

Decision Notice



Decision 072/2014 Mr I and Scottish Prison Service

First Aid information

Reference No: 201302351
Decision Date: 25 March 2014

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Rosemary Agnew
Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews KY16 9DS
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Summary

On 19 August 2013, Mr I asked the Scottish Prison Service (the SPS) for (i) the names of nationally recognised First Aid providers and (ii) the qualifications in First Aid recognised in the community. The SPS responded by providing information. Following a review, the SPS stated that it held no further information and provided Mr I with contact details for the Health and Safety Executive.

Following an investigation, the Commissioner found that the SPS had dealt with Mr I's request for information in accordance with Part 1 of FOISA.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) and (4) (General entitlement); 15 (Duty to provide advice and assistance)

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 19 August 2013, Mr I wrote to the SPS to request:
 - a. the names of nationally recognised First Aid providers and
 - b. exactly what qualifications in First Aid were recognised in the community.
2. The SPS responded on 16 September 2013, informing Mr I that First Aid training was provided to prisoners by the SPS itself and by Motherwell and Dumfries & Galloway Colleges. The SPS also explained that the qualification offered was SQA certified, and therefore a national qualification recognised in the community.
3. On 17 September 2013, Mr I wrote to the SPS requesting a review of its decision. He did not believe his request had been fully responded to, noting that it was for the names of national First Aid providers and not what the SPS provided.



4. The SPS notified Mr I of the outcome of its review on 30 September 2013. It stated that it did not hold the information he was seeking, suggesting that he might wish to contact the Health and Safety Executive (whose contact details it provided).
5. On 16 November 2013, Mr I wrote to the Commissioner's office, stating that he was dissatisfied with the outcome of the SPS'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 I made a request for information to a Scottish public authority and 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 8 January 2014, the SPS was notified in writing that an application had been received from Mr I and was invited to comment on the application (as required by section 49(3)(a) of FOISA). It was asked to describe the steps taken to identify and locate any information it held and which fell within the scope of Mr I's request.
8. A response was received from the SPS. These supported its contention that it did not hold the information, while also stating that Mr I could obtain the information from the Health and Safety Executive (and therefore section 25 of FOISA applied).

Commissioner's analysis and findings

9. In coming to a decision on this matter, the Commissioner considered all of the relevant submissions, or parts of submissions, made to her by both Mr I and the SPS. She is satisfied that no matter of relevance has been overlooked.

Information held by the SPS

10. In terms of section 1(4) of FOISA, the information to be provided in response to a request made under section 1(1) is, subject to qualifications which are not relevant here, that held by the authority at the time the request is received.
11. The SPS described the searches it carried out to determine whether it held any recorded information which would fulfil Mr I's request. These followed consultation with training and Health & Safety staff and covered electronic records relating to these matters. The search term "first aid" was used: the SPS confirmed that the searches recovered material relating to First Aid, but not that sought by Mr I.



12. The SPS explained that it had no business need for information on First Aid training and qualifications extending beyond its own provision of such training.
13. Having considered all of the submissions received from the SPS, the Commissioner accepts that the searches it carried out were adequate and proportionate in the circumstances. They would have been likely to identify any recorded information held by the SPS and covered by Mr I's request. She also accepts that there would appear to be no reason why the SPS should be expected to hold information on the matters covered by Mr I's request, beyond that required to meet its own corporate needs.
14. In all the circumstances, therefore, the Commissioner finds that the SPS was correct to notify Mr I, on review, that it did not hold the requested information. Consequently, she is not required to consider the application of section 25 of FOISA in this case.

Section 15 – Duty to advise and assist

15. Section 15(1) of FOISA requires a Scottish public authority, so far as it is reasonable to expect it to do so, to provide advice and assistance to a person who has made, or proposes to make, a request for information to it. The Commissioner is satisfied that the SPS provided reasonable advice and assistance to Mr I by suggesting that he request the information from the Health and Safety Executive, with that authority's contact details.

DECISION

The Commissioner finds that the Scottish Prison Service complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by Mr I.

Appeal

Should either Mr I or the Scottish Prison Service 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
25 March 2014



Appendix

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.

...

- (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.

...

15 Duty to provide advice and assistance

- (1) A Scottish public authority must, so far as it is reasonable to expect it to do so, provide advice and assistance to a person who proposes to make, or has made, a request for information to it.
- (2) A Scottish public authority which, in relation to the provision of advice or assistance in any case, conforms with the code of practice issued under section 60 is, as respects that case, to be taken to comply with the duty imposed by subsection (1).