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20 January 2021

Dear Mr Baker

I am writing in reply to your email of Thursday 14th January 2021.

I note your comments regarding your freedom of information (FoI) request. For clarity, and as described in an email to you on 13 November 2020, your request was not treated as an FoI under the Freedom of Information (Scotland) Act 2002. FoI is a request for public information (usually requested by journalists for publication) and under FoI legislation, personal data is exempt (s38(1)(a) of FOI(S)A 2002) and you would therefore have received no information. That is why we treated your request as a Subject Access Request (SAR) as you are entitled to access your personal data under data protection legislation.

It may be helpful if I explain a little bit more about the process. Personal data can relate to more than one person. Therefore, responding to a SAR may involve providing information that relates to both the requester and another individual. This decision involves balancing the data subject's right of access against the other individual's rights relating to their own personal data.

In practice, the clearest basis for justifying the disclosure of third-party information in response to a SAR is that the third party has given their consent. It is therefore good practice, where possible, to ask relevant third parties for their consent to the disclosure of their personal data in response to a SAR. In this case, I was unable to obtain the necessary consent to disclose the information and did not consider that your legitimate interests in the information outweighed the rights and freedoms of the third parties involved.

More information about right of access is available on the Information Commissioner's Office (ICO) website [here](#).

With regards to Professor Davies' complaint against you, I can assure you that I have had no communication with him either by email or telephone since your SAR request.

If you remain unhappy with the response to your SAR, you can raise your concerns with the ICO.

Yours sincerely



Gordon Findlater. BSc., PhD., FRCSE'd., MBIE.
HMIAS

Professor Gordon Findlater