

From: [Redacted]
Sent: 03 January 2019 12:59
To: Minister for Public Health, Sport and Wellbeing
Cc:[Redacted]

[Redacted]

Please see attached draft FOI response with a deadline of 4 January 2019.

I have enclosed one email that will be released and a document that will be exempt following advice from SpAds and FOI unit.

[Redacted]



From: [Redacted]
Sent: 08 February 2019 14:38
To: [Redacted]
Subject: Re: Request for Review : Fol/18/03666

Many thanks [Redacted]. This is appreciated.

Have a pleasant weekend.

[Redacted]

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From: [Redacted]
Sent: Friday, February 8, 2019 1:41 pm
To: [Redacted]
Subject: Request for Review : Fol/18/03666

Dear [Redacted]

Thank you for your request of 1 February 2019 for a review of our response to your request under the Freedom of Information (Scotland) Act 2002 (FOISA) for a copy of the report which has been supplied to the Scottish Government by the Scottish Professional Football League (SPFL).

I have been asked by Dr Andrew Scott, Director of Population Health, to carry out the review because I was not involved in handling your original request. I will be looking at the case afresh to establish whether the original response should be confirmed, with or without modifications as appropriate, or a fresh decision should be substituted.

We received your review request on 1 February 2019 so I will respond in accordance with FOISA by 1 March 2019.

If you have any queries, please contact me quoting case number Fol/18/03666.

Best wishes

[Redacted]

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Tha am post-d seo (agus faidhle neo ceanglan còmhla ris) dhan neach neo luchd-ainmichte a-mhàin. Chan eil e ceadaichte a chleachdadhe ann an dòigh sam bith, a' toirt a-steach càraichean, foillseachadh neo sgaoileadh, gun chead. Ma 's e is gun d'fhuair sibh seo gun fhiosd', bu choir cur às dhan phost-d agus lethbhreac sam bith air an t-siostam agaibh agus fios a leigeil chun neach a sgaoil am post-d gun dàil. Dh'fhaodadh gum bi teachdaireachd sam bith bho Riaghaltas na h-Alba air a chlàradh neo air a sgrùdadhe airson dearbhadh gu bheil an siostam ag obair gu h-èifeachdach neo airson adhbhar laghail eile. Dh'fhaodadh nach eil beachdan anns a' phost-d seo co-ionann ri beachdan Riaghaltas na h-Alba.

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From: [Redacted]
Sent: 05 February 2019 10:35
To: [Redacted]
Cc: [Redacted] Freedom of Information
Subject: Request for Review : FOI/18/03666

[Redacted]

We have received a request for review of an FOI case from [Redacted] . I am appointing you as the Review Officer for this case, and I attach a copy of the request which was received on 1 February 2019 and which therefore requires a reply by 1 March 2019. As the Reviewing Officer it is your responsibility to ensure that the Information Request Tracker (IRT) which can be accessed through Systems on the Intranet is updated. (Guidance on how this is done is available on the Tracker).

A copy of this request goes also to the Action Officer, [Redacted]

Can you ensure that I receive a copy of the final response?

Thanks for taking this forward.

[Redacted]

From: [Redacted]
Sent: 01 February 2019 11:36
To: Director of Population Health <Directorofpopulationhealth@gov.scot>
Subject: Request for Review : FOI/18/03666

Dear Director,

APPEAL: FOI/18/03666

Please find attached a reply from your officials in respect of my FOI request **dated 30th November 2018** and returned to me **3rd January 2019**. I wish to request a review of the decision not to provide a copy of the report requested which has been supplied to the Scottish Government by the Scottish Professional Football League (SPFL).

I am firmly of the view that the report requested should be made available under FOI legislation as the information contained within it has a clear impact on public policy relating to tackling sectarianism in society. A few points supporting this belief are listed below.

1. Please see below an extract from the 2017 '**Tackling sectarianism in Scotland: review of implementation**' document published by the Scottish Government on behalf of its Independent Advisor on Sectarianism Prof Duncan Morrow relating to the need for monitoring the system Scottish football has in place to allow for reporting, investigating and determining

sectarian conduct at matches played under the auspicious of the SPFL and Scottish Football Association. A link to the full report can be viewed at:
<https://www.gov.scot/publications/review-implementation-recommendations-advisory-group-tackling-sectarianism-scotland-report-dr/pages/4/>

2.

