

Correspondence between lead official and Scottish Government ministers

Request for clearance from the Minister for FE, HE, and Science

From: [redacted]

Sent: 24 October 2018 14:47

To: Minister for Further Education, Higher Education and Science

<MinisterFEHES@gov.scot>

Cc: [redacted]; [redacted]; [redacted]; Macdonald R (Roddy) [redacted]; Director of Advanced Learning and Science <DirectorofAdvancedLearningandScience@gov.scot>; McAllister C (Colin) [redacted]

Subject: For Action: Fol/18/02454

PS/Minister for Further Education, Higher Education, and Science,

Attached please find a draft reply to Fol/18/02454 for your approval. Officials and SpAds (centrally in Colin McAllister's absence) have cleared.

The request is for "details of any correspondence (phone calls, letters, emails, etc) sent to either John Swinney or Nicola Sturgeon from parents, pupils or organisations on the topic of Scottish students failing to obtain a university placement for reasons other than grades e.g. the cap on the number of places." The requester clarified he wished this to apply to academic years 2017/18 and 2018/19 to date.

We discussed with the FoI Unit and agreed an approach whereby we would release tabulated data breaking down this correspondence by subject, but not the correspondence itself. SpAds were content with this approach.

I also attach a table listing every piece of correspondence we hold within the scope of the request, along with PDF copies.

In order to reply to the requester by the due date I would be grateful for your reply **by close of play on Thursday 25 October**. (As discussed, my apologies again for the late submission.)

Many thanks

[redacted]

[redacted] | Policy Officer | Higher Education Funding Team | Higher Education and Science Division | Scottish Government

T: [redacted] |E: [redacted]



#YOYP2018

Clearance from the Minister for FE, HE, and Science

From: [redacted] **On Behalf Of** Minister for Further Education, Higher Education and Science

Sent: 25 October 2018 17:38

To: [redacted]

Cc: Minister for Further Education, Higher Education and Science

<MinisterFEHES@gov.scot>; [redacted]; [redacted]; [redacted]; Macdonald R (Roddy) [redacted]; Director of Advanced Learning and Science

<DirectorofAdvancedLearningandScience@gov.scot>; McAllister C (Colin) [redacted]

Subject: RE: For Action: Fol/18/02454

[redacted]

Mr Lochhead is content to clear.

Thanks,

[redacted]

[redacted] | **Private Secretary | Minister for Further Education, Higher Education and Science**

[redacted] | Mobile: [redacted] St Andrews House, Regent Road, Edinburgh, EH1 3DG

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Update to the Minister for FE, HE, and Science

From: [redacted]

Sent: 26 October 2018 11:37

To: Minister for Further Education, Higher Education and Science

<MinisterFEHES@gov.scot>

Cc: [redacted]; [redacted]; [redacted]; Macdonald R (Roddy) [redacted]; Director of Advanced Learning and Science <DirectorofAdvancedLearningandScience@gov.scot>; McAllister C (Colin) [redacted]

Subject: RE: For Action: Fol/18/02454

[redacted]

Thanks for getting this past Mr Lochhead so promptly. Now releasing the reply. One case was incorrectly listed in the Cap column instead of Clearing and this has been rectified.

Thanks again

[redacted]

Correspondence between lead official and the SG FoI Unit

Request for advice on approach

From: [redacted]
Sent: 19 September 2018 15:35
To: Freedom of Information <foi@gov.scot>
Cc: [redacted]
Subject: FOI Query

Afternoon,

I'd be grateful for your thoughts on our planned approach to a recent FOI. The request is for:

Details of any correspondence (phone calls, letters, emails, etc) sent to either John Swinney or Nicola Sturgeon from parents, pupils or organisations on the topic of Scottish students failing to obtain a university placement for reasons other than grades e.g. the cap on the number of places.

We are conscious of data protection—I think my colleague [redacted] has already been in touch about this—as well as the potentially very large amount of redaction needed to provide the requester with all these pieces of correspondence.

Given the principle that FOI requests are for information, not for documents themselves, would it be legitimate in this case to provide a tabulated summary? So if we discover three reasons other than grades for failure to obtain a place, we could have a table showing “Reason A: X number of cases; Reason B: Y number of cases” and so on. This would seem to be consistent with the request for “details” but I wanted to check with you.

