

Decision Notice 076/2022

Changes of drying room locks and doors

Applicant: The Applicant

Public authority: Aberdeen City Council

Case Ref: 202101122



Scottish Information
Commissioner

Summary

The Council was asked about changes to the locks and doors for the drying room of particular flats in a multi-storey building. The Council provided information on lock changes, and stated that information on changes to the doors was not held. The Applicant believed further information was held which had not been disclosed. The Commissioner investigated and found that the Council had complied with FOISA in responding to the request.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2), (4) and (6) (General entitlement); 17(1) (Notice that information is not held); 47(1) and (2) (Application for decision by Commissioner)

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 10 June 2021, the Applicant made a multi-part request for information to Aberdeen City Council (the Council). In the first part of the request (which is the subject of this Decision Notice), the Applicant asked for the following information:
Dates of change of locks and doors for drying room for [specified flats] in [a specified multi-storey property], along with the cost and name of contractor, from April 2014 to April 2021.
The remaining parts of the Applicant's request are not under consideration here.
2. The Council responded on 15 July 2021. It disclosed a spreadsheet listing jobs and corresponding costs, and explained that all works were undertaken by the Council's own tradesmen.
3. On 26 July 2021, the Applicant wrote to the Council requesting a review of its decision on the basis that the response provided made no mention of change of door, only change of locks.
4. The Council notified the Applicant of the outcome of its review on 30 August 2021, upholding its original decision with modification. The Council confirmed that its records showed no changes to the drying room door during the time period stated. On that basis, the Council applied section 17 (Notice that Information is not held) of FOISA for the information requested regarding changes to the drying room door.
5. On 8 September 2021, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. The Applicant stated he was dissatisfied with the outcome of the Council's review in respect of its records showing no changes to the drying room door for the period stated. He explained that a major upgrade refurbishment was carried out where the doors and locks of all 36 drying rooms within the building were replaced by enhanced security doors and locks during the time stated. He believed the doors were changed in November 2017 as part of that upgrade. In his view, the Council had failed to provide this information.

Investigation

6. The application was accepted as valid. The Commissioner confirmed that the Applicant had made a request for information to a Scottish public authority and had asked the authority to review its response to that request before applying to him for a decision.
7. On 9 November 2021, the Council was notified in writing that the Applicant had made a valid application and the case was subsequently 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 Council was invited to comment on this application and to answer specific questions. These focussed on the searches carried out by the Council to identify and locate any relevant information falling within the scope of the Applicant's request.
9. The Council duly provided submissions to the Commissioner.

Commissioner's analysis and findings

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

Whether the Council held any further relevant information

11. In terms of section 1(4) of FOISA, the information to be provided in response to a request under section 1(1) is that falling within the scope of the request and held by the authority at the time the request is received.
12. The standard of proof to determine whether a Scottish public authority holds information is the civil standard of the balance of probabilities. In determining where the balance of probabilities lies, the Commissioner considers the scope, quality, thoroughness and results of the searches carried out by the public authority. He also considers, where appropriate, any reason offered by the public authority to explain why it does not hold the information. While it may be relevant as part of this exercise to explore expectations about what information the authority should hold, ultimately the Commissioner's role is to determine what relevant recorded information is (or was, at the time the request was received) actually held by the public authority.
13. The Commissioner has taken account of the arguments in both the Applicant's requirement for review and his application, in which he provides reasons why he considers the Council should hold further information falling within the scope of his request.
14. In its submissions to the Commissioner, the Council confirmed it held no further information falling within the scope of the request. It explained that, while it did hold other information on changes to the drying room locks and doors within the multi-storey building, there were no records to show that this related directly to works undertaken at the specified locus during the time period set out in the request. As such, the Council did not consider this information fell within the scope of the request, and maintained that the Applicant had been provided with all relevant information held.
15. The Council submitted that, following discussions with staff within Housing, Property Factoring and Building Services, it had ascertained that no major upgrade refurbishment had been carried out during the period set out in the request. It explained that a programme of

replacement doors had taken place in the buildings which included the multi-storey block in question, to change all drying room doors to security doors following a spate of incidents involving deliberate fireraising and storage issues. The contract to replace the doors took place in 2012/13 and, while the drying room doors were clearly changed at that time, this fell outwith the timespan stated in the request.

