



Decision Notice 238/2024

Spending of Council Tax

Authority: Stirling Council

Case Ref: 202201173

Summary

The Applicant asked the Authority for information relating to Council Tax spending. The Authority informed the Applicant that it did not hold the information. The Commissioner investigated and was satisfied the Authority did not hold the information requested.

Relevant statutory provisions

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

Background

1. On 29 March 2022, the Applicant made a request for information to the Authority. Among other things, she asked for:

“1. The previous 3 years receipts for where the council tax funding is being spent. Please note that I do not want to see percentages but proof in pounds as to where the annual council tax is being spent.

2. Please clarify if my council tax funds; Stirlingshire Police Service, Stirlingshire Ambulance Service, Stirlingshire Waste Collection and Schools. If so, I would like to know as to what percentage it is distributed?”
2. The full request, including the questions not being considered in this decision notice, is set out in Appendix 1.
3. The Authority responded on 27 April 2022. The Authority issued the Applicant with a notice, under section 17(1) of FOISA, that it did not hold the information requested in questions 1

and 2 of the Applicant's request. The Authority explained that its funding came from a range of sources, including Council Tax, and that it was unable to identify the element of Council Tax income that helped to support the expenditure requirements of individual services. However, to assist the Applicant, the Authority provided links to information on its budget process.

4. On 6 June 2022, the Applicant wrote to the Authority requesting a review of its decision. The Applicant stated that she was dissatisfied with the decision because she considered that the Authority had failed to provide her with the information requested in questions 1 and 2 of her request.
5. The Authority notified the Applicant of the outcome of its review on 14 July 2022, which fully upheld its original decision. The Authority confirmed that Council Tax was spent on both waste services and schools but explained that it could not provide precise percentages for the reasons set out in its initial response.
6. On 21 October 2022, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. The Applicant stated that she was dissatisfied with the outcome of the Authority's review because she did not agree that the Authority could not provide the information requested.
7. The Applicant did not express dissatisfaction with the Authority's response to questions 3-5 of her request (set out in Appendix 1). The Commissioner will therefore not consider those questions further in his decision notice.

Investigation

8. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.
9. On 7 November 2022, and in line with section 49(3)(a) of FOISA, the Commissioner gave the Authority notice of the application in writing and invited its comments.
10. The Authority provided comments, and the case was subsequently allocated to an investigating officer.
11. The Applicant was also invited to provide comments, including on how she considered spending funded by Council Tax could be distinguished from other spending. The Applicant provided comments.
12. During the investigation, the investigating officer also sought further comments from the Authority on why it could not distinguish spending funded by Council Tax from other spending. The Authority provided further comments.

Commissioner's analysis and findings

13. The Commissioner has considered all of the submissions made to him by the Applicant and the Authority.

Section 17(1) – Notice that information is not held

14. 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.
15. The information to be given is that held by the authority at the time the request is received, as defined in section 1(4) of FOISA. This is not necessarily to be equated with information an applicant believes the authority should hold. If no such information is held by the authority, section 17(1) of FOISA requires it to give the applicant notice in writing to that effect.
16. 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 lies, the Commissioner must first of all consider the interpretation and scope of the request and thereafter the quality, thoroughness and results of the searches carried out by the public authority.
17. The Commissioner also considers, where appropriate, any reason offered by the public authority to explain why it does not hold the information. Ultimately, however, the Commissioner's role is to determine what relevant recorded information is actually held by the public authority (or was, at the time it received the request).

The Authority's submissions

18. The Authority explained that its funding was derived from a number of sources. The Authority noted that the largest sources were Council Tax and a "General Revenue Grant" from the Scottish Government, but it also derived funding from charges for specific services and miscellaneous other sources of revenue.
19. The Authority stated that these sources were held centrally before being allocated to a range of services provided by the Authority.
20. While it has a dedicated Council Tax account, the Authority explained that the account is purely a means of tracking revenue received through Council Tax. However, revenue received from Council Tax is still combined into the Authority's overall revenue budget.
21. The Authority confirmed that, as revenue from Council Tax simply forms part of its overall revenue budget, it was not possible to trace back spend for services specifically to Council Tax.

The Applicant's submissions

22. The Applicant argued that businesses are required to keep accounts to show where "every penny" that passed through the business came from and where it went. The Applicant submitted that local authorities should keep similarly detailed financial records.

The Commissioner's view

23. The Commissioner has carefully considered the submissions of both the Applicant and the Authority.
24. The Commissioner recognises that Council Tax, in conjunction with other income, will be used to pay for all local services. However, the Authority has stated that it does not hold the

information requested as it was unable to separate Council Tax funding from other funding as a source of income in relation to specific expenditure.

25. The Commissioner is satisfied with the Authority's explanation. He accepts that the Authority took adequate and proportionate steps in the circumstances to establish if the information was held and he is satisfied that it does not (and did not, on receipt of the request) hold the information requested by the Applicant.
26. While the Applicant believed and expected the specified information to be held by the Authority, the Commissioner is satisfied that this was not the case.
27. The Commissioner therefore concludes that the Authority was correct to give the Applicant notice, in terms of section 17(1) of FOISA, that it did not hold the information requested.
28. While he accepts that the Authority does not (and did not, on receipt of the request) hold the information requested by the Applicant, the Commissioner is nevertheless satisfied the Authority, by providing links to the financial information it publishes online, offered appropriate advice and assistance to attempt to provide her with information relevant to her request.

Decision

The Commissioner finds that, in respect of the matters specified in the application, the Authority 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 Authority 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.

David Hamilton
Scottish Information Commissioner

28 October 2024

Appendix 1: Information request dated 29 March 2022

"I would like to request proof of where the resident's council tax payments are being spent.

1. Please provide me with the previous 3 years receipts for where the council tax funding is being spent. Please note that I do not want to see percentages but proof in pounds (£s) as to where the annual council tax is being spent.
2. Please clarify if my council tax funds; Stirlingshire Police Service, Stirlingshire Ambulance Service, Stirlingshire Waste Collection and Schools. If so, I would like to know as to what percentage it is distributed?
3. Which law, not legislation, states that council tax must be paid?
4. Which law states that it is a criminal offence to not pay council tax?
5. Please attach a copy of the contract in where I agreed to pay for council tax."