I'd really appreciate a reply **by the end of the week** if at all possible.

Many thanks, best wishes

[redacted]

[redacted] | Policy Officer | Higher Education Funding Team | Higher Education and Science Division | Scottish Government

T: [redacted] |E: [redacted]



#YOYP2018

Confirmation that the approach is valid

From: [redacted] **On Behalf Of** Freedom of Information
Sent: 19 September 2018 15:46
To: [redacted]
Cc: [redacted]
Subject: RE: FOI Query

[redacted]

That seems like a reasonable course of action to me. As you have said FOI's are for information and not documents so if the most reasonable way to provide the information requested is as described below then that is how we should respond. You may wish to consider qualifying what type of correspondence the information was obtained from for example – Reason A: X number of cases, A by email and B by letter

Kind regards
[redacted]

Request for advice on clarification

From: [redacted]
Sent: 02 October 2018 16:40
To: Freedom of Information <foi@gov.scot>
Subject: Question around clarifications

Afternoon,

I just got a reply from an FOI requester to a second clarification email (as his first clarification still wasn't very clear) where he answers one point of clarification but not the other. Specifically these points were:

I wrote: "In particular, it would be helpful to know: whether you mean academic years 2017-18 and 2018-19, or calendar years 2017 and 2018; and whether by "an initial place on a university course" you mean a place on a first-time, full-time undergraduate degree."

He replied: "Academic years."

I'd really rather avoid sending out a third clarification and putting him on hold yet again, so I'm wondering if I can take his silence on the second point to mean he accepts the reading I've placed on his words?

Thanks in advance for your advice.

[redacted]

[redacted] | Policy Officer | Higher Education Funding Team | Higher Education and Science Division | Scottish Government

T: [redacted] |E: [redacted]



#YOYP2018

Advice on clarification

From: [redacted] **On Behalf Of** Freedom of Information
Sent: 04 October 2018 13:30
To: [redacted]
Subject: RE: Question around clarifications

Hi [redacted]

I would answer the request on the reading you have placed on his words. You can caveat it in the letter that that is your understanding of the request.

Kind regards
[redacted]

Reply to advice

From: [redacted]
Sent: 04 October 2018 13:35
To: Freedom of Information <foi@gov.scot>
Cc: [redacted]; [redacted]
Subject: RE: Question around clarifications

[redacted]

Thanks, that makes sense.

[redacted]

Correspondence between lead official and special advisors

Request for clearance from SpAds

From: [redacted]
Sent: 15 October 2018 12:02
To: Fol SpAds PO <Fol.SpAdsPO@gov.scot>
Cc: [redacted]; [redacted]; Macdonald R (Roddy) [redacted]
Subject: For review: Reply to FOI request

SpAds

In Colin McAllister's absence, attached please find a draft reply to Fol/18/02454 for your comment and/or clearance.

The request is for “details of any correspondence (phone calls, letters, emails, etc) sent to either John Swinney or Nicola Sturgeon from parents, pupils or organisations on the topic of Scottish students failing to obtain a university placement for reasons other than grades e.g. the cap on the number of places.” The requester clarified he wished this to apply to academic years 2017/18 and 2018/19 to date.

We discussed with the FoI Unit and agreed an approach whereby we would release tabulated data breaking down this correspondence by subject, but not the correspondence itself.

I also attach a table listing every piece of correspondence we hold within the scope of the request, along with PDF copies. We carefully considered our records and ruled the majority of what we held out of scope. I can provide these too if you wish to consider them.

The deadline for reply is 30 October, so I'd be very grateful for your reply **by close of play this Friday (19th)** to allow Mr Lochhead at least five working days to review if you think that will be necessary.

Many thanks

[redacted]

[redacted] | Policy Officer | Higher Education Funding Team | Higher Education and Science Division | Scottish Government

T: [redacted] |E: [redacted]



#YOYP2018

Request for clarification from SpAds

From: [redacted] **On Behalf Of** FoI SpAds PO
Sent: 16 October 2018 10:56
To: [redacted]; FoI SpAds PO <FoI.SpAdsPO@gov.scot>
Cc: [redacted]; [redacted]; Macdonald R (Roddy) [redacted]
Subject: 18-02454 Re: For review: Reply to FOI request

Hi [redacted],

Thank you for your email.

