

Case Study



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Son seeks policy information on free personal care for the elderly.

In October 2005, Robert Henery submitted an information request to Ministers seeking access to information on discussions between Ministers and COSLA relating to the provision of free personal care for the elderly.

His request stemmed from concerns over a bill for food which his elderly father had received, and which Mr Henery believed should not have been charged. However, his concerns did not lie purely with his own interests, but with wider concerns about the elderly in Scotland, whom he feels are being wrongly charged for care. In his application to the Commissioner, Mr Henery highlighted that this is something which is being pursued by campaigning organisations such as Age Concern, so it is an issue of significant public concern.

On 24 November 2005, Ministers disclosed some documents to Mr Henery but also withheld some information, claiming its release would inhibit substantially the free and frank provision of advice to Ministers. Later, they also claimed other exemptions including those relating to confidentiality, and the formulation of Scottish Administration policy.

The information which Ministers withheld related to an exercise carried out to agree the distribution of funds to local authorities for the provision of free personal and nursing care.

The Commissioner found that some of the information was indeed correctly withheld, as it comprised legal advice between a client and its legal representatives. FOISA allows legal advice to be withheld if the public interest in protecting its confidentiality outweighs that in seeing the advice in question – as the Commissioner judged was the case here.

However, the Commissioner did not accept that release of much of the remaining information would inhibit advice to Ministers – given that much of the information requested related to policy issues which had been determined by the time of the request.

In early 2008, the Commissioner concluded that while two of the documents requested, plus part of a third, had been correctly withheld, 13 documents should be release to Mr Henery.

Mr Henery felt that these documents, which had been withheld from him, contained “the most interesting information”, and he thinks FOI is “doing a good job”.

Download full decision here:

<http://www.itspublicknowledge.info/applicationsanddecisions/Decisions/2008/200600908.asp>

For more information contact the Policy & Information team on 01334 464610.