

# Decision Notice



Decision 137/2012 Mr E and Glasgow Caledonian University

Taught procedure on compulsory administration of medication

Reference No: 201200880

Decision Date: 16 August 2012

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**Rosemary Agnew**

Scottish Information Commissioner

Kinburn Castle  
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## Summary

Mr E asked Glasgow Caledonian University (the University) for the taught procedure for the compulsory administration of medication to patients suffering from mental health conditions. The University responded by notifying Mr E that it did not hold any recorded information which would address this request, because no such procedure was taught on its nursing course.

Following an investigation, the Commissioner found that the University did not hold the information Mr E had asked for.

## Relevant statutory provisions

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Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) and (4) (General entitlement); 17(1) (Notice that information is not held)

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 13 March 2012, Mr E wrote to the University requesting the following:

*“FOI, request, nursing programme, psychiatric mental health department, route to invasive compulsory dose when the patient is constant refusal.*

*The question is a technical one, its asking about the nurse that must dose and a patient that does refuse – the violence involved in compulsory dose, how is that violence towards a patient kept within the law: training applied, and the actual steps that see a patient stripped half naked and dosed? FOI requests the written taught procedure.”*

2. The University responded on 26 March 2012. It advised Mr E that all of its teaching is delivered in line with recommendations and requirements outlined in:
  - a. Legislation and the legal framework for the nurse’s role thereunder;
  - b. the role of the Mental Health officer in appeals regarding consent to treatment and advanced directives on treatment;



- c. the role of the nurse in medication management and Nursing and Midwifery Council (NMC) guidelines;
  - d. the role of the Mental Welfare Commission and the appeals process around consent and treatment with a focus on patients' rights and
3. It added that written handouts to students are just part of the training in this area, and it believed that disclosure of partial information into the public domain would endanger the physical and/or mental health of an individual. For these reasons, the University indicated that the University was applying the exemption in section 39(1) of FOISA and withholding this information from Mr E.
  4. On 5 April 2012, Mr E wrote to the University requesting a review of its decision to withhold the requested information.
  5. The University notified Mr E of the outcome of its review on 3 May 2012. It advised him that, on reviewing his original request, it noted that he had requested the "written taught procedure", while its response had been in relation to teaching notes, rather than any such procedure. The University indicated that it had not devised a written taught procedure, but adopts proper procedures for caring for people with mental health problems in accordance with appropriate legislation, and based on research, experience and legal requirements. It advised Mr E accordingly that it did not hold the information he had requested.
  6. On 3 May 2012, Mr E wrote to the Commissioner, stating that he was dissatisfied with the outcome of the University's review and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
  7. The application was validated by establishing that Mr E 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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8. On 29 May 2012, the University was notified in writing that an application had been received from Mr E and was invited to provide comments on the application (as required by section 49(3)(a) of FOISA). The University was also asked to respond to specific questions regarding the nature and extent of the searches that it had carried out to determine whether relevant information was held which would address Mr E's request.
9. The University responded on 6 July 2012, providing detailed submissions on the nature and extent of the searches carried out to determine whether any relevant recorded information was held which would address Mr E's request. The University also responded to comments made by Mr E in his application.



10. Further submissions were sought and received from the University during the course of the investigation.
11. The relevant submissions received from both the University and Mr E will be considered fully in the Commissioner's analysis and findings below.

## **Commissioner's analysis and findings**

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

### **Does the University hold information which would fulfil Mr E's request?**

13. In terms of section 1(4) of FOISA, the information to be provided in response to a request made under section 1(1) is, subject to limited provisions which are not relevant here, that held at the time the request is received.
14. Section 17(1) of FOISA requires that, where an authority receives a request for information that it does not hold, it must give the applicant notice in writing to that effect.
15. As mentioned previously, in response to Mr E's requirement for review, the University advised him that it did not hold any written taught procedure for the compulsory administration of medication to patients suffering from a mental health condition.
16. In order to determine whether the University dealt with Mr E's request in accordance with Part 1 of FOISA, the Commissioner must be satisfied as to whether at the time it received his request, it held a written taught procedure regarding the compulsory administration of medication to patients suffering from mental health conditions.
17. The University was asked to explain the searches that it had undertaken in order to ascertain whether this information was held.
18. In its submissions, the University explained that it is an educational establishment and not a medical facility and therefore the only place where written taught procedures for the compulsory administration of drugs could be held would be in the teaching materials used in the training of nurses.
19. The University explained that professional staff in the school of nursing were consulted and were adamant that no such procedures exist or have ever existed, and nor would they expect them to as the University does not develop its own procedures. Searches were also carried out by the University of documents held on local computers, but none were identified which fell within the scope of Mr E's request.



