



Scottish Information  
Commissioner

**Decision 011/2007 Alan Young and Scottish  
Borders Council**

*Request for copy of weighting figures and salary grade score levels*

**Applicant: Mr Alan Young  
Authority: Scottish Borders Council  
Case No: 200601481  
Decision Date: 19 January 2007**

**Kevin Dunion  
Scottish Information Commissioner**

Kinburn Castle  
Doubledykes Road  
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## Decision 011/2007 – Alan Young and Scottish Borders Council

***Request for copy of weighting figures and salary grade score levels – information refused under sections 30(c) (prejudice to effective conduct of public affairs) – Commissioner found in favour of the applicant***

### Relevant Statutory Provisions and other Sources

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Freedom of Information (Scotland) Act 2002 section 1(1) (General entitlement); 30(c) (Prejudice to effective conduct of public affairs).

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

### Facts

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Mr Young requested a copy of information relating to job regrading, in particular weighting figures for job evaluation scores and salary grade score levels. Scottish Borders Council (the Council) responded to Mr Young, providing some of the information but refusing other information, citing sections 30(b)(i) and (ii), section 30(c) and section 33(1)(b) of the Freedom of Information (Scotland) Act 2002 (FOISA.) Upon review of its decision the Council upheld its original decision but relied only on the exemption claimed by virtue of section 30(c) of FOISA

Following an investigation, the Commissioner found that the Council failed to deal with Mr Young's request for information in accordance with Part 1 of FOISA, in that he did not find the Council's arguments sufficiently compelling to maintain the exemption under section 30(c) of FOISA.

The Commissioner ordered release of the withheld information.



## Background

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1. On 9 August 2006 Mr Young applied to the Council for a copy of salary grade score levels and score weighting figures in relation to a regrading / job evaluation process carried out by the Council.
2. On 10 August 2006 the Council issued Mr Young with a notice in terms of section 30(b)(i) and (ii), section 30(c) and section 33(1)(b) of FOISA, stating that the information was exempt as its release would be likely to inhibit substantially the free and frank provision of advice; or the free and frank exchange of views for the purposes of deliberation; or would otherwise prejudice substantially, or be likely to prejudice substantially, the effective conduct of public affairs. The Council also claimed the information to be exempt under section 33(1)(b) of FOISA in that it considered that release of the information would or be likely to prejudice substantially the commercial interest of any person (in this case the Council).
3. On 10 August 2006, following receipt of the Council's response, Mr Young wrote to the Council requesting a review of its decision.
4. On 6 September 2006, the Council advised Mr Young that a review had been carried out and had upheld the decision not to disclose the information. Now, however, the Council was relying only on the exemption under section 30(c) of FOISA.
5. On 7 September 2006 Mr Young applied to the Scottish Information Commissioner for a decision as to whether the Council had dealt with his information request in accordance with FOISA.
6. The application was validated by establishing that Mr Young had made a valid request to a Scottish public authority and had applied to the Commissioner for a decision only after asking the authority to review its response to his request.

## The investigation

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7. On 20 September, my Validation Officer contacted the Council in terms of section 49(3)(a) of FOISA for its comments on the application and for further information in relation to this case, in particular the information withheld and justification of its application of the relevant exemptions. The Council responded on 12 October 2006.



8. The Council stated that at the review stage it had not considered that section 30(b)(i) and (ii) and section 33(1)(b) of FOISA were appropriate to apply and therefore decided not to use these when coming to a decision in the review. Instead, the Council considered that only section 30(c) of FOISA applied and had based the review decision solely on that exemption and how it applied to the information Mr Young requested.
9. The Council also stated that it had considered the public interest in maintaining section 30(c) of FOISA and had decided that it would be in the public interest to maintain the exemption.
10. Mr Young submitted that if the Council regrading / job evaluation was robust it should have no problem releasing the required information.
11. Mr Young also stated that there was no way of determining the effect any release of information might or might not have on any future events. In the absence of any evidence of adverse future effects, Mr Young felt that disclosure was the correct option.

## **The Commissioner's Analysis and Findings**

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12. This investigation focussed on the Council's application of section 30(c) to two items of information withheld by the Council.
13. The two items in question are weighting figures for job evaluation scores and the salary grade levels based upon those scores.
14. In information supplied to the investigating officer, the Council explained that a job evaluation programme is being utilised as part of the Scotland-wide Single Status process - the harmonisation of pay and conditions across a local authority for comparable posts.
15. This programme comprises an evaluation of posts across the local authority using 12 "factors" ranging from knowledge and skills, through Human Resources responsibilities to the mental demands a job makes on a post-holder. Each "factor" is placed on a scale from 1 – 7. In this system a 1 is lower than 7 - with 1 generally equating to a basic requirement for that "factor" in the post and 7 being a complex or highly specialised requirement.



