

Decision Notice 056/2020

Meetings/correspondence between Lord Provost and named organisations

Applicant: The Applicant

Public authority: Aberdeen City Council

Case Ref: 201902297



Scottish Information
Commissioner

Summary

The Council was asked about meetings and correspondence between the Lord Provost and named organisations.

The Council provided the information it held.

The Applicant remained dissatisfied, believing the Council held further information.

The Commissioner investigated and found that the Council had complied with FOISA in responding to the request. He was satisfied that the Council held no further information.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) section 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. Both Appendices form part of this decision.

Background

1. On 9 August 2019, the Applicant made a request for information to Aberdeen City Council (the Council). The information requested was as follows:
 - (i) Details of all and any meetings which had taken place from 1 January 2017 to 8 August 2019 between Mr Barney Crockett [Lord Provost] and representatives of the organisations listed below*.
 - (ii) Copies of all correspondence from 1 January 2017 to 8 August 2019 between Mr Barney Crockett and representatives of the organisations listed below*.(* The relevant organisations are listed in Appendix 2 to this decision.)
2. The Council responded on 17 September 2019. It explained that the Lord Provost had attended no formal meetings, but provided details of attendances at two events. The Council also provided copies of corresponding communications, with some personal data redacted under section 38(1)(b) (Personal information) of FOISA.
3. On 10 October 2019, the Applicant wrote to the Council, requesting a review of its decision as she believed the information provided was incomplete. In support of this, she stated that a formal meeting with one of the organisations was publicised by the organisation itself. According to that publicity, with photographic evidence, the Lord Provost had attended in an official capacity (and she believed it was unlikely there was no associated correspondence).
4. The Council wrote to the Applicant on 11 October 2019, asking her to provide the date and title of the meeting referred to in her requirement for review, to allow it to focus its review correctly.
5. The Applicant responded on 13 October 2019, stating she believed providing this data would defy the purpose of the request, i.e. to disclose information not already known to the public, and might shift the focus of the review.

6. The Council notified the Applicant of the outcome of its review on 7 November 2019, fully upholding its original decision, where further searches carried out had identified no additional information. The Council explained that FOISA only applied to recorded information and that the Lord Provost will, on occasion, attend events without informing his office, and so his attendance may not be recorded. This, the Council suggested, might explain why no further information (not recorded) was disclosed.
7. On 29 December 2019, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. The Applicant stated she was dissatisfied with the outcome of the Council's review as she believed that the information disclosed was incomplete and that further information existed. In evidence of this, the Applicant provided a link to an article which detailed the Lord Provost's attendance at an event held by one of the organisations listed, information about which was not included in that disclosed by the Council.

Investigation

8. The application was accepted as valid. The Commissioner confirmed that the Applicant 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.
9. On 9 January 2020, the Council was notified in writing that the Applicant had made a valid application and the case was allocated to an investigating officer.
10. 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, with particular reference to the searches carried out to identify and locate the information requested.
11. The Council provided submissions in response.

Commissioner's analysis and findings

12. In coming to a decision on this matter, the Commissioner has considered all of the withheld information and 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 information

13. 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.
14. The information to be given is that held by the authority at the time the request is received, as defined by section 1(4). This is not necessarily to be equated with information an applicant believes the authority should hold.
15. 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.

16. The Commissioner has taken account of the arguments in both the Applicant's requirement for review and her application, in which she provides reasons, with supporting evidence, as to why she considers the Council should hold further information falling within the scope of her request.
17. In its submissions to the Commissioner, the Council stated it had not withheld any information falling within the scope of the request. In its view, it had undertaken reasonable searches, and no further information had been identified following an additional search during this investigation.
18. The Council explained and provided supporting evidence of the searches it had undertaken to identify the information falling within the scope of the request. These, the Council stated, were carried out by staff in the Lord Provost's office, where the records were held:
 - On receipt, the request was passed to the Lord Provost's office to retrieve information, at which point the Lord Provost was made aware of the request. As no hard copy records are held of Lord Provost engagements, only electronic searches were carried out of archive records, the current Lord Provost account and Lord Provost Engagement e-files, all covering the period 1 July 2017 to 8 August 2019.
 - At review stage, a further search was carried out which confirmed the original results, covering the engagement schedule and the transportation log (which holds details of the Lord Provost's transportation to engagements), but no further information was identified.
 - During this investigation, the systems were again searched, but no additional information was identified.
19. The Council submitted that it had also searched its systems specifically for information relating to the event referred to in the application, together with a search of full Council Committee reports, but these identified no relevant information, nor any reference to the Lord Provost attending that particular event. The Council explained that this was an instance where the Lord Provost had made an impromptu visit, which had not been arranged through his Executive assistant/office, and that this had been confirmed by the Lord Provost himself.
20. The Council explained that retrospectively, and in consideration of the above, it was reviewing the Lord Provost's office processes and procedures with a view to initiating a process to capture "impromptu" Lord Provost activity.
21. In conclusion, the Council considered that, given the extent and results of the searches carried out at request, review and appeal stages, these were sufficient to allow it to conclude that no further information was held, including any relating to the event referenced in the application.
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. He has considered the reasons provided by the Council which explain why no further information is held, and why information relating to a specific event was not recorded.

23. 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.
24. The Commissioner notes, and welcomes, the changes the Council is seeking to introduce to its recording practice to capture “impromptu” Lord Provost attendances at events, highlighted through this application.

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 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 March 2020

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.

...

Appendix 2: Organisations listed in request

Organisations:

- Aberdeen Friends of Israel
- Aberdeen Hebrew Congregation
- Aberdeen Synagogue and Jewish Community Centre
 - All-Party Parliamentary Group Against Anti-Semitism
- Centre for Scotland-Israel Relations
- Community Security Trust
- Confederation of Friends of Israel Scotland and any of their affiliated organisations (including Glasgow Friends of Israel, Aberdeen Friends of Israel and Edinburgh Friends of Israel)
- Glasgow Jewish Representative Council
- Grampian Friends of Israel
- Hon Consul for Israel in Scotland
- Israel Information Office Scotland
- Jewish Human Rights Watch
- JNF KKL Scotland (Ltd) also known as the Jewish National Fund
- North East Friends of Israel
- Parliamentary Committee Against Anti-Semitism Foundation
- Representatives of the Israeli Government
- Scottish Council of Jewish Communities
- Scottish Friends of Israel
- Stand With Us
- The Board of Deputies of British Jews
- The Israeli Consul to the UK and the Israeli Embassy
- Zionist Federation UK

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