

Decision Notice



Decision 113/2008 Mrs W.J. McCurrach and Perth and Kinross Council

Grant provided to the Perth and Kinross Society of the Blind

Reference No: 200800866

Decision Date: 17 September 2008

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Kevin Dunion

Scottish Information Commissioner

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Summary

Mrs W. J. McCurrach requested from Perth and Kinross Council (the Council) details of how it calculates the annual grant given to the Perth and Kinross Society of the Blind (the Society). The Council responded by providing Mrs McCurrach with details of the sums paid to the Society in each of the preceding three years, and a description of the activities for which the Society is funded. However, it did not provide the specific information requested. Following a review, the Council notified Mrs McCurrach in terms of section 17(1) of FOISA that it did not hold the information she was seeking. Mrs McCurrach remained dissatisfied and applied to the Commissioner for a decision.

Following an investigation, the Commissioner found that by notifying Mrs McCurrach that it did not hold the information in terms of section 17(1) of FOISA the Council had dealt with Mrs McCurrach's request for information in accordance with Part 1 of FOISA. He did not require the Council to take any action.

Relevant statutory provisions and other sources

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) (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 12 March 2008, Mrs McCurrach wrote to the Council requesting details of how the annual grant provided to the Society is calculated by the Council.
2. The Council responded on 8 April 2008. It provided Mrs McCurrach with details of the grant received by the Society in each of the preceding three years, as well as details of the four purposes for which the grant was provided. These purposes are support groups, talking book service, development of links with health service and maintenance of the register and reviews of visually impaired people. The Council did not provide any information about how the grant provided to the Society is calculated.



3. On 12 April 2008, Mrs McCurrach wrote to the Council requesting a review of its decision. In particular, Mrs McCurrach drew the Council's attention to the fact that it had not actually provided her with the information she had sought. She reiterated that she was seeking information on how the grant to the Society was calculated.
4. The Council notified Mrs McCurrach of the outcome of its review on 6 May 2008. The Council acknowledged that its initial response had not answered her specific request. Having re-considered this request, the Council formally notified Mrs McCurrach, in terms of section 17(1) of FOISA, that it did not hold the information she was actually seeking, i.e. the method of calculating the Society's grant funding.
5. On 9 June 2008, Mrs McCurrach wrote to the Commissioner, stating that she was dissatisfied with the outcome of the Council's review and applying to him for a decision in terms of section 47(1) of FOISA.
6. The application was validated by establishing that Mrs McCurrach 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.

Investigation

7. On 3 July 2008, the Council was notified in writing that an application had been received from Mrs McCurrach.
8. The investigating officer subsequently contacted the Council on 15 July 2008, providing it with 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. The Council responded, providing its comments and responses to the questions raised in a letter of 15 August 2008.

Commissioner's analysis and findings

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



10. In her application to the Commissioner, Mrs McCurrach stated that she did not accept that the Council held no information relating to how the Society's grant was calculated each year. Referring to the Society's Annual Financial Summary 2006/07 (which contains details of the sums received by the Society in previous years), Mrs McCurrach noted that in 1996 the Council inherited (from its statutory predecessor, Tayside Regional Council [TRC]) a budget for the Society's grant of £116,960, but in 2008 the grant was only £111,395, a reduction of some £5,565.
11. Mrs McCurrach argued that when the Council first acquired the budget from TRC, it must have been provided with a method of calculating the grant. Mrs McCurrach is of the view that this calculation would have been agreed by both parties (which at that stage would have been TRC and the Society), and it would have taken into account the amount of work carried out by the Society and the amount of money required each year to support that work. In light of this, Mrs McCurrach has contended that the Council must hold a method of calculating the grant it provides to the Society each year.