16. The Council further explained that, following the Grenfell Tower disaster in 2017, Housing and Building Services staff visited multi-storey blocks to ensure all drying rooms were secure and clear of flammable materials. Where locks were found to be faulty/damaged, these would have been replaced. Building Services confirmed, however, that not all drying room locks and doors were replaced at that time, and the locks for the drying room in question were not changed at that time.
17. The Council explained and provided evidence of the searches and enquiries it had undertaken, with explanations why it considered these adequate in the circumstances.
18. At initial response stage, the Council submitted that Building Services were considered most likely to hold relevant information as they would have been involved in any maintenance or repair work at the locus. Building Services carried out a search of "Total" (the system used to log housing repairs) for repairs undertaken to the communal areas of the multi-storey building, which were then filtered and analysed to reflect relevant jobs relating to the locus in the specified timeframe. This information was disclosed to the Applicant.
19. At review stage, Building Services confirmed there were no changes to the drying room door during the timeframe specified in the request.
20. Following notification of the Applicant's appeal for a decision by the Commissioner, the Council carried out further searches and enquiries with staff in relevant departments, primarily around the Applicant's assertions that there had been a major upgrade refurbishment having taken place during the specified time period:
 - Housing: The Housing Assets Team Leader confirmed there had been no wholesale change of drying room doors as part of upgrading work, and any changes to locks and doors would be Building Services. The Senior Housing Officer confirmed that, following the Grenfell Tower disaster, drying rooms were cleared and doors and locks checked, and suggested Building Services would be involved in any lock changes.
 - Property Factoring: The Property Factoring Officer believed refurbishment took place pre-2016 on doors and locks, suggesting information might be held by Building Services.
 - Architectural Services: The Principal Architect advised he had been involved in over-cladding work, but not internal doors, suggesting information might be held by the Contracts Manager (Operations). The Senior Architectural Officer confirmed they were not involved in any drying room works.
 - Contracts: The Contracts Manager confirmed that they held no relevant information.
 - Building Services: The Support Officer identified and provided details of all drying room door/lock changes for the multi-storey building during the stated time period, analysis of which identified no major upgrade refurbishment having taken place. The Senior Team Leader confirmed there had been only three jobs to change the drying room door locks on the relevant floor of the building during the specified timeframe, with works carried out by Building Services staff. Following the Grenfell Tower

disaster, Housing and Building Services staff visited multi-storey blocks and checked drying rooms to ensure they were secure and clear of any flammable materials, replacing door locks where faulty. The Operations Manager confirmed that, in 2012/13, a programme to replace all drying room doors to security doors (following a spate of incidents relating to storage and deliberate fireraising) was carried out in the buildings which included the multi storey block in question.

21. In conclusion, the Council submitted that it considered all relevant searches had been undertaken, all information held falling within the scope of the request had been disclosed to the Applicant, and no further relevant information was held.
22. Having considered all relevant submissions and the terms of the request, the Commissioner is satisfied that the Council took adequate, proportionate steps in the circumstances to establish whether it held any further information that fell within the scope of the request. The Commissioner is satisfied that the searches described by the Council would have been capable of identifying any further information relevant to the request. The Commissioner is therefore satisfied, on the balance of probabilities, that the Council does not (and did not, on receipt of the request) hold any further information falling within the scope of the request.

Decision

The Commissioner finds that, in respect of the matters specified in the application, Aberdeen City Council complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by the Applicant.

Appeal

Should either the Applicant or the Council 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

19 July 2022

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.
- (2) The person who makes such a request is in this Part and in Parts 2 and 7 referred to as the “applicant.”
- ...
- (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.
- ...
- (6) This section is subject to sections 2, 9, 12 and 14.

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.
- ...

47 Application for decision by Commissioner

- (1) A person who is dissatisfied with -
 - (a) a notice under section 21(5) or (9); or
 - (b) the failure of a Scottish public authority to which a requirement for review was made to give such a notice.may make application to the Commissioner for a decision whether, in any respect specified in that application, the request for information to which the requirement relates has been dealt with in accordance with Part 1 of this Act.

- (2) An application under subsection (1) must -
- (a) be in writing or in another form which, by reason of its having some permanency, is capable of being used for subsequent reference (as, for example, a recording made on audio or video tape);
 - (b) state the name of the applicant and an address for correspondence; and
 - (c) specify –
 - (i) the request for information to which the requirement for review relates;
 - (ii) the matter which was specified under sub-paragraph (ii) of section 20(3)(c); and
 - (iii) the matter which gives rise to the dissatisfaction mentioned in subsection (1).

...

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