I have interpreted this as confirmation that Caledonian MacBrayne was no longer seeking to rely upon this exemption, I have still considered whether this exemption applies on the basis of the limited information available to me.
56. Section 33(1)(b) exempts information from release where doing so would or would be likely to prejudice substantially the commercial interests of any person or organisation. Caledonian MacBrayne has asserted that both its own commercial interests, and those of the company that built the vessel could be harmed by the release of the plans of the MV Bute.
57. The potential for harm to Caledonian MacBrayne's interest was argued to be that release might affect the price that it would have to pay for future vessels. No explanation was given for why release of the plans would increase the price to be paid, or by how much. Therefore, no substantive case was made that release would be likely to prejudice Caledonian MacBrayne's own commercial interests.
58. Caledonian MacBrayne's reliance upon section 33(1)(b) on the basis that that release would be likely to harm the commercial interests of the company that built the MV Bute was explained in more detail in submissions to me and discussions with the investigating officer.
59. To a large extent, the commercial interest arguments with regard to the company supplying the vessel relate to copyright in the plans, and the ability of a competitor to use the plans for their own commercial gain without recourse to the originating company.



60. I accept that access to general arrangement plans for a vessel could be of some commercial benefit to another organisation that might be seeking to build or purchase a similar vessel. However, I consider this benefit to be limited for a number of reasons.
61. First of all, copyright would limit the ability of the recipient organisation to reproduce and reuse the contents of the plans. Caledonian MacBrayne, as a public authority under FOISA, is required to provide access to recorded information that it holds where no exemption in Part 2 of FOISA applies. This includes information in which the copyright is owned by a third party (as in this case). Where it copies such information in order to comply with FOISA, the public authority will not be in breach of copyright. However, the recipient of the information would be in breach of copyright if they were to then reproduce that information without the permission of the copyright owner. Without the ability to reproduce the plans, I understand the ability of a recipient individual or organisation to achieve a significant commercial benefit to the detriment of the copyright holder to be limited.
62. The provisions of the contract for the building of the vessel relating to copyright do not appear to affect the position set out in paragraph 61 above materially.
63. Secondly, access to general arrangement plans alone would only provide part of the information that would be required to produce a similar vessel. Alongside the information set out in the general arrangement plans, more detailed technical specifications and working drawings would need to be produced by any company seeking to build an equivalent vessel.
64. I am not persuaded by the information provided to me that Caledonian MacBrayne has identified any substantial commercial risk that would be likely to accrue simply as a consequence of release of the plans. Therefore, I conclude that the exemption in section 33(1)(b) does not apply to the plans of the MV Bute.

Technical deficiencies

65. Finally, I want to comment briefly on some technical issues around Caledonian MacBrayne's responses to Mr McLean.

Caledonian MacBrayne's initial response to Mr McLean

66. Mr McLean's initial request for information clearly requested a copy of the general arrangement plans of the Bute. In response to this, Caledonian MacBrayne initially refused on the grounds of section 25 of the Act, which applies when information is available from another source. Caledonian MacBrayne directed Mr McLean towards its website and the schematic diagrams of the vessel.



67. However, the information on the website was not what Mr McLean had requested, as an organisation with Caledonian MacBrayne's technical knowledge would have been aware. The schematic diagrams, while representing the same vessel, are quite different in scale and detail from the general arrangement plans. Furthermore, the website does not contain diagrams showing all of the vessel's decks. The information Mr McLean had requested was not available elsewhere. Caledonian MacBrayne had instead directed him to an alternative type of information.
68. In its submission to me, Caledonian MacBrayne stated that its intention in this response was to be helpful to Mr McLean.
69. Section 15 of FOISA requires public authorities to provide advice and assistance to applicants requesting information. While I would consider it helpful to point a requestor to an alternative type of information when that being requested is to be withheld or is simply not held, I do not consider it helpful to imply that this alternative is actually that requested.
70. The correct response in the circumstances of this case would have been to confirm that the information actually requested was to be withheld, via a refusal notice as required by section 16 of FOISA. In addition to this, Caledonian MacBrayne could have pointed out that some information that might be of use to the requestor was available on its website. However, to imply that this alternative meant that the general arrangement plans were already accessible was misleading.
71. In responding in this manner, I conclude that Caledonian MacBrayne did not wholly comply with its duty under section 15 of FOISA to advise and assist Mr McLean in making his request for information.

Caledonian MacBrayne's response to Mr McLean's request for review

72. Following Mr McLean's request for a review of Caledonian MacBrayne's initial response, Caledonian MacBrayne responded by informing him that the general arrangement plans were being withheld under the exemptions in sections 33(1)(b) and 39(1).
73. Under section 21(4) of FOISA an authority must respond to a request for review by one of:
 - Confirming its initial decision, with or without modifications,
 - Substituting its initial decision with another decision, or
 - Reaching a decision if none had been reached previously.



74. When notifying the applicant of the outcome, section 21(5) requires that the authority must give the applicant notice in writing of what it has done under section 21(4) and a statement of its reasons for so doing.
75. In its response to Mr McLean, Caledonian MacBrayne provided no reasons for the replacement of its initial decision with the new one. Furthermore, this new decision it stated which exemptions were now being applied and (very briefly) why, but no reference was made to the public interest. Both exemptions that were cited at this stage are qualified, and therefore any decision to withhold should first have involved consideration of whether the public interest favoured release or otherwise. The applicant was not provided with any explanation of the reasoning applied to determine that the public interest favoured the decision to withhold in this case, or for that matter with detailed reasons why the exemptions claimed applied to the information requested.
76. Therefore, I conclude that Caledonian MacBrayne has also breached the requirements of section 21(5) of FOISA, by failing to provide adequate reasons for its substitution of its initial decision with another following its review.
77. The two breaches identified above are minor, and I do not require further steps to be taken in response to my decision. However, I do recommend strongly that Caledonian MacBrayne take steps to provide fuller responses to future requestors about the reasons for its decisions when information is withheld.
78. The more fully the reasons for a refusal are explained, the more effectively a requestor is able to judge whether they consider the decision to be justified. In this case, Caledonian MacBrayne has made a strong case to me in support of its refusal to provide copies of the plans of the MV Bute. Had Mr McLean been provided with fuller reasons for his request being refused, he may not have felt it necessary to ask me to investigate the case.

Decision

I find that Caledonian MacBrayne Limited has acted in accordance with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in relying upon section 39(1) of FOISA when refusing to provide Mr McLean with a copy of the general arrangement plans of the MV Bute. As a result, section 1(1) of FOISA was applied correctly.

I am not, however, persuaded that refusal to provide the plans could be justified on the basis of section 33(1)(b) of FOISA.



I find that Caledonian MacBrayne has failed to comply with section 15 of FOISA by failing to properly advise and assist Mr McLean in response to his request.

I also find that Caledonian MacBrayne breached the requirements of section 21(5) of FOSIA, by failing to provide an adequate statement of the reasons for its decision in response to Mr McLean's request for review.

I do not require any further action to be taken by Caledonian MacBrayne in response to this decision.

Kevin Dunion

Scottish Information Commissioner