

# Decision Notice 020/2022

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## Businesses receiving financial support

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**The Applicant**

**Public authority: Aberdeen City Council**

**Case Ref: 202100744**



Scottish Information  
Commissioner

## Summary

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The Council was asked for a list of businesses which had received financial support under various grants. The Council initially refused to disclose the information but, during the Commissioner's investigation, the Council disclosed the information in full.

The Commissioner found that the Council had breached FOISA by not disclosing the information at an earlier stage, but did not require the Council to take any further action.

## Relevant statutory provisions

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Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) and (6) (General entitlement)

The full text of each of the statutory provisions cited above is reproduced in Appendix 1 to this decision. The Appendix forms part of this decision.

## Background

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1. On 18 March 2021, the Applicant made a request for information to Aberdeen City Council (the Council). The information requested was:  
*A list of businesses that have received financial support under various grants between 1 April 2020 and 30 January 2021 in all sectors.*
2. The Council responded on 13 April 2021. It withheld the information under section 35(1)(a) of FOISA (Law enforcement).
3. On 16 April 2021, the Applicant wrote to the Council, requesting a review of its decision. He believed the public had a right to see who was receiving money from the public purse.
4. The Council notified the Applicant of the outcome of its review on 10 May 2021. The Council upheld its reliance on section 35(1)(a) of FOISA and additionally relied on the exemptions in sections 38(1)(b) (Personal information) and 33(1)(b) (Commercial interests and the economy) of FOISA.
5. On 15 June 2021, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. The Applicant was dissatisfied with the outcome of the Council's review. He did not agree that the exemptions applied and believed that the information should be disclosed.

## Investigation

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6. 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.
7. On 14 July 2021, the Council was notified in writing that the Applicant had made a valid application. The Council was asked to send the Commissioner the information withheld from the Applicant. The Council provided the information and the case was allocated to an investigating officer.
8. On 19 October 2021, the Council contacted the Commissioner to discuss the case, with a view to now disclosing the information to the Applicant.

9. After further discussions between the Council and the Commissioner's office, the Council disclosed the information to the Applicant on 12 November 2021.
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, including why it had not disclosed the information at an earlier stage.
11. The Council submitted that it had taken account of a Commissioner's decision that had been issued in a similar case. On the basis of the Commissioner's finding in that case, the Council now considered it appropriate to disclose the information to the Applicant.
12. The Council acknowledged that it had been incorrect to apply the exemptions to the information at the time of the original response and subsequent review and that it had not complied with FOISA.
13. The Council also provided the Applicant with an apology and explained why it was now content to release the information in full.
14. The investigating officer asked the Applicant if he was now content to withdraw his application to the Commissioner, as he had received all of the information previously withheld.
15. The Applicant stated that he did not wish to withdraw his application as he was still dissatisfied and wanted the Council to provide him with the names of the people who sat on the Council's review panel.
16. The Applicant was made aware that the Commissioner could not investigate whether the names should have been disclosed as part of this investigation. The Applicant made a new information request to the Council for the names of the people who sat on the review panel and this is now the subject of a separate investigation by the Commissioner.

## **Commissioner's analysis and findings**

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17. In coming to a decision on this matter, the Commissioner considered all of 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.
18. The Council has confirmed that it was wrong to refuse to disclose the information to the Applicant in response to his request. The Commissioner must therefore find that the information was not exempt from disclosure.

## **Decision**

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The Commissioner finds that Aberdeen City Council failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by the Applicant.

Given that the information has now been disclosed in full to the Applicant, the Commissioner does not require the Council to take any action in response to this failure.

## **Appeal**

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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.

**Daren Fitzhenry**  
**Scottish Information Commissioner**

**14 February 2022**

## Appendix 1: Relevant statutory provisions

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### 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.

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- (6) This section is subject to sections 2, 9, 12 and 14.

**Scottish Information Commissioner**

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