SpAds have reviewed and are content. However, they would like to understand what discussions you had with FOI unit to arrive at the tabulated approach included and they wonder if this needs to be explained in the draft response. I would appreciate your steer on that before you issue so we can advise accordingly.

On issuance, SpAds would advise that this requires Ministerial clearance but there does not need to be comms support.

Many thanks,

[redacted]

[redacted]

Private Secretary
Special Advisers' Office

Tel: [redacted]

Mobile: [redacted]

Clarification for SpAds

From: [redacted]

Sent: 16 October 2018 11:35

To: Fol SpAds PO <Fol.SpAdsPO@gov.scot>

Cc: [redacted]; [redacted]; Macdonald R (Roddy) [redacted]

Subject: RE: 18-02454 Re: For review: Reply to FOI request

[redacted]

Thanks for this. I've attached the email chain I had with the FOI Unit where they agreed the approach was reasonable on its face. Let me know if SpAds require anything else to make their decision.

Many thanks

[redacted]

Clearance from SpAds

From: [redacted] **On Behalf Of** Fol SpAds PO

Sent: 16 October 2018 12:26

To: [redacted]; Fol SpAds PO <Fol.SpAdsPO@gov.scot>

Cc: [redacted]; [redacted]; Macdonald R (Roddy) [redacted]

Subject: RE: 18-02454 Re: For review: Reply to FOI request

Thanks [redacted], that's really helpful.

Nothing else from SpAds.

Many thanks,

[redacted]

Attachments to emails to SpAds and Ministers

Reference table

Reference	Type	Team	Reason	Copy	SpAd comment
S2018/0007173	Email	HEF	Cap	[redacted]	
S2017/0027475	Email	HEF	Not stated	[redacted]	
S2017/0027916	Email	HEF	Clearing	[redacted]	
S2017/0027501	Email	HEF	Clearing	[redacted]	
S2017/0032674	Email	HEF	Clearing	[redacted]	
S2017/0034428	Email	HEF	Cap	[redacted]	
S2017/0027554	Email	HEF	Cap	[redacted]	
S2017/0030198	Email	HEF	Clearing	[redacted]	
S2017/0027562	Email	HEF	Clearing	[redacted]	
S2018/0027884	Email	HEF	Cap	[redacted]	
S2018/0027869	Email	HEF	Clearing	[redacted]	
S2018/0028203	Email	HEF	Clearing	[redacted]	
S2018/0028223	Email	HEF	Clearing	[redacted]	
S2018/0028893	Email	HEF	Cap	[redacted]	
S2017/0013391	Email	SSR	Not stated	[redacted]	
2017/0009828	Email	SSR	Not stated	[redacted]	
2018/0013792	Email	SSR	Cap	[redacted]	
2018/0006540	Email	Gov	Cap	[redacted]	
2018/0012607	Email	Gov	Not stated	[redacted]	
2017/0032564	Email	Gov	Not stated	[redacted]	
2017/0032689	Email	Gov	Clearing	[redacted]	
2017/0037955	Letter	Gov	Cap	[redacted]	
2018/0006302	Email	Gov	Unclear	[redacted]	
2018/0029062	Email	Gov	Clearing	[redacted]	
2018/0033822	Letter	Gov	Clearing	[redacted]	
2018/0030951	Email	Gov	Clearing	[redacted]	

Draft response

REQUEST UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 (FOISA)

Thank you for your request dated 12 September 2018 under the Freedom of Information (Scotland) Act 2002 (FOISA).

Your request

You asked for details of any correspondence (phone calls, letters, emails, etc) sent to either John Swinney or Nicola Sturgeon from parents, pupils or organisations on the topic of Scottish students failing to obtain a university placement for reasons other than grades e.g. the cap on the number of places.

Response to your request

I enclose a copy of all of the information you requested.

