

Decision Notice



Decision 225/2011 Mr Niall Campbell and East Dunbartonshire Council

Transport costs relating to Baldernock Primary School

Reference No: 201101677

Decision Date: 11 November 2011

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Kevin Dunion

Scottish Information Commissioner

Kinburn Castle
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Summary

Mr Campbell asked East Dunbartonshire Council (the Council) for information relating to the cost of transporting pupils to a school gym. The Council did not respond to this request. Following a review, at which point the Council gave Mr Campbell notice, in terms of section 17(1) of the Freedom of Information (Scotland) Act 2002 (FOISA), that it did not hold the information he had requested, Mr Campbell remained dissatisfied and applied to the Commissioner for a decision.

Following an investigation, the Commissioner was satisfied that the Council did not hold any information falling within the scope of Mr Campbell's request, and that it had complied with Part 1 of FOISA by providing Mr Campbell with written notice to that effect, as required by section 17(1) of FOISA.

Relevant statutory provisions and other sources

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) and (4) (General entitlement) and 17(1) (Notice that information is not held)

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 9 June 2011, Mr Campbell emailed the Council in the following terms:

“In relation to Baldernock Primary School, I would like to have a copy of the costings for a year to run the school. I am looking for a breakdown of costs, such as transporting pupils for gym and cost of using the other school gym for that purpose. I would also like the cost of electricity and any costs related to the portakabin in hiring or lease costs.”

Within this email, Mr Campbell made two further requests for information which are not the subject of this decision.



2. The Council did not respond to this request and, on 12 July 2011, Mr Campbell emailed the Council, requesting a review of its handling of his request. Mr Campbell drew the Council's attention to the fact that it had not provided him with a response to his initial request and in doing so had breached the timescales provided for in FOISA
3. The Council notified Mr Campbell of the outcome of its review on 9 August 2011. The Council provided Mr Campbell with a budget report for the school as at 8 August 2011, which included information concerning electricity costs. The Council explained that there were no separate costs relating to the portakabin. The Council also explained that the costs for transporting pupils were included within its internal transport costs, but were not recorded separately. It notified Mr Campbell, in line with section 17(1) of FOISA, that it did not hold the requested information relating to transport costs.
4. On 7 September 2011, Mr Campbell wrote to the Commissioner, stating that he was dissatisfied with the outcome of the Council's review and applying to the Commissioner for a decision in terms of section 47(1) of FOISA. Mr Campbell expressed dissatisfaction with the Council's handling of the part of his request relating to transport costs for gym purposes, and indicated that he believed that the Council was withholding this information. His application also raised matters relating to other parts of his request, but these were resolved during the investigation and will not be considered any further in this decision.
5. The application was validated by establishing that Mr Campbell 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

6. 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 justify its reliance on any provisions of FOISA it considered applicable to the information requested and to explain why it did not hold the information requested by Mr Campbell.
7. The Council responded on 14 October 2010, providing an explanation of why it considered the information requested by Mr Campbell was not held by it.
8. As noted above, the Commissioner's decision in this case is limited to the matters specified above regarding Mr Campbell's request concerning the cost of transporting pupils to another school for gym purposes.



Commissioner's analysis and findings

9. In coming to a decision on this matter, the Commissioner has considered all of the submissions made to him by both Mr Campbell and the Council and is satisfied that no matter of relevance has been overlooked.

Section 17 – Notice that information is not held

10. Section 17(1) of FOISA requires that, where an authority receives a request for information that it does not hold, it must give the applicant notice in writing to that effect.
11. In this case, the Council notified Mr Campbell in its review response dated 9 August 2011 that it did not hold the information that he had requested concerning the costs of transporting pupils to another school gym.
12. In order to determine whether the Council dealt with Mr Campbell's request correctly, the Commissioner must be satisfied as to whether, at the time it received Mr Campbell's request, the Council held any information which would fall within the scope of his request, insofar as it related to the cost of transporting pupils to another school gym.
13. In his submissions to the Commissioner, Mr Campbell suggested that, if it was on the Council's internal transport costs, there must be a record of the costs somewhere. Mr Campbell suggested that the Council was withholding the information.
14. In its submissions, the Council explained that pupils are transported by its internal fleet section, by Council staff. The Council also explained that the costs of this transport are not charged to any other Council Department.
15. The Council explained that, in 2009, all transport budgets were transferred to its Fleet Department. The Council also explained that this was part of a project designed to end cross-Departmental charging for services. The Council stated that the transport activity for Baldernock Primary School related to a three hour period on one morning per week during the school term and was covered by using an existing vehicle and driver with spare capacity on that day. The Council explained that, other than fuel, the vehicle costs are already recovered on the core activities for the fleet.
16. Having considered the Council's submissions and its explanation of why it does not hold the specific information sought by Mr Campbell, the Commissioner is satisfied that it does not hold any recorded information (and did not at the time of the request) that would fulfil the terms of the request. The Commissioner is satisfied with the Council's explanation, which shows that the very specific transport costs sought by Mr Campbell are essentially absorbed within a larger Departmental budget and are not separately identifiable.
17. The Commissioner is therefore satisfied that the Council has complied with the provisions of FOISA in dealing with this aspect of Mr Campbell's request.



DECISION

The Commissioner finds that, in respect of the matters considered in this decision, East Dunbartonshire Council complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by Mr Campbell.

Appeal

Should either Mr Campbell 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
11 November 2011



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.

...

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.

...