

# Decision Notice



Decision 049/2010 Karen Sharkey and North Lanarkshire Council

Policy relating to categorisation of defect reports

Reference No: 200901916  
Decision Date: 22 March 2010

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**Kevin Dunion**  
Scottish Information Commissioner

Kinburn Castle  
Doubledykes Road  
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## Summary

Ms Karen Sharkey requested from North Lanarkshire Council (the Council) information regarding maintenance and repairs, recorded defects and accidents at named premises and details of the Council's associated policies. The Council responded by providing most of the information requested. In relation to its policy for categorising repairs as urgent or non urgent it provided details of a diagnostic tool used in recording and prioritising defect reports. Following a review, during which she indicated her view that the diagnostic tool did not amount to a policy, Ms Sharkey remained dissatisfied and applied to the Commissioner for a decision.

Following an investigation, the Commissioner found that the Council had complied with Part 1 of FOISA by providing details of its policy with respect to the use of the diagnostic tool, the only recorded information it held in relation to the categorisation of defect reports, to Ms Sharkey. He did not require the Council to take any action.

## Relevant statutory provisions and other sources

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

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

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1. On 8 September 2009, solicitors acting on behalf of Ms Sharkey wrote to the Council requesting a range of information relating to maintenance and repairs of portocabins at a named primary school. This decision will consider only one part of Ms Sharkey's information request (number 4 of 12) which sought details of the Council's policy for the categorisation of identified defects [with respect to the portocabins] as either urgent or non-urgent.
2. The Council responded on 5 October 2009. In relation to part 4 of the request, the Council indicated that on receipt of a reported defect a diagnostic tool determined the schedule of rates, items and priority.



3. On 7 October 2009, Ms Sharkey wrote to the Council requesting a review of its decision in relation to parts 4 and 8 of her information request. In relation to part 4 Ms Sharkey indicated that the Council had provided details of the process staff followed when instructing repairs but indicated that the Council had failed to provide details of its policy in determining the existence of a defect and the priority attached to the repair and maintenance of that defect.
4. The Council notified Ms Sharkey of the outcome of its review on 5 November 2009. In response to part 4 the Council provided further details of the diagnostic tool used to record reports of defects.
5. On 12 November 2009, Ms Sharkey wrote to the Commissioner, stating that she was dissatisfied with the outcome of the Council's review in relation to part 4 of her request and applying for a decision in terms of section 47(1) of FOISA. Accordingly this decision notice relates only to the circumstances surrounding the Council's handling of part 4 in Ms Sharkey's request.
6. The application was validated by establishing that Ms Sharkey 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

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7. The investigating officer subsequently contacted the Council, 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 what steps it had taken to establish that the information requested – details of the policy for the categorisation of identified defects – was or was not held beyond identifying that the diagnostic tool was used for administering defect reports.
8. The Council was asked to provide background information, policies or internal guidance about dealing with maintenance and repairs to Council owned or managed properties, and any user manual for operating the Council's diagnostic tool.
9. The Council was also asked to comment on the content of a note describing the diagnostic tool provided to Ms Sharkey and in particular a sentence that indicated "Keyfax Repair Diagnostics [the diagnostic tool] defines repair responsibilities, generates job codes with clear instructions to contractors, and determines response times in accordance with organisational policy". The Council was asked to provide a copy of the relevant policy.



10. The Council's response provided details of the internal consultation undertaken prior to establishing the extent of information held in relation to the request. It also clarified that the reference to an "organisational policy" in the note provided to Ms Sharkey related to the Council's response times for dealing with defects at various levels of priority, which the Council had supplied in its original response to Ms Sharkey. The Council also provided samples of the data entry screens contained in the diagnostic tool.
11. The Council also indicated at this stage that an operator's choice of priority was in some instances an additional factor, not automatically determined by the diagnostic tool that contributed to the determination of whether a defect is categorised as urgent or non-urgent. The Council indicated that when assessing if a repair was urgent or non-urgent an operator could take account of several factors and provided four examples:
  - a. If an emergency/urgent order was not issued, there could be a health and safety issue;
  - b. If an emergency order was not issued, the property may incur major damage;
  - c. If an emergency order was not issued, the property may have to be temporarily closed;
  - d. If an emergency order was not issued, a high profile event may not take place.
12. In further correspondence with the Council, the investigating officer sought further information and clarification on a number of issues raised by this case.
13. The Council was asked for further information about the operator's role in determining urgency. In particular, it was asked to provide a full list of any factors or parameters that an operator may consider before reaching a decision. The Council was also asked to provide details of any training or assistance for operators to allow them to exercise their discretion.
14. The Council's response on this point indicated that there was no recorded list of the types of factors listed in paragraph 11. Indeed, it noted that the factors highlighted above were not recorded prior being set out in correspondence with the investigating officer. The Council also confirmed that there was no such information within its guidance or training manuals.
15. The Council explained that, while it may appear surprising, it relied on the experience of operators who are employed in its Contact Centre and it was on the basis of the assistance and guidance of experienced members of staff that all operators dealt with and recorded defects using the diagnostic tool. In a telephone conversation with the Council, the investigating officer established that new or inexperienced operators benefited from "on the job" training with an experienced operator mentoring them and that no formal training manual existed for this process.



