



Scottish Information
Commissioner

Decision 043/2005 - Mr Robinson and Glasgow City Council

Request for a copy of the person specification for an advertised post

Applicant: Mr Dean Robinson
Authority: Glasgow City Council
Case No: 200502477
Decision Date: 9 November 2005

Kevin Dunion
Scottish Information Commissioner

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Decision 043/2005 – Mr Robinson and Glasgow City Council

Request for a copy of a person specification – refusal under section 35(1)(g) subsection (2)(d)(ii) – information supplied following request for review

Facts

Mr Robinson requested copies of a person specification relating to an advertised vacancy in which he was interested. Glasgow City Council (the Council) initially refused the information, citing section 35(1)(g) subsection (2)(d)(ii) of the Freedom of Information (Scotland) Act 2002 (FOISA). The person specification was subsequently supplied to Mr Robinson following the Council's review of his request.

Mr Robinson was dissatisfied, however, with aspects of Council's handling of his information request.

Outcome

The Commissioner found that the Council acted fully in accordance with FOISA in its handling of Mr Robinson's request.

Appeal

Should either Mr Robinson or the Council wish to appeal against my 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 of receipt of this notice.



Background

1. Mr Robinson submitted a request for information to Glasgow City Council (the Council) on 4 July 2005. In his request, Mr Robinson sought access to the person specification for a specific Council post in which he was interested. Mr Robinson also requested that he receive the specification as soon as possible, and before the post closing date of 19 July.
2. The Council responded to this request on 5 July 2005. In this response, the Council stated that the requested information was exempt under section 35(1)(g) subsection (2)(d)(ii) of the Freedom of Information (Scotland) Act 2002 (FOISA). Section 35(1)(g) subsection (2)(d)(ii) exempts information if its disclosure would be likely to substantially prejudice the exercise by an authority of its function to 'ascertain a person's fitness or competence in relation to any profession or other activity which the person is, or seeks to become, authorised to carry on'.
3. Mr Robinson requested that the Council review its decision on 13 July 2005. In his request for review, Mr Robinson responded to the Council by asserting that it is the content of an application form which forms the basis of candidate selection, as opposed to the person specification, and the specification should therefore not be withheld. Mr Robinson also stated that he believed that person specifications should be placed in the public domain as a matter of course, and indicated that he believed the Council was failing to Act within the spirit of FOISA by not doing so.
4. The Council responded on 4 August 2005. This response informed Mr Robinson that, following a review of his request, the information should be released. A copy of the person specification was supplied to Mr Robinson alongside this correspondence.
5. Mr Robinson subsequently submitted an application to me under section 47(1) of FOISA on 22 August 2005.

The Investigation

6. Mr Robinson's application was validated by establishing that he had made a valid information request to a Scottish public authority, and had appealed to me only after requesting that the authority review its initial response.



7. In his application, Mr Robinson stated that, while he had received the requested information, he was dissatisfied with the Council's approach to release, in that the information was only supplied once the closing date for applications had passed. Mr Robinson also indicated that he was unhappy with the Council's policy of not making this information available to all job applicants in advance of the closing date, and stated that the aim of his application was to seek a review of this policy.
8. My Office contacted the Council on 8 September 2005 in order to seek their comments in relation to the case.
9. The Council's response to this correspondence was received on 10 October 2005. In this response the Council submitted that it had fully complied with its duties under FOISA in responding to Mr Robinson's information request. The Council pointed out that its response to both Mr Robinson's initial request and his request for review satisfied all the criteria laid down in FOISA.
10. In line with their response to Mr Robinson's request for review, the Council stated they did not believe that there are any exemptions within FOISA which would justify the non-disclosure of the information sought by Mr Robinson. The Council confirmed that it would therefore continue to provide these within the statutory FOISA timescales. The Council observed however that it could not guarantee that that they would be released ahead of the deadline for specific job applications.
11. The Council added that, following a review of its policy in this area, copies of a person specification would be sent to all individuals on a recruitment shortlist if any person on that list requested it.
12. Finally, the Council informed this Office that it planned to conduct a review of all recruitment and selection documentation, although no timescales had yet been set for any such review. The Council indicated, however, that it did not at present favour the proactive issuing of person specifications. This was for the following reasons:
 - a) The documents are designed for use as an internal scoring mechanism only;
 - b) There is currently no perceived demand for this information to be made widely available, with Mr Robinson being the only individual to have requested access;
 - c) The additional resource required to issue these documents as standard would be significant, and would require the Council to issue between 240,000 and 480,000 additional sheets of paper per annum.



The Commissioner's Analysis and Findings

13. Unlike the majority of applications for decision received by my Office, Mr Robinson's application did not stem from either a refusal by the Council to supply the information, or a dissatisfaction with any information supplied.
14. However, section 47(1) of FOISA allows individuals to make an application to me if they are dissatisfied in any way with the outcome of an authority's request for review. In his application, Mr Robinson indicated that there were two broad reasons for his dissatisfaction with the Council's handling of his request. In summary, these were as follows:
 - a) That the person specification was supplied only after the closing date for applications had passed;
 - b) That the Council failed to act within the spirit of FOISA, by failing to make person specifications generally available.

I will address each of these issues in turn below.

The person specification was supplied only after the closing date for applications had passed

15. In his application, Mr Robinson indicated that he was dissatisfied with the fact that the Council only released the requested information once the 20 working day timescale had passed. Although Mr Robinson did not directly state that he believed the Council had prolonged its response to his request, he indicated that, in circumstances of this type, an authority may potentially use the 20 working day timescale to avoid sending the relevant information within the time period in which it was relevant (such as before the closing date of applications).
16. Following a review of the Council's handling of the request I am satisfied that there is no evidence to suggest that the Council timed its responses to Mr Robinson to ensure that the information was supplied after the recruitment deadline had passed. In their submission to me, the Council asserted that Mr Robinson's request was dealt with as promptly as available resources would allow, while also confirming that reviewing officers had no knowledge of the closing date for the post in question.
17. I also note that Mr Robinson's initial request was responded to within one working day, and his request for review within 15 working days, as opposed to the 20 working day timescales allowed by FOISA at each stage.



18. Public authorities are obliged by section 10(1) of FOISA to respond to all information requests promptly, and no later than the twentieth working day after receipt. It is my view that, in their handling of Mr Robinson's request, the Council fulfilled this obligation.

The Council failed to act within the spirit of FOISA, by failing to make person specifications generally available

19. Mr Robinson asserts in his application to me that he was unhappy with the Council's policy of not making person specifications generally available, and stated that the aim of his application was to seek a review of this policy.
20. While section 23 of FOISA does require authorities to produce and maintain a publication scheme of information that is proactively published, this section is not prescriptive regarding the specific nature of information which should be made available by authorities. Section 23(3) states that the authority should have regard to the public interest in the information they make available, particularly if that information relates to the services provided by the authority or the decisions it makes. Ultimately, however, it is the responsibility of each authority to decide, in light of section 23(3), what information it makes available.
21. FOISA does not, therefore, place a direct obligation upon authorities to make specific individual documents (or specific types of documents) proactively available. Hence it is clear that the authority was not in breach of FOISA by failing to make person specifications generally available to all post applicants.

Decision

I find that Glasgow City Council acted fully in accordance with the Freedom of Information (Scotland) Act 2002 in its handling of Mr Robinson's information request.

I do not, therefore, require the Council to take any remedial action in relation to this case.

Kevin Dunion
Scottish Information Commissioner
9 November 2005