

Decision Notice 018/2020

International trips undertaken by staff

The Applicant

Public authority: The Scottish Qualifications Authority

Case Ref: 201900895



Scottish Information
Commissioner

Summary

The SQA was asked for information regarding international trips undertaken by staff officials.

The SQA disclosed some information but withheld the remainder. The information was disclosed in full during the investigation.

The Commissioner investigated and found that the information had been wrongly withheld.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) and (6) (General entitlement); 2(1)(b) (Effect of exemptions); 39(1) (Health, safety and the environment)

The full text of each of the statutory provisions cited above is reproduced in Appendix 1 to this decision. The Appendix forms part of this decision.

Background

1. On 13 March 2019, the Applicant made a request for information to the Scottish Qualifications Authority (the SQA). The Applicant requested a range of information about the international business trips of SQA's senior management team, including the name of the hotels stayed in and the airlines travelled with.
2. The SQA responded on 11 April 2019. The SQA disclosed some information and stated that it did not hold some of the information requested. The SQA withheld the names of hotels and airlines used under section 39(1) of FOISA on the grounds that disclosure could cause harm to staff members.
3. On 25 April 2019, the Applicant wrote to the SQA requesting a review of its decision on the basis that he did not accept that disclosure of airlines or hotels used would cause harm to staff members. He believed that disclosure of the information was in the public interest.
4. The SQA notified the Applicant of the outcome of its review on 24 May 2019. The SQA upheld the application of section 39(1), stating that the names of hotels and airlines were being withheld for operational security reasons. The SQA argued that disclosure of the costs incurred had satisfied the public interest and that disclosure the names of hotels and airline were not therefore necessary to satisfy the public interest.
5. On 1 June 2019, the Applicant wrote to the Commissioner. The Applicant applied to the Commissioner for a decision in terms of section 47(1) of FOISA. The Applicant stated he was dissatisfied with the outcome of the SQA's review because he not believe that disclosure of this information would endanger the physical or mental health of staff. He argued that it would be impossible to use the details from trips taken in the past to predict the hotels and airlines that would be used trips taken in the future.

Investigation

6. The application was accepted as valid. The Commissioner confirmed that the Applicant made a request for information to a Scottish public authority and asked the authority to review its response to that request before applying to him for a decision.
7. On 18 July 2019, the SQA was notified in writing that the Applicant had made a valid application. The SQA was asked to send the Commissioner the information withheld from the Applicant. The SQA provided the information and the case was allocated to an investigating officer.
8. Section 49(3)(a) of FOISA requires the Commissioner to give public authorities an opportunity to provide comments on an application. The SQA was invited to comment on this application and to answer specific questions regarding its decision to withhold information under section 39(1) of FOISA.

Commissioner's analysis and findings

9. In coming to a decision on this matter, the Commissioner considered all of the withheld information and the relevant submissions, or parts of submissions, made to him by both the Applicant and the SQA. He is satisfied that no matter of relevance has been overlooked.

Information disclosed to Applicant

10. During the course of the investigation, the SQA provided the Applicant with all of the withheld information. .
11. As the SQA disclosed all of the withheld information to the Applicant, and in the absence of submissions to the contrary, the Commissioner must conclude that the SQA was not entitled to withhold this information as exempt under section 39(1) of FOISA at the time of the Applicant's request
12. Having reached that conclusion, he is not required to consider the public interest test in section 2(1)(b) of FOISA.

Decision

The Commissioner finds that the Scottish Qualifications Authority failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by the Applicant.

The Commissioner finds that by wrongly withholding information under section 39(1) of FOISA, the SQA failed to comply with section 1(1) of FOISA.

Given that the information was disclosed to the Applicant during the investigation, the Commissioner does not require the SQA to take any action in respect of this failure in response to the Applicant's application.

Appeal

Should either the Applicant or the SQA 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

28 January 2020

Appendix 1: 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.

...

- (6) This section is subject to sections 2, 9, 12 and 14.

2 Effect of exemptions

- (1) To information which is exempt information by virtue of any provision of Part 2, section 1 applies only to the extent that –

...

- (b) in all the circumstances of the case, the public interest in disclosing the information is not outweighed by that in maintaining the exemption.

...

39 Health, safety and the environment

- (1) Information is exempt information if its disclosure under this Act would, or would be likely to, endanger the physical or mental health or the safety of an individual.

...

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews, Fife
KY16 9DS

t 01334 464610

f 01334 464611

enquiries@itspublicknowledge.info

www.itspublicknowledge.info