As per your clarification emails of 18 September and 2 October 2018, the information below refers to academic years 2017-18 and 2018-19 up to and including 18 September 2018. The correspondence referred to pertains to Scottish students failing to obtain a place on a first-time, full-time undergraduate degree.

	Limit on funded places	Clearing places unavailable to Scots-domiciled student	Ineligible for Widening Access scheme	Unclear / not stated
Letter	0	1	1	0
Email	9	11	1	6
Phone call	0	1	0	0

Your right to request a review

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to Aileen McKechnie at DirectorofAdvancedLearningandScience@gov.scot or 5 Atlantic Quay, Broomielaw, Glasgow, G2 8LU. Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the date when you received this letter. We will complete the review and tell you the result, within 20 working days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your appeal rights is available on the Commissioner's website at: <http://www.itspubliknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>.

Correspondence with the Data Protection team on potential exemptions

Suggestion to approach the Data Protection team

From: [redacted]
Sent: 14 September 2018 09:38
To: [redacted]; Macdonald R (Roddy) [redacted]
Cc: [redacted]; [redacted]
Subject: RE: FOI - MPO - University placement cap - [redacted]

Thanks [redacted], that is really helpful.

[redacted] – Could you please contact [redacted] and seek her advice on the points below.

[redacted]

From: [redacted]
Sent: 13 September 2018 16:26
To: [redacted]; Macdonald R (Roddy) [redacted]
Cc: [redacted]; [redacted]
Subject: RE: FOI - MPO - University placement cap - [redacted]

Thanks [redacted], for looking at this with due diligence and sensitivity around data protection. I would suggest we might also seek advice from the Information Assurance and Risk team, which cover Data Protection Act advice and guidance. Head of Data Protection and Information Assurance is [redacted].

Thanks

[redacted]

From: [redacted]

Sent: 13 September 2018 11:26

To: Macdonald R (Roddy) [redacted]

Cc: [redacted]; [redacted]; [redacted]

Subject: FW: FOI - MPO - University placement cap - [redacted]

Hi Roddy

My team have been allocated the FOI below from free-lance journalist [redacted]. [redacted] will be leading on the reply and will be seeking clarification of the ask but thought you would wish to be aware. Comms are aware we are working on this and I will update Aileen's briefing for the portfolio meeting on Monday to include the details.

We have spoken to the FOI unit regarding the request to release correspondence (phone calls, letters, emails, etc) sent to either John Swinney or Nicola Sturgeon from parents, pupils or organisations given that this will include maccs/central enquiries letters/email which often contain quite sensitive and personal information but we have been advised we can, assuming they are redacted appropriate. Is this something you have known to happen before? Given GDPR, it seems odd that unless we inform the author that their correspondence may be released under FOI that they would have an expectation that SG would not share it publicly. I would welcome your thoughts on this point.

Let me know if you wish to discuss.

[redacted]

[redacted] | Team Leader | Higher Education Funding Team | Higher Education and Science Division | Scottish Government

T: [redacted] | BB: [redacted] | E: [redacted]



#YOYP2018

From: Central Enquiry Unit

Sent: 12 September 2018 15:28

To: First Minister <firstminister@gov.scot>

Cc: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; [redacted]; [redacted]; [redacted]; [redacted]; [redacted]

Subject: FOI - MPO - University placement cap - [redacted]

Good afternoon,

The email enquiry below was received at the Central Enquiry Unit today. I would be grateful if you would deal with this or forward it to the appropriate person / area of business.

You may wish to acknowledge receipt of this email to the enquirer.

Thank you

[redacted]

Central Enquiry Unit

Ext: [redacted]

Reminder: If this email contains a request for information please remember that the Scottish Government is required to respond to all requests for information including e-mails, within 20 working days of receipt in accordance with the Freedom of Information (Scotland) Act. Please refer to the [FOI Guidance](#). All FOI requests received must be registered on the [FOI Tracker](#).