16. Using a grid which cross references the “factor” (e.g. numeracy) with the description of the requirement (e.g. 2 – “Basic numerical skills employed on a regular basis... requires the use of a calculator, spreadsheet or other software”) provides a further figure – a “weighted score” - which can range from zero to the upper hundreds.
17. Adding these “weighted scores” for each of the 12 “factors” produces a total. This total is checked against a scale which provides the staff grade and spinal column point within which that total falls. This, ultimately, provides the annual salary for that post.
18. In requesting a copy of salary grade score levels and score weighting figures Mr Young required the grid that provides the weighted score, referred to in paragraph 16; and the scale that provides the grade and spinal column point, referred to in paragraph 17.
19. I must therefore consider whether the exemption, claimed by the Council under section 30(c) of FOISA, is valid in relation to these two items of information.

#### **Application of section 30(c)**

20. Section 30(c) of FOISA exempts from disclosure information which would otherwise prejudice substantially, or be likely to prejudice substantially, the effective conduct of public affairs. In this instance the effective conduct of public affairs has been identified by the Council is the ability to undertake independent and impartial consideration of grading requests and the prevention of abuse of that system. The Council argued that integrity of the system would be jeopardised if the information were to be released. This is a qualified exemption and therefore consideration has to be given to the application of the public interest test.
21. The Council argued that the release of the information would not be in the public interest because any loss of faith in the regrading scheme could cause dissatisfaction between the management and workforce, leading to the possibility of a strike and subsequent loss of services to the public.
22. The Council further argued in relation to the public interest that release of the information could have a detrimental knock-on effect on the upcoming implementation of the Single Status Scheme.
23. I note that the Council has provided no detailed public interest test argument or discussion as to why the information itself should not be released. The Council has, in arguing what it believes to be the public interest in maintaining the exemption, focused on what it considers to be the *harm* caused by releasing the information.



24. Authorities seeking to rely on the exemption in section 30(c) need to show that disclosure will substantially prejudice the interests contained in the exemption. For example they should be able to demonstrate that the risk of damage being caused by disclosing information is real or very likely, not simply a remote possibility. The harm caused or likely to be caused must be of some real and demonstrable significance, not simply marginal, and it would occur in the near (certainly the foreseeable) future rather than in some unspecified distant time. Authorities should therefore consider disclosing the information asked for unless it would (or would be likely to) cause real, actual and significant harm.
25. The Council has produced no evidence to suggest that there is a real likelihood of damage to public affairs by the disclosure of this information., Instead it has simply argued that employees may lose confidence in the job evaluation scheme, possibly go on strike and that this might affect public services. This is a hypothetical turn of events which relies on a presumption that many of the Council's employees would, in fact, be dissatisfied with the grading process.
26. It seems to me that this is an unlikely turn of events, based upon the release of this information alone. It seems to me more likely that the open and transparent provision of weighting scores and concomitant salary grade levels would diminish disquiet as every employee would see exactly how they scored and how that related to their grade and salary.
27. While it was argued that the system could be open to abuse, I note that the Council has not expanded upon this. Nor has it provided any evidence as to how such abuse could actually be achieved through the release of this information, how likely this abuse is, or on what scale this could occur. In a prior decision (032/2006 Miss Fiona McLay and Aberdeenshire Council), I discussed the issue of potential abuse of a grading system and set out my view on the standard of evidence I would require in order to be satisfied that the risks claimed were substantial enough to warrant withholding information.
28. I am therefore not convinced by the arguments put forward by the Council that substantial prejudice would, or would be likely to, be caused to the effective conduct of public affairs by the release of the information requested. Accordingly, I am not satisfied that the exemption in section 30(c) applies and I do not require to go on to consider the public interest test.



## Decision

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I find that Scottish Borders Council did not act in accordance with the requirements of Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in that it did not apply the exemption under section 30(c) of FOISA correctly to the information requested and therefore did not deal with the request in accordance with section 1(1) of FOISA

I require Scottish Borders Council within 45 days of the date of receipt of this decision notice to release the following information to Mr Young:-

- Weighting figures
- Salary grade score levels

## Appeal

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Should either Mr Young or the Council wish to appeal against this 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.

**Kevin Dunion**  
**Scottish Information Commissioner**  
**19 January 2007**



## APPENDIX

### Relevant Statutory Provisions

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

##### **1 General entitlement**

- (1) A person who request information from a Scottish public authority which holds is it entitled to be given it by the authority.

##### **30 Prejudice to effective conduct of public affairs**

Information is exempt information if its disclosure under this Act-

- (c) would otherwise prejudice substantially, or be likely to prejudice substantially, the effective conduct of public affairs.