

Decision Notice



Decision 093/2010 Mr Peter Fenton and Fife Council

Receipts for purchases

Reference Nos: 201000322 and 201000721

Decision Date: 14 June 2010

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Kevin Dunion

Scottish Information Commissioner

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Summary

Mr Fenton requested from Fife Council (the Council) copies or original receipts/proof of purchase in relation to goods purchased for his late mother (Mrs Fenton) by the Council's Social Work Service. The Council responded by providing some information, but stated that it did not hold other receipts. Following a review, Mr Fenton remained dissatisfied and applied to the Commissioner for a decision.

Following an investigation, the Commissioner found that the Council had dealt with Mr Fenton's request for information in accordance with Part 1 of FOISA, by providing all the information it held that fell within the scope of the request. Consequently, he did not require the Council to take any action.

Relevant statutory provisions and other sources

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

1. On 21 August 2009, Mr Fenton wrote to the Council requesting copies or original receipts/proof of purchase in respect of certain specified goods purchased for his late mother, using her money, by members of the Council's Social Work Service.
2. The Council responded on 25 September 2009, providing copy receipts in respect of certain items, but advising that it did not hold receipts for certain others.
3. On 7 October 2009, Mr Fenton wrote to the Council requesting a review of its decision, advising that the Council had failed to provide a response in respect of one of the items specified in his original request. The Council notified Mr Fenton of the outcome of its review on 17 November 2009, stating that it did not hold a receipt for the item in question.



4. On 12 February 2010, Mr Fenton wrote to the Commissioner, stating that he was dissatisfied with the outcome of the Council's review and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
5. Mr Fenton had not sought a review of the decision of the Council communicated in its letter of 25 September 2009. He did this on 10 March 2010, however, and the Council agreed to carry out a review outwith the period within which it was required to do so, exercising its discretion in terms of section 20(6) of FOISA. The Council notified Mr Fenton of the outcome of its review on 22 March 2010, confirming that it did not hold receipts for the items in question.
6. On 31 March 2010 Mr Fenton wrote to the Commissioner, stating that he was dissatisfied with the outcome of the Council's review as communicated in its letter of 22 March 2010 and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
7. Both of Mr Fenton's applications were validated by establishing that he had made requests 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 those requests. The case was then allocated to an investigating officer.

Investigation

8. The investigating officer subsequently contacted the Council, giving it an opportunity to provide comments on the applications (as required by section 49(3)(a) of FOISA) and asking it to respond to specific questions. In particular, the Council was asked to describe the steps it had taken to determine whether any relevant information was held.
9. The Council provided submissions in response, which are dealt with fully, insofar as relevant, in the Commissioner's analysis and findings (below).

Commissioner's analysis and findings

10. In coming to a decision on this matter, the Commissioner has considered all the submissions made to him by both Mr Fenton and the Council and is satisfied that no matter of relevance has been overlooked.



Information not held

11. Section 17(1) of FOISA requires that, where an authority receives a request for information it does not hold, it must give an applicant notice in writing that it does not hold the information. In this connection, it should be noted that the general entitlement to information in section 1(1) of FOISA extends (subject to qualification – see full text of section 1(4) below) to any information held by the authority at the time it receives the applicant's request.
12. As noted above, the Council supplied Mr Fenton with some information but also gave him notice that it did not hold the remainder of the information he had requested.
13. The investigating officer asked the Council a range of questions, including requesting details of any searches and enquiries it had carried out to determine whether any relevant information was held.
14. The Council explained that its Social Work Service held a client record for each service user. A paper file was created, including copies of all financial transactions and documents as required, and there were no other sources for the personal financial documentation of service users.
15. The Council explained that, following Mr Fenton's request, his late mother's file had been reviewed by the Team Manager responsible for the care service provided to Mrs Fenton, accompanied by the Administration Team Leader for the local area, who was the responsible manager for files and records. The Council stated that the file remained in existence, in line with its Document Retention Schedule, and that no relevant records had been destroyed. Since the receipts in question were not found within this file, and would not have been held anywhere else, the Council stated that there was no evidence in its records that it was ever in possession of these receipts (i.e. other than those supplied to Mr Fenton).
16. The Council was asked if the receipts could be held electronically. It explained that its client database did not have capacity to hold scanned documents and therefore was satisfied that the information would not have been held there.
17. The Council was also asked if it would be required to retain or provide the original receipts as part of its procedures, even if the original copy had been passed to Mr Fenton or Mrs Fenton. The Council explained where its Social Work staff accompanied a person (as in this case) to make a purchase as part of support in daily living, that person would be encouraged to maintain their financial independence. If the person were being assisted in spending their own funds, there would be no requirement for the Social Work Service to keep copies of documents or receipts.



18. The Council explained that where (as in this case) its Social Work service was not operating under formal power of attorney arrangements – and therefore did not have full control of financial transactions – there would not be a requirement to document fully all financial transactions and involvements. Where (as here) a person managed their finances with assistance from the Social Work Service, there would be a range of responses to spending monies. Where the Social Work Service had agreed (with the person's permission) to make a purchase on their behalf, a receipt and a document would exist. On the other hand, where Social Work accompanied the person but they retained control of their finances, a receipt and a document would not exist. In this case, there had been examples of both kinds of transaction.
19. Having considered the submissions and explanations he has received, the Commissioner is satisfied that adequate steps have been taken by the Council to determine whether it held the information in question.
20. The Commissioner is satisfied that the information in question was not held by the Council at the time Mr Fenton's information request was received. He is therefore satisfied that the Council was correct to give Mr Fenton notice in terms of section 17(1) of FOISA.

DECISION

The Commissioner finds that Fife Council complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by Mr Fenton.

Appeal

Should either Mr Fenton or Fife 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 after the date of intimation of this decision notice.

Margaret Keyse
Head of Enforcement
14 June 2010



Appendix

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.

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