All FOI responses where information is released must be emailed to the [FOI Unit](#) immediately after issue, with 'FOI/EIRs TO PUBLISH' in the subject line

If the request is from a journalist, responses should be issued by the relevant communications team. Please ensure that you involve them throughout the process and also ensure Special Advisers have the opportunity to comment on your response before it goes for Ministerial clearance. Guidance on this is available at Steps 33 and 34 of the [Step-by-Step Guide to Handling FOI/EIRs Requests](#).



year of young people
bliadhna na h-òigridh
2018



gov.scot

[redacted] | Enquiry Officer | iTECS: Central Enquiry Unit | Digital Directorate | Scottish Government | Ext: [redacted] | Tel: [redacted] | Email: [redacted]

From: [redacted]
Sent: 12 September 2018 14:12
To: Central Enquiry Unit <CEU@gov.scot>
Subject: FOI cap

Dear Scottish Government,

I am writing to you under the Freedom of Information Act to request the following information. If the information can be provided faster than 20 days, please do so.

Details of any correspondence (phone calls, letters, emails, etc) sent to either John Swinney or Nicola Sturgeon from parents, pupils or organisations on the topic of Scottish students failing to obtain a university placement for reasons other than grades e.g. the cap on the number of places.

Please provide the information by email to [redacted].

Feel free to call me on [redacted] or email [redacted] if you require any clarification about this request.

Best,
[redacted]

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

Request for advice on personal information

From: [redacted]
Sent: 14 September 2018 09:51
To: Data protection and information assets Mailbox <dpa@gov.scot>
Cc: [redacted]
Subject: FOI query regarding personal information

Morning,

I'd be grateful for your advice regarding an FOI query which has come in and which we are concerned may have data protection implications. The FOI is from a freelance journalist and asks for:

Details of any correspondence (phone calls, letters, emails, etc) sent to either John Swinney or Nicola Sturgeon from parents, pupils or organisations on the topic of Scottish students failing to obtain a university placement for reasons other than grades e.g. the cap on the number of places.

We are conscious that such correspondence will likely include MACCS cases from unsuccessful students or their parents which will contain quite personal and sensitive information, which they would have had a reasonable expectation SG would keep private. We have been advised by the FOI unit that we can release the information requested provided we redact anything identifiable, but, especially given GDPR, we thought it worth asking for a second opinion.

If at all possible, could you let me know your thoughts **by close of business on Monday 17th**? Happy to discuss any of this further if that'd be useful.

Many thanks

[redacted]

[redacted] | Policy Officer | Higher Education Funding Team | Higher Education and Science Division | Scottish Government

T: [redacted] |E: [redacted]

Advice from Data Protection team

From: [redacted] **On Behalf Of** Data protection and information assets Mailbox

Sent: 14 September 2018 11:37

To: [redacted]; Data protection and information assets Mailbox <dpa@gov.scot>

Cc: [redacted]

Subject: RE: FOI query regarding personal information

Hi [redacted],

Thanks for the email and from review/discussion the FOI advice is correct and you should redact any personal or identifiable information for this request.

Hope this clarifies matters.

Thank-you

[redacted]

Data Protection & Information Assets Team

iTECS | Information Assurance & Risk (IA&R) | The Scottish Government | V Spur | Saughton House | Broomhouse Drive | Edinburgh | EH11 3XD | T: [redacted] |

[Data Protection & Information Assets Mailbox](#)

Want to know more about data protection? Read our Saltire pages for guidance on the [General Data Protection Regulation](#), [registering your information assets](#), reviewing your [privacy notices](#), and writing [data protection impact assessments](#) (internal customers only).

Join our [Yammer group](#) to find out the latest developments.

Report a security breach involving personal data using the [incident reporting tool](#).

Further clarification request

From: [redacted]
Sent: 14 September 2018 14:47
To: Data protection and information assets Mailbox <dpa@gov.scot>
Cc: [redacted]
Subject: RE: FOI query regarding personal information

Thanks [redacted], that makes sense re identifiable information.

Can I just clarify with respect to the personal information? Some of the information specifically requested in the FOI will necessarily be personal, e.g. reasons for a student's lack of success in a university application, so to redact that would effectively be to refuse the request for data protection reasons? Or is it the case that this is fine to publish so long as any identifying information is redacted?