'The football authorities have brought forward proposals to improve their ability to address unacceptable conduct. They have worked closely with the Scottish Government Active Scotland policy team to develop initial proposals in this area. While these are obviously welcome, I am sceptical that they will be sufficient to change the evident sectarian behaviour in Scottish football, and I remain seriously concerned that the primary concern of the authorities remains to avoid responsibility rather than to take action. However, in keeping with the spirit of the Advisory Group's Report that change should be evidence-based and collaborative, the sincerity and effectiveness of these proposals must now be explicitly and fully tested. Mechanisms to monitor and evaluate progress should be identified as soon as possible so as to allow shared evaluation of the outcomes from next season in 2017-18. At minimum, a successful outcome must be evidenced by:

- *A measurable reduction in police presence before, during and after football matches required to prevent violence or disturbance.*
- *Measurable evidence that sectarian singing at football matches has reduced and has been replaced by other forms of identification.*
- *Measurable evidence that Positive Coaching Scotland is effective in addressing issues among young football, including sectarianism.*
- *A measurable reduction in the reports of abuse of players by members of the crowd.*
- *Measurable evidence of a reduction in aggressive and intimidatory social media associated with football and sectarianism.*
- *A commitment, including a financial commitment, by football clubs and authorities to anti-sectarian programmes with young people, including active engagement with projects supported by the Scottish Government.*
- *A baseline study to enable a monitoring framework should be established by agreement with the Scottish Government, the football authorities, Police Scotland and other relevant stakeholders. The outcomes of robust monitoring and evaluation on this basis should be published annually to allow for a genuine debate about the extent of sectarian behaviour and attitudes in football, its impact on culture and the effectiveness of measures to reduce it, and to help further reviews.*

2. Please see below a link from the BBC website relating to concerns expressed by 'Whistleblowers' within the SPFL Match Observer system highlighting their concerns about how reports they pass to the SPFL are treated. I do not feel it unreasonable to suggest that such concerns call into question the integrity of the system currently in place and without the evidence provided by the report the type of public debate and scrutiny recommended by Prof Morrow in the report above cannot take place.

<https://www.bbc.co.uk/sport/football/43395124>

For avoidance of doubt I am happy to accept that personal e-mails between officials to the Government and SPFL may fall outwith the terms of FOI legislation. However, I can see no valid reason for the report in question not to be made available – particularly given the recommendations of Prof Morrow in his 2017 report. I look forward to hearing from you in due course.

[Redacted]

[Redacted]



Scottish Government
Riaghaltas na h-Alba
gov.scot

[Redacted]
E: [Redacted]

26 February 2019

Our Ref: Fol/18/03666

Dear [Redacted]

Further to my email of 8 February 2019 I have now completed my review of our response to your request under the Freedom of Information (Scotland) Act 2002 (FOISA) for a copy of the report which has been supplied to the Scottish Government by the Scottish Professional Football League (SPFL).

I have concluded that the original decision should be confirmed, without modifications.

The following exemptions were originally applied:

- s.30(c) (substantial prejudice to the effective conduct of public affairs)
- s.36(2) (actionable breach of confidence)
- s.38(1)(b) (personal information)

In considering s.30(c), I have come to the same conclusion as the original case handler: disclosing the report would undermine the working relationship between Scottish Government and the SPFL, and make it extremely unlikely that this type of information would be shared again in future. It is vital that officials be able to communicate, often in confidence, with external stakeholders on a range of issues including unacceptable conduct. Disclosure of the report would significantly harm the Government's ability to carry out many aspects of its work, and could adversely affect its ability to gather all of the evidence it needs to make fully informed decisions on unacceptable conduct.

This exemption is subject to the 'public interest test'. I have found that, on balance, the public interest lies in favour of upholding the exemption.

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



In considering s.36(2), again I have come to the same conclusion as the original case handler: the information you have requested has the “necessary quality of confidence” – it is not common knowledge, and could not be ascertained from other information which is in the public domain with relative ease. Scottish Government received the information in circumstances which imposed an obligation to maintain confidence, expressly recorded. This exemption is not subject to the ‘public interest test’, so we are not required to consider if the public interest in disclosing the information outweighs the public interest in applying the exemption.

In considering s.38(1)(b), personal information, I note that you are happy to accept 'personal e-mails between officials to the Government and SPFL may fall outwith the terms of FOI legislation.' For clarity, the emails do not fall outwith FOI legislation and, as outlined in our original response, exemption s.38(1)(b) applies to the personal information in them.

