

# Decision Notice



Decision 059/2014 Mr Simon Johnson and the Scottish Ministers

Correspondence from the First Minister to the Royal and Ancient Golf Club

Reference No: 201302934  
Decision Date: 7 March 2014

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**Rosemary Agnew**  
Scottish Information Commissioner

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## Summary

On 4 September 2013, Mr Johnson asked the Scottish Ministers (the Ministers) for correspondence from the First Minister to the Royal and Ancient Golf Club (the R&A) since May 2007. The Ministers responded by disclosing information to him. Following a review, Mr Johnson remained dissatisfied and applied to the Commissioner for a decision.

Following an investigation, the Commissioner was satisfied that the Ministers had disclosed all of the information they held to Mr Johnson.

## Relevant statutory provisions

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Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) and (4) (General entitlement)

The full text of each of the statutory provisions cited above is reproduced in the Appendix to this decision. The Appendix forms part of this decision.

## Background

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1. On 4 September 2013, Mr Johnson emailed the Ministers requesting the content of correspondence from the First Minister to the R&A since May 2007. Mr Johnson also requested additional information which is not the subject of this decision.
2. The Ministers did not respond to this request. On 9 October 2013, Mr Johnson emailed the Ministers requesting a review of their failure to respond.
3. The Ministers notified Mr Johnson of the outcome of their review on 12 December 2013. The Ministers disclosed information to Mr Johnson which they considered fulfilled his request.
4. On 13 December 2013, Mr Johnson wrote to the Commissioner, stating that he was dissatisfied with the outcome of the Ministers' review and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.



5. The application was validated by establishing that Mr Johnson made a request for information to a Scottish public authority and applied to the Commissioner for a decision only after asking the authority to review its response to that request. The case was then allocated to an investigating officer.

## Investigation

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6. The investigating officer subsequently contacted the Ministers, giving them an opportunity to provide comments on the application (as required by section 49(3)(a) of FOISA) and asking them to respond to specific questions. The Ministers were asked to justify their reliance on any provisions of FOISA they considered applicable to the information requested. The Ministers were also asked to explain the searches they had undertaken in order to locate and retrieve any relevant information.
7. The Ministers responded on 14 February 2014, explaining the searches that had been undertaken and confirming that they held no additional correspondence beyond that already disclosed to Mr Johnson.

## Commissioner's analysis and findings

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8. In coming to a decision on this matter, the Commissioner considered all of the relevant submissions, or parts of submissions, made to her by both Mr Johnson and the Ministers. She is satisfied that no matter of relevance has been overlooked.

### Has all relevant information been located and retrieved by the Ministers?

9. Section 1(1) of FOISA provides that a person who requests information from a Scottish public authority which holds it is entitled to be given that information by the authority. This is subject to certain qualifying provisions which do not apply here. The information to be given is that held by the authority at the time the request is received, as defined in section 1(4). If the authority does not hold any information covered by the request, it is required to give the applicant notice in writing to that effect, under section 17(1) of FOISA.
10. As noted above, the Ministers disclosed information to Mr Johnson on 12 December 2013. The Ministers considered this was all of the information that they held which fell within the scope of Mr Johnson's request.
11. In his application to the Commissioner, Mr Johnson stated that he did not believe the Ministers had disclosed all information that fell within the scope of his request. In Mr Johnson's view, golf was the sport with which the First Minister was most associated and he expressed surprise that more correspondence had not taken place.



12. In their submissions to the Commissioner, the Ministers explained that they had undertaken a trawl of the Scottish Government Electronic Records and Document Management System. Additionally, requests were made to policy areas which were likely to hold any such information, including the First Minister's office, Ministerial private offices and Visit Events. The Ministers explained that they had received other recent requests on similar issues within a short timescale so they were already aware of the likely volume of correspondence they held. The Ministers stated that the team dealing with Mr Johnson's request also made a number of telephone calls to a specified policy team to ascertain if they were aware of any relevant correspondence.
13. The Ministers stated that, on being notified of Mr Johnson's application to the Commissioner, they had undertaken a further final trawl to double-check that no further information was available. No additional information had been identified.
14. The Ministers listed the terms used in searching their electronic records. The Ministers explained that they had checked the policy areas which were the most likely sources of correspondence and had identified only the information that they had disclosed previously to Mr Johnson.
15. The Commissioner has considered the Ministers' submissions, their explanation of the searches undertaken and their explanation of why no further information is held beyond that which has been identified. Having done so, she is satisfied that the Ministers have conducted proportionate and adequate searches. She is satisfied that all relevant information falling within the scope of Mr Johnson's request has been located and retrieved and disclosed to him.
16. By disclosing all of the information that they held in relation to Mr Johnson's information request, the Commissioner is satisfied that the Ministers dealt with the request in accordance with section 1(1) of FOISA.

## DECISION

The Commissioner finds that, in respect of the matters specified in the application, the Scottish Ministers complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by Mr Johnson.



## Appeal

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Should either Mr Johnson or the Scottish Ministers wish to appeal against this decision, they have the right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days after the date of intimation of this decision.

**Margaret Keyse**  
**Head of Enforcement**  
**7 March 2014**



## Appendix

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### Relevant statutory provisions

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

##### 1 General entitlement

- (1) A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority.
- ...
- (4) The information to be given by the authority is that held by it at the time the request is received, except that, subject to subsection (5), any amendment or deletion which would have been made, regardless of the receipt of the request, between that time and the time it gives the information may be made before the information is given.
- ...