

Decision Notice



Decision 210/2012 Mr M and Aberdeen City Council

Programme information

Reference No: 201201817

Decision Date: 14 December 2012

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Rosemary Agnew

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews KY16 9DS
Tel: 01334 464610



Summary

Mr M requested from Aberdeen City Council (the Council) information relative to a specific offender programme. The Council failed to respond but, following a review, provided certain information to Mr M and stated that certain other information was not held. Following an investigation, the Commissioner found that the Council had provided Mr M with all of the relevant information it held.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) and (4) (General entitlement); 17(1) (Information 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 1 June 2012, Mr M wrote to the Council and, in relation to an offender programme known as the Deniers Programme, requested the following information:
 - a) the year the programme was designed;
 - b) who the programme was for;
 - c) the intended outcomes;
 - d) how the programme would achieve those outcomes;
 - e) the programme designer(s)/author(s);
 - f) independent evaluation and outcome data;
 - g) theory manual.
2. Mr M did not receive a response to this request and, on 10 July 2012, wrote to the Council requesting a review on the basis that it had failed to respond.



3. The Council responded to Mr M's requirement for review on 18 July 2012. It responded to parts a) to e) of his request, while stating that it held no information relative to parts f) and g). In relation to parts f) and g), the Council advised Mr M where he might be able to obtain the information elsewhere.
4. On 24 July 2012, and again on 6 August 2012, Mr M wrote to the Council requesting a review of its decision. The Council responded by explaining that a review had already been undertaken (as outlined above).
5. On 24 September 2012, Mr M 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.
6. The application was validated by establishing that Mr M 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

7. On 18 October 2012, the investigating officer notified the Council in writing that an application had been received from Mr M, giving it an opportunity to provide comments on the application (as required by section 49(3)(a) of FOISA) and asking it to respond to specific questions. In particular, the Council was asked to explain the steps it had taken to identify and locate the information requested.
8. In his application to the Commissioner, Mr M did not accept that he had been provided with all of the information the Council held relating to parts b), c) and d) of his request. He also disputed that the Council held no information falling within the scope of parts f) and g) of his request. The investigating officer's questions therefore focused on these parts.
9. The Council responded on 15 November 2012, providing submissions in support of its position that it did not hold any further information.
10. The relevant submissions received from both the Council and Mr M will be considered fully in the Commissioner's analysis and findings below.

Commissioner's analysis and findings

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



Information held by the Council

12. 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 certain restrictions which, by virtue of section 1(6) of FOISA, allow Scottish public authorities to withhold information or charge a fee for it. The restrictions contained in section 1(6) are not applicable in this case. The information to be given is that held by the authority at the time the request is received, as defined in section 1(4).
13. The Commissioner notes the submissions provided by Mr M, in which he provides reasons why he considers the Council should hold further detailed information and argues that the Council has a duty to hold certain of this information.
14. The Council submitted that it had responded adequately to parts b), c) and d) of Mr M's request, given that the Deniers Programme was no longer in use and no further information was held. Given the nature of the questions, it did not believe searches to have been necessary to identify and locate any information held. It further explained that, contrary to the comments made by Mr M, it was not under any statutory duty to hold the information requested.
15. Having considered all relevant submissions and the terms of the request, the Commissioner accepts that the Council interpreted each part of Mr M's request reasonably and took adequate, proportionate steps to establish what information it held and which fell within the scope of the request. In reaching this conclusion, she has taken into account the information provided to Mr M by the Council. She also accepts the Council's contention that Mr M's reasons for believing further information should be held are, to a large extent, simply statements of personal opinion.
16. The Commissioner is therefore satisfied that the Council was correct to give Mr M notice, in terms of section 17(1) of FOISA, that (with the exception the information it did provide) it held no information falling within the scope of his request. In providing such information as it did in response to parts b), c) and d) of the request, she is satisfied that it dealt with the request in accordance with section 1(1) of FOISA.

DECISION

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



Appeal

Should either Mr M or Aberdeen City 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 December 2012



Appendix

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002

1 General entitlement

- (1) A person who requests information from a Scottish the Council 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 the Council 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.
- ...