In addition to reviewing the original request and our response to it, I also considered the extract from Professor Morrow's report and the article on the BBC website. I have concluded that neither raise any issues which were not considered originally by the case handler nor do they provide any grounds for changing the original decision.

If you are unhappy with the outcome of this review you have the right to appeal to the Scottish Information Commissioner about our decision within 6 months of receiving this letter. Information on how to make an appeal, along with an application form, is available on the Commissioner's website at:

<http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>. You can also contact the Commissioner at:

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

E-mail: enquiries@itspublicknowledge.info
Telephone: 01334 464610

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

Kind regards
[Redacted]

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



From: [redacted]
Sent: 15 February 2019 12:30
To: [redacted]
Subject: RE: FOR FOI UNIT CLEARANCE: FOI review due in the next fortnight

[redacted]

Content for this to go for clearance/issue.

When it comes to reviews, they are generally subject to the same level of clearance as the initial request was so I would touch base with the case handler and see how they escalated it.

As you are upholding a previously approved response, I don't imagine there will be much in the way of comments.

At present this isn't something we can really advise on as such – the policy area would make the decision at request stage (based upon their knowledge of the sensitivity of the information) and, as noted, the review tends to go down the same channels for comments.

Regards

[redacted]

From: [redacted]
Sent: 15 February 2019 11:49
To: [redacted]
Cc: Freedom of Information <foi@gov.scot>
Subject: FOR FOI UNIT CLEARANCE: FOI review due in the next fortnight

Good morning

Please find attached my proposed review response for your consideration.

I would also appreciate a sense check for next steps:

- Once cleared by you, I should send to SpADs for clearance;
- Once cleared by SpADs, I send to Minister for clearance.

Is that right? And can you advise who, if anyone, should be copied into those emails seeking clearance?

I have also attached the notes I have made in conducting the review which I will save into the erdm folder when complete.

Thank you

[redacted]

From: [redacted]
Sent: 15 February 2019 08:31
To: [redacted]
Subject: RE: REPLY BY 1000 MONDAY 18/02- FOI requests/reviews due in the next fortnight

Morning [redacted]

- My response is still being drafted and will be ready for clearance by 18 February subject to clearance by FOI Unit – currently drafting and will have with you later this morning. Would be helpful to have a chat if possible as well to confirm for myself I am clear on next steps.

Thank you

[redacted]

From: Fol SpAds PO
Sent: 21 February 2019 14:49
To: [redacted]
Subject: RE: FOI Review : Fol/18/03666 - for clearance

[redacted]

SpAds are content. This does not require Ministerial clearance, however, lines should be prepared in advance of issue.

Thanks,
[redacted]

From: [redacted]
Sent: 15 February 2019 14:26
To: Fol SpAds PO <Fol.SpAdsPO@gov.scot>
Subject: FOI Review : Fol/18/03666 - for clearance

For Davie Hutchison please:

Please find attached my review response for FOI/18/03666 – this has been cleared by FOI Unit. Once you are content I will clear with the Minister; response is due to issue by 1 March.

Thank you in advance

[redacted]

From: [Redacted]
Sent: 25 February 2019 16:41
To: [Redacted]
Cc: [Redacted]
Subject: RE: Comms lines for FOI Review

Hi [Redacted]

They look fine thanks. If we get approached we can get them cleared past spads and ministers.

[Redacted]

Sent with BlackBerry Work (www.blackberry.com)

From: [Redacted]
Sent: 25 Feb 2019 16:25
To: [Redacted]
Subject: FW: Comms lines for FOI Review

[Redacted]

Apologies for the chase but keenly aware I need to issue the response – could you confirm you're content with the lines below?

Thank you

[Redacted]

From: [Redacted]
Sent: 22 February 2019 13:32
To: [Redacted]
Subject: Comms lines for FOI Review

Hi [Redacted]

Further to our chat yesterday on the FOI review, please find below lines cleared with FOI Unit to use for this review request. If you could confirm you're happy, I will issue the response.

[Redacted]

Thanks in advance

[Redacted]

From: [Redacted]
Sent: 26 February 2019 08:43
To: [Redacted]
Subject: Request for Review : Fol/18/03666

Dear [Redacted]

Thank you for your request of 1 February 2019 for a review of our response to your request under the Freedom of Information (Scotland) Act 2002 (FOISA) for a copy of the report which has been supplied to the Scottish Government by the Scottish Professional Football League (SPFL).

