

Decision Notice

Decision 192/2017: Ms Anna Hamilton and the Scottish Further and Higher Education Funding Council

Details provided by Glasgow Clyde College Board

Reference No: 201701568

Decision Date: 21 November 2017



Scottish Information
Commissioner

Summary

The SFC was asked for information about when it was provided with specified details by Glasgow Clyde College Board. The SFC finally responded to the request after being ordered to do so by the Commissioner.

An application was made to the Commissioner, questioning whether the SFC held more information. Following an investigation, the Commissioner was satisfied that the SFC had carried out appropriate searches and had disclosed all the information it held.

Relevant statutory provisions

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

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 8 March 2017, Ms Hamilton made a request for information to the Scottish Further and Higher Education Funding Council (the SFC). The information request, which related to circumstances in 2015, included three requests seeking correspondence relating to when the SFC had been informed of specified matters by the Chair or by any member of the Glasgow Clyde College Board. Ms Hamilton clarified that the requests for correspondence included, but were not limited to, internal letters, emails, memos, minutes of meetings, external letters to those institutions, governmental letters, opinions, telephone records or findings between the SFC/Glasgow Clyde Board of Management/Glasgow Clyde College/Glasgow Colleges Regional Board/The Scottish Government between 19 February and 17 March.
2. On 4 May 2017, Ms Hamilton wrote to the SFC, requesting a review of its failure to respond to her information request.
3. On 27 June 2017, Ms Hamilton wrote to the Commissioner's office, stating she was dissatisfied with the SFC's failures to respond to her request and requirement for review. This resulted in the Commissioner issuing *Decision Notice 133/2017 Ms Anna Hamilton and the SFC*¹.
4. The SFC notified Ms Hamilton of the outcome of its review on 31 August 2017. It provided Ms Hamilton with information, explaining that some personal data had been withheld.
5. On 31 August 2017, Ms Hamilton wrote to the Commissioner. She applied to the Commissioner for a decision in terms of section 47(1) of FOISA. Ms Hamilton stated she was dissatisfied with the outcome of the SFC's review because she did not accept that the SFC had identified all of the information it held falling within the three parts of her request as described above.

¹ <http://www.itspublicknowledge.info/ApplicationsandDecisions/Decisions/2017/201701121.aspx>

Investigation

6. The application was accepted as valid. The Commissioner confirmed that Ms Hamilton 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 12 September 2017, the SFC was notified in writing that Ms Hamilton had made a valid application. The case was then 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. On 27 September 2017, the SFC was invited to comment on this application and answer specific questions, in particular to explain the steps it had taken to identify and locate the information requested.
9. The SFC responded, providing submissions in support of its position that, other than that already identified, it did not hold any information falling within the scope of the request under investigation.

Commissioner's analysis and findings

10. In coming to a decision on this matter, the Commissioner considered all of the relevant submissions, or parts of submissions, made to him by both Ms Hamilton and the SFC. He is satisfied that no matter of relevance has been overlooked.

Information held by the SFC

11. Section 1(1) of FOISA provides that a person who requests information from a Scottish public authority which holds it is entitled to be given that information by the authority, subject to qualifications which, by virtue of section 1(6) of FOISA, allow Scottish public authorities to withhold information or charge a fee for it. The qualifications contained in section 1(6) are not applicable in this case.
12. The information to be given is that held by the authority at the time the request is received, as defined in section 1(4). This is not necessarily to be equated with information an applicant believes the authority should hold, although the applicant's reasons may be relevant to the investigation of what is actually held.
13. The Commissioner has taken account of the submissions provided by Ms Hamilton, in which she explains why she considers the SFC should hold further information falling within the scope of her request.
14. In its submissions to the Commissioner, the SFC explained its interpretation of each part of the request and confirmed the searches and enquiries it undertook to ascertain whether it held any information falling within the scope of Ms Hamilton's request. The SFC detailed the searches conducted to identify and locate information held. These included searches of relevant electronic and paper records, and consultation with staff with responsibility for Glasgow Clyde College. The SFC provided supporting evidence confirming the outcomes of its searches, confirming that these were reviewed during the investigation.
15. The SFC explained that the conclusion of the searches and enquiries was that no information was held, in addition to the information provided to Ms Hamilton in responding to her requirement for review (as outlined above).

16. Having considered all relevant submissions and the terms of Ms Hamilton's request, the Commissioner is satisfied that the SFC interpreted Ms Hamilton's request reasonably and took adequate, proportionate steps with a view to identifying and locating the information requested by Ms Hamilton. He accepts that Ms Hamilton was provided with all of the relevant information located by the SFC. Consequently, the Commissioner is satisfied that, in regard to the matters raised in Ms Hamilton's application, the SFC complied with section 1(1) of FOISA in responding to Ms Hamilton.

Decision

The Commissioner finds that the Scottish Further and Higher Education Funding Council complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by Ms Hamilton.

Appeal

Should either Ms Hamilton or the SFC 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

21 November 2017

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.

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