

# Decision Notice



Decision 083/2013 Tom Gordon and Historic Scotland

Launch of the Scottish Asian Women's Association at Stirling Castle

Reference No: 201300237  
Decision Date: 7 May 2013

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**Rosemary Agnew**  
Scottish Information Commissioner

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## Summary

On 3 November 2012, Mr Gordon asked Historic Scotland for information relating to the launch of the Scottish Asian Women's Association at Stirling Castle. Historic Scotland provided information from one document. Mr Gordon believed that it should hold more information, and applied for a decision from the Scottish Information Commissioner

During the investigation, Historic Scotland located and provided an additional four documents. The Commissioner was satisfied that this represented all the information covered by Mr Gordon's request held by Historic Scotland. By failing to provide all the information it held when responding to Mr Gordon, Historic Scotland failed to comply with section 1(1) of FOISA.

## Relevant statutory provisions

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

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

## Background

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1. On 3 November 2012, Mr Gordon asked Historic Scotland to provide all information relating to the launch of the Scottish Asian Women's Association (the Association) at Stirling Castle in April 2012. He stated that this should include, but not be limited to, all information about the use of the venue, including the cost to the Association for its use and amount(s) paid to date; all information about Scottish Government support for the event, financial or otherwise; all information about security for the event, including the cost; all associated correspondence between Historic Scotland, the Scottish Ministers, Scottish Government officials and the chair of the Association.
2. Historic Scotland responded on 3 December 2012, and provided certain information.
3. On 11 December 2012, Mr Gordon asked Historic Scotland to review its response to his request. He explained that he would have expected more information to be held and provided.



4. Historic Scotland notified Mr Gordon of the outcome of its review on 11 January 2013. It confirmed that it held no information covered by Mr Gordon's request, other than that supplied in its initial response.
5. On 15 January 2013, Mr Gordon wrote to the Commissioner, stating that he was dissatisfied with the outcome of Historic Scotland's review and applying to the Commissioner for a decision in terms of section 47(1) of the Freedom of Information (Scotland) Act 2002 (FOISA).
6. The application was validated by establishing that Mr Gordon had made a request for information to a Scottish public authority and had 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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7. Historic Scotland is an Executive Agency of the Scottish Ministers (the Ministers). Subsequent references to submissions received from Historic Scotland are therefore references to submissions made by the Ministers' Freedom of Information Unit on behalf of Historic Scotland.
8. On 13 January 2013, the investigating officer wrote to the Ministers (on behalf of Historic Scotland) in line with agreed procedures, inviting comments on Mr Gordon's application (as required by section 49(3)(a) of FOISA) and asking specific questions about the nature and extent of the searches carried out by Historic Scotland.
9. On 4 March 2013, Historic Scotland responded to the investigating officer's questions, and provided comments on Mr Gordon's application.
10. The relevant submissions received from Historic Scotland and Mr Gordon will be considered fully in the Commissioner's analysis and findings below.

## Commissioner's analysis and findings

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11. In coming to a decision on this matter, the Commissioner has considered all of the submissions made to her by both Mr Gordon and Historic Scotland and is satisfied that no matter of relevance has been overlooked.



## Section 1(1) of FOISA – general entitlement

12. Section 1(1) of FOISA creates a general entitlement to access information held by a Scottish public authority, subject to the application of exemptions in Part 2 of FOISA, and to any other relevant provision in Part 1. The information to be given is that held by the authority at the time the request is received, subject to qualifications which do not appear to be relevant here.
13. In order to comply with section 1(1), therefore, an authority must take reasonable steps to identify and locate all information it holds and which falls within the scope of the request, and (in the absence of an applicable exemption or other relevant provision of Part 1 of FOISA) provide it to the applicant.
14. Historic Scotland was asked to describe the searches it had undertaken to identify information falling within the scope of Mr Gordon's request, and to explain why those searches could reasonably be expected to retrieve all relevant information. Historic Scotland was asked what information it would usually record when hiring properties for functions. The specific concerns raised by Mr Gordon in his application were also put to Historic Scotland for comment.
15. Historic Scotland had searched its records when responding to Mr Gordon's request (retrieving one document) and again when responding to his request for review (with the same outcome). A third search was carried out during the investigation of this case, which retrieved a hard-copy file on the event containing an additional four documents falling within the scope of the request. This information was then provided to Mr Gordon.
16. Historic Scotland confirmed the names and job titles of the staff involved in the searches, and described the records and systems which were searched. It confirmed that it would generally send and store more paperwork when contracting a commercial booking or a ministerial function involving a fee; however, it did not charge for staffing or venue hire for functions hosted by the First Minister. It explained that all such bookings come from the Scottish Government Visits and Events team who are the event organisers and who pay for catering.
17. Historic Scotland submitted that, for ministerial functions of this kind, it would have no direct contact with any of the parties listed in Mr Gordon's request, excepting the Scottish Government Visits and Events team. It was this team's responsibility to retain relevant information about the event they had organised.
18. The Commissioner accepts that the event in question was not organised by Historic Scotland and that it did not charge a fee for the use of the venue for this event. In the circumstances, and given that Historic Scotland did not organise the event, it is unlikely to hold a large amount of relevant information.



19. The Commissioner accepts that the searches now carried out by Historic Scotland have been detailed and thorough, and likely to retrieve any relevant information. However, the Commissioner notes that certain information was not retrieved by the searches carried out in response to Mr Gordon's request and request for review. From this, she concludes that these searches were not adequate. By failing to provide certain information which it held, when responding to the request for review, Historic Scotland failed to comply with section 1(1) of FOISA.
20. As Historic Scotland has now provided the information in question to Mr Gordon, the Commissioner does not require it to take any further action in relation to this breach.

## DECISION

The Commissioner finds that Historic Scotland generally complied with Part 1 of FOISA in responding to the information request from Mr Gordon, but, in failing to identify all of the information falling within the scope of his request, it failed to comply fully with the requirements of section 1(1) of FOISA.

The Commissioner does not require Historic Scotland to take any further action in relation to this case.

## Appeal

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Should either Mr Gordon or Historic Scotland 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 after the date of intimation of this decision.

**Margaret Keyse**  
**Head of Enforcement**  
**7 May 2013**





## 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.