Further to my email of 8 February, please find attached the review response.

Best wishes

[Redacted]

From: [Redacted]
Sent: 24 December 2018 12:06
To: Hutchison D (David); [Redacted]
Cc: [Redacted]
Subject: FOI - [Redacted] - SPFL Data

Davie/[Redacted]

Please see attached response to the FOI below – this has been cleared by the FOI unit.

Are you content for me to issue? Deadline is 4 January.

[Redacted]

Good Morning

I would like to make a request under the Freedom of Information (Scotland) Act 2002.

I would be most grateful if you could provide me with details of all correspondence between the Scottish Government and the Scottish Professional Football League (SPFL) regarding the **SPFL grading assessment rules** relating to fan behaviour at football matches from 1st July 2017 to this morning 30th November. I would also be grateful for a copy of any 'end of season' report prepared by the SPFL on this subject which has been sent to Scottish Ministers during 2018.

I would appreciate this response in electronic format to this email address and within the timescales outlined within the Act.

Should you require any further information in respect of this request please do not hesitate to get in touch.

Best wishes

[Redacted]

From: [Redacted]

Date: Friday, 28 Dec 2018, 7:39 am

To: Hutchison D (David) <David.Hutchison@gov.scot>, [Redacted]

Cc: Fol SpAds PO

Subject: RE: FOI - [Redacted] - SPFL Data

Davie

Many thanks.

I can confirm that the SPFL is aware of this request. Following some discussion with the FOI Unit, we asked the SPFL if the conditions attached to the information shared with us were the same – ie that the information could not be released – and the SPFL confirmed strongly that nothing had changed. If the information was released, I am certain we would no longer receive it.

[Redacted]

From: [Redacted]
Sent: 24 December 2018 12:06
To: Hutchison D (David) <David.Hutchison@gov.scot>; [Redacted]
Cc: [Redacted]
Subject: FOI - [Redacted] - SPFL Data

Davie/[Redacted]

Please see attached response to the FOI below – this has been cleared by the FOI unit.

Are you content for me to issue? Deadline is 4 January.

[Redacted]

Good Morning

I would like to make a request under the Freedom of Information (Scotland) Act 2002.

I would be most grateful if you could provide me with details of all correspondence between the Scottish Government and the Scottish Professional Football League (SPFL) regarding the SPFL **grading assessment rules** relating to fan behaviour at football matches from 1st July 2017 to this morning 30th November. I would also be grateful for a copy of any 'end of season' report prepared by the SPFL on this subject which has been sent to Scottish Ministers during 2018.

I would appreciate this response in electronic format to this email address and within the timescales outlined within the Act.

Should you require any further information in respect of this request please do not hesitate to get in touch.

Best wishes

[Redacted]

From: [Redacted]
Sent: 27 December 2018 10:40
To: Hutchison D (David) <David.Hutchison@gov.scot>; [Redacted]
Cc: Fol SpAds PO
Subject: RE: FOI - [Redacted]- SPFL Data

Here you go Davie.

[Redacted]

From: Hutchison D (David) <David.Hutchison@gov.scot>
Sent: 27 December 2018 10:38
To: [Redacted]
Cc: Fol SpAds PO <Fol.SpAdsPO@gov.scot>
Subject: RE: FOI - [Redacted] - SPFL Data

Could the proposed response be resent to me, I can't find it in my inbox for some reason.

D

From: [Redacted]
Date: Monday, 24 Dec 2018, 12:06 pm
To: Hutchison D (David) <David.Hutchison@gov.scot>, [Redacted]
Cc: [Redacted]
Subject: FOI - [Redacted]- SPFL Data

Davie/[Redacted]

Please see attached response to the FOI below – this has been cleared by the FOI unit.

Are you content for me to issue? Deadline is 4 January.

[Redacted]

Good Morning

I would like to make a request under the Freedom of Information (Scotland) Act 2002.

I would be most grateful if you could provide me with details of all correspondence between the Scottish Government and the Scottish Professional Football League (SPFL) regarding the **SPFL grading assessment rules** relating to fan behaviour at football matches from 1st July 2017 to this morning 30th November. I would also be grateful for a copy of any 'end of season' report prepared by the SPFL on this subject which has been sent to Scottish Ministers during 2018.

I would appreciate this response in electronic format to this email address and within the timescales outlined within the Act.

Should you require any further information in respect of this request please do not hesitate to get in touch.

Best wishes

[Redacted]