Many thanks again

[redacted]

Further clarification

From: [redacted] **On Behalf Of** Data protection and information assets Mailbox
Sent: 18 September 2018 11:16
To: [redacted]; Data protection and information assets Mailbox <dpa@gov.scot>
Cc: [redacted]
Subject: RE: FOI query regarding personal information

Hi [redacted],

Thanks for your update, if it appears that the FOI request is all personal information, then you can withhold information and issue a [FOISA Template response](#) and quote section 38 (1) (b).

Please see the following FOI guidance

- <http://sgsharepoint/sites/freedomofinformation/FOIEIR%20Wiki/Individuals%20names.aspx>
[X](#)

For further information on the definition of personal data, please see from the following link - <http://saltire/my-workplace/it-and-information-management/data-protection/Pages/personal-data.aspx>

Also please see the following additional and latest ICO guidance:

<https://ico.org.uk/media/for-organisations/documents/how-to-disclose-information-safely-removing-personal-data-from-information-requests-and-datasets/2013958/how-to-disclose-information-safely.pdf>

If you require further comment or advice, please discuss with the FOI Unit Casework Team. Hope this assists

Regards

[redacted]

Data Protection & Information Assets Team

iTECS | Information Assurance & Risk (IA&R) | The Scottish Government | V Spur | Saughton House | Broomhouse Drive | Edinburgh | EH11 3XD | T: [redacted] |

[Data Protection & Information Assets Mailbox](#)

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Join our [Yammer group](#) to find out the latest developments.

Report a security breach involving personal data using the [incident reporting tool](#).

Clearance from officials

Clearance from HE Funding Team Leader

From: [redacted]

Sent: 11 October 2018 16:54

To: [redacted]

Subject: FW: FOI request

Hi [redacted]

Thanks for all of your work on this and apologies for the delay in coming back to you - the Forum paper has taken over my life in your absence.

To confirm, as suspected, I have nothing to add in terms of correspondence/calls within scope. I do wonder though if you did a search through maccs under [redacted]'s name? She could possibly have dealt with cases that would fall within scope and I'm not sure if [redacted] looked for them or not.

In terms of reviewing what you sent over, I have amended the reply slightly – see what you think. On the table, I have listed some comments below which I'm sure you have already considered but I have mentioned just in case.

- 2018/0005813 – complaint relating to fees/course availability. If this mentions someone not being accepted because of these things it could be considered in scope.
- 2018/0021109, 2017/0039103, 2018/0006302 – relates to OxBridge. Could be in scope – request doesn't specify scots uni. Was this addressed through your clarifications?
- 2018/0030686, 2018/0030538 – related to funding. Could be in scope if funding is the reason they didn't get a place
- 2018/0010315 – Not scots-dom. Need to be clear student is Scottish just not living in Scotland. If Scottish by birth could be within scope.

Aileen finishes today and Roddy tomorrow so definitely try tomorrow afternoon to see if you and/or [redacted] can get Roddy's instruction so this can progress to SpAds/Minsters in his absence. In terms of going to SpAds, they may wish to see all of the correspondence identified – in and out of scope.

Subject to the points above I am happy this goes to [redacted].

[redacted]

Clearance from Strategic Lead

From: [redacted]

Sent: 12 October 2018 14:43

To: [redacted]

Cc: [redacted]

Subject: RE: Fol

Thanks [redacted], and for all your work on this.

Content for this to go forward to Roddy. On the phone call and [redacted]'s comment, there was a call to DFM's private office I recall (as well as to us), so as the inquiry is 'details of any correspondence (phone calls, letters, emails, etc) sent to either John Swinney or Nicola Sturgeon' it would appear to be in scope, and it would I think come under 'Clearing places unavailable to Scots-domiciled student'.

Thanks

[redacted]

Clearance from Deputy Director

From: Macdonald R (Roddy)

Sent: 12 October 2018 15:58

To: [redacted]

Cc: [redacted]; [redacted]

Subject: RE: FOR REVIEW: Fol request

[redacted] looks good thanks Roddy

Dr Roddy Macdonald
Head of Higher Education and Science Division
Scottish Government Advanced Learning and Science Directorate
5 Atlantic Quay
Glasgow G2 8LU

[redacted]

PA/Divisonal Admin: [redacted]