20. The University advised that teaching materials are only one aspect of a student's education and are used as a backup to lectures and relate to the evidence base for any nursing procedures, not the specific procedure. Nursing students also undertake practical classes and spend a considerable amount of time learning on the job in a variety of medical establishments.
21. It explained that all teaching materials (handouts and slides) held by the University in relation to the topic covered by Mr E's request were considered by it, but these did not come within the scope of Mr E's request.
22. The University provided copies of these teaching materials to the Commissioner and she is satisfied, having reviewed these, that they do not contain any information falling within the scope of Mr E's information request, as they do not include a procedure for the compulsory administration of medication to patients suffering from mental health conditions.
23. In his application, Mr E commented that, for an examination or assessment to be set, there must be an acceptable written procedure in place. Mr E went on to say that whether that teaching is in-house or comes from an external source, the University must give clear, concise documentation which allows strict adherence to health and safety and a set of standards, which allows an examiner to determine whether a student has attained a pass, fail or requires additional guidance or study to be qualified to administer medication to patients suffering from mental health conditions who do not give consent.
24. In its response to these comments, the University advised that Mr E's comments do not fit in with the highly vocational programme of study where 'hands on' training is vital and forms a large part of the overall assessment.
25. The University further explained that students undertaking nursing programmes are taught nursing requirements in classes and may practice these within simulated situations within the University. It indicated that when students are on clinical placements they follow the nursing procedures recommended by the relevant NHS Board, under the close supervision of a registered nurse who is able to assess student competence. The University explained that it does not, and has no reason to, hold copies of the procedures followed by NHS Boards in relation to the compulsory administration of drugs to patients with mental health conditions. The University advised that it teaches the legal/regulatory framework and the evidence base, and the practical application would arise in the students' clinical placement in a medical establishment.
26. Mr E also expressed the view that the direction of the study material that is taught should be from written works which are accepted by the University and to an employer.



27. In response, the University advised that students undertake a three year programme of preparation to register with NMC, and that all nursing programmes in the UK are subject to annual monitoring by the NMC for currency, content, resources and assessment of theory and practice. The University explained that experienced reviewers from the NMC visit the University and meet with the Senior Management Team, lecturers, students, service users and mentors. The University also advised that all coursework and practice assessments are subject to scrutiny via the programme external examiner who is an experienced nurse lecturer from a UK University.
28. The Commissioner has considered the nature and extent of the searches carried out by the University and is satisfied that these were thorough and proportionate and would, on the balance of probabilities, have identified any relevant recorded information falling within the scope of Mr E's request had it been held. The Commissioner is also satisfied, from the explanations given by the University in response to Mr E's comments that it is unlikely that the information he requested would have ever been held by the University.
29. The Commissioner is therefore satisfied that the University does not (and did not at the time of receiving Mr E's request) hold any recorded information which would fall within the scope of Mr E's request.

## DECISION

The Commissioner finds that Glasgow Caledonian University complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by Mr E.

## Appeal

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Should either Mr E or Glasgow Caledonian University 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 notice.

**Margaret Keyse**  
**Head of Enforcement**  
**16 August 2012**



## 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.

...

##### 17 Notice that information is not held

- (1) Where-
- (a) a Scottish public authority receives a request which would require it either-
- (i) to comply with section 1(1); or
- (ii) to determine any question arising by virtue of paragraph (a) or (b) of section 2(1),
- if it held the information to which the request relates; but
- (b) the authority does not hold that information,
- it must, within the time allowed by or by virtue of section 10 for complying with the request, give the applicant notice in writing that it does not hold it.