Section 17 – Notice that information is not held

12. In order to determine whether the Council was correct to cite section 17(1) of FOISA, the Commissioner must establish whether the Council holds (or held at the time of Mrs McCurrach's request) information which would address her request.
13. The Council has provided the Commissioner with details of the searches it undertook to locate the information requested by Mrs McCurrach.
14. The Council acknowledged that it was reasonable for Mrs McCurrach to presume that the budget it obtained from TRC did have some calculated basis. However, the Council has submitted that the handover from TRC to the Council in 1996 was somewhat haphazard and tended to rely on the knowledge of individual employees and not on documentation or recorded data. The Council indicated that the fact that it does not hold the requested information in this case is likely to be a reflection of this haphazard handover, in addition to the passage of time (since the Council inherited the budget) and associated changes in Council staff, structure and locations during that time.
15. The Council was asked if it held any information that explained how the Society's grant was broken down into the four activity areas described to Mrs McCurrach. The Council responded that it had been unable to find any breakdown of the grant into these four areas. The Council submitted that the grant it has provided to the Society over the last twelve years is likely to have been continued on the same basis as that previously set by TRC. However, the Council pointed out that TRC ceased to exist in 1996 (when the budget was transferred to the Council) and that no information or papers appear to be available in respect of the TRC's original breakdown of the grant.
16. The Council agreed the original budget for the Society in 1996 at £116,000, but this had been reduced to £105,000 in 2002 before being increased by £3,000 annually in the years 2006/07 and 2007/08, resulting in its current level of approximately £111,000.



17. When asked how these reductions and increases had been assessed, the Council submitted that in 2002 its budget process had required it to review services for which it had a statutory obligation. The range of savings options, including savings to voluntary sector budgets (such as the Society's), was presented to the public by the Council in a series of Budget Roadshows across Perth and Kinross. The Council indicated that the Social Work senior management team and planning officers who were involved in this budget process no longer work for the Council, and it had been unable to locate the detailed research which would have been undertaken at the time of the budget review, and which led to the Society's grant being reduced in 2002 by £11,000.
18. In relation to the £3,000 increases in the Society's grant in the years 2006/07 and 2007/08, the Council informed the Commissioner that it reviews services every year in order to approve revenue and capital budgets and to set the Council Tax. It indicated that a budget strategy is approved each year and is based on a range of factors. For the past few years, the Council has used "incremental budgeting" to set the budgets. It is through this process of "incremental budgeting" that the £3,000 increases to the Society's grant were determined. The Council also explained that revenue and capital budgets are approved at a Council Committee and are available to the public.
19. The Council explained that it is currently working with the Society to gather information on service delivery and associated cost. The Council expects this work to be completed in September 2008 and it indicated that it has the agreement of the Manager of the Society. The Council argued that this current process will allow a clearer picture of the work undertaken on behalf of the Council and will address any issues of funding.
20. The Commissioner has considered the Council's submissions and the points made by Mrs McCurrach, and while he agrees that it is reasonable for Mrs McCurrach (or any other member of the public) to expect the Council to hold information on how it calculates the grant it pays to the Society each year, he is satisfied that the Council does not actually hold this information.
21. The Commissioner accepts that the searches conducted by the Council for the requested information were adequate and notes that they included searches of minutes, committee papers, archived records of ex-employees involved in administering the grant, computer files of staff who may have been involved in reviewing the Society's work for the purpose of budgeting, as well as records contained within the Planning, Finance and Community Care Directorate Support departments. The Commissioner regards the scope of the Council's searches for the information requested by Mrs McCurrach as thorough and reasonable.
22. The Commissioner is surprised that the Council holds no information that would explain the basis upon which grants that exceed £100,000 are made each year, but he accepts that thorough searches by the Council have confirmed that such information is not held. He recognises that this conclusion may be both disappointing and unsatisfactory to Mrs McCurrach, but he also notes that the Council is currently working with the Society to examine the purposes for which the grant is provided, and that this should lead to a more transparent funding mechanism in the future.



23. Having considered the submissions made by the Council and Mrs McCurrach, the Commissioner is satisfied that the Council does not (and did not at the time of Mrs McCurrach's request) hold recorded information falling within the terms of her request.
24. The Commissioner is therefore satisfied that the Council correctly notified Mrs McCurrach in terms of section 17(1) of FOISA that the information requested was not held. He does not require any action to be taken by the Council in response to this decision.

DECISION

The Commissioner finds that Perth and Kinross Council acted in accordance with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by Mrs McCurrach.

Appeal

Should either Mrs McCurrach or Perth and Kinross 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 Investigations
17 September 2008



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.

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.