16. The Council was asked to provide further clarification of the processes underpinning the operation of the diagnostic tool and in particular any information programmed into this system by or on behalf of the Council to ensure that its outputs were in line with its approach to prioritisation of jobs. The Council was asked whether any such information or instructions within the diagnostic system might be considered to be its policy on prioritisation of defects in the absence of any other statement of how this was determined.
17. The Council's response confirmed that no such information was held. It explained that there was no available explanation of how the diagnostic tool reached its decision on prioritisation, and that the Council had not taken steps to build its own procedures or instructions into this tool.
18. The investigating officer also drew the attention of the Council to a page on its website containing advice for tenants regarding repairs to council housing<sup>1</sup>. This page provided information regarding the response time for repairs under the categories of Emergency Works, Routine Works and Empty/void houses. Emergency Works contained the description "danger to life, security or property" and Routine Works contained the description "covers all non emergency repair works". The investigating officer asked the Council if there were similar descriptions relating to repairs of Council owned or managed property other than Council Housing that would amount to a basic policy for the categorisation of defect reports/repairs.
19. The Council's response on this point indicated that the provisions relating to Council Housing repairs were not applicable more generally to other Council managed property and confirmed that there were no such guidelines for non-housing repairs.
20. The investigating officer also asked the Council whether, if no such information was held, they considered that they did not actually hold any information that was relevant to part 4 of Ms Sharkey's request.
21. The Council also indicated that it did not consider it appropriate to state that it did not hold any information falling within the scope of Ms Sharkey's request because it had provided the full information held by it in the initial response. This response stated the response times applicable to six different priority codes, and while it did not provide any information describing the criteria whereby a defect report fell under a particular priority code, it did indicate that the diagnostic tool was used to process defect reports and determine the priority.
22. The Council also noted that its policy did not go into the detail which Ms Sharkey anticipated, but suggested that this related to the quality of the policy rather than a question of whether the information was held by the Council.

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<sup>1</sup> [www.northlanarkshire.gov.uk/index.aspx?articleid=15669](http://www.northlanarkshire.gov.uk/index.aspx?articleid=15669)



## Commissioner's analysis and findings

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23. In coming to a decision on this matter, the Commissioner has considered all of the submissions made to him by both Ms Sharkey and the Council and is satisfied that no matter of relevance has been overlooked.
24. The subject matter in this case appears relatively straightforward, amounting to the policy operated by the Council for classifying the response to a defect report as urgent or non urgent. The Council did supply details of six priority codes but stated that the prioritisation of defect reports is performed by a diagnostic tool. The Council indicated that it had supplied Ms Sharkey with the relevant policy and noted that the policy might not contain the detail anticipated by Ms Sharkey when she submitted her request for information.
25. FOISA provides a general entitlement of access to recorded information held by Scottish public authorities. The role of the Commissioner in issuing a Decision is to consider whether a public authority has complied with Part 1 of FOISA. It is not the role of the Commissioner to assess the extent or suitability of records held by a public authority, but to ensure that the authority deals appropriately with a request relative to the recorded information held by it.
26. The Council's position in relation to the diagnostic tool is that staff input details of a reported defect and the diagnostic tool automatically determines how the repair should be progressed, including the priority attached to the repair. However, the Council provided information to the Commissioner during the course of the investigation stating that operators have, in some instances, an option to allocate a priority when inputting information into the diagnostic tool. This indicates that the allocation of a priority to a defect report is not an entirely automatic process determined solely by the diagnostic tool.
27. A dictionary definition of policy includes the synonyms "strategy", "principle" and "rule". The Council has provided information to Ms Sharkey that coincides with these definitions albeit that the extent of the information may not have accorded with Ms Sharkey's expectations.
28. In reading policy as a strategy, principle or rule, coupled with the fact that there is a degree of operator choice involved, the Commissioner expected that the Council would have recorded some guidance regarding these procedures to a greater or lesser extent.
29. FOISA provides a general right of access to recorded information held by a Scottish public authority. On this occasion the Commissioner is satisfied, if somewhat surprised, that the Council did not hold recorded information that amounted to a policy, or procedure, for the classification of defect reports other than the information provided to Ms Sharkey regarding the use of the diagnostic tool. The Commissioner accepts the Council's position that it did not hold any recorded information regarding operator choice of priority prior to the inclusion of information about this in correspondence during the investigation of this case.
30. Accordingly, the Commissioner concludes that the Council did provide Ms Sharkey with information relevant to part 4 of her request in accordance with the limited extent of the recorded information held by it and in doing so complied with Part 1 of FOISA.



## **DECISION**

The Commissioner finds that North Lanarkshire Council complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by Ms Sharkey.

## **Appeal**

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Should either Ms Sharkey or the 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**  
**22 March 2010**



## Appendix

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### 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.

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