

Decision Notice 037/2021

Subvention funding

Applicant: The Applicant

Public authority: Glasgow City Council

Case Ref: 202001412



Scottish Information
Commissioner

Summary

The Council was asked about subvention funding of an event at the Scottish Exhibition Centre, Glasgow.

The Council told the Applicant it did not hold the information he had asked for. Following investigation, the Commissioner accepted this.

Relevant statutory provisions

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

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

1. On 30 April 2020, the Applicant made a request for information to Glasgow City Council (the Council). In relation to the Council's subvention strategy, the Applicant asked:
Was any subvention funding awarded in connection to the Undersea Defence Technology (UDT) event which took place from 26 to 28 June 2018 at the SEC in Glasgow?
2. The Council responded on 11 May 2020. The Council provided explanation to the effect that it did not hold the information requested. It advised the information was held by Glasgow Life, the former Culture and Sport Glasgow, which became operational on 1 April 2007, evolving from the Culture and Leisure Services Department within the Council. As Glasgow Life was a separate entity, the Council advised the Applicant that he could submit his request for information to Glasgow Life.
3. The Council therefore issued a response in terms of section 17(1) of FOISA, advising the Applicant that it did not hold the information requested.
4. On 1 June 2020, the Applicant wrote to the Council requesting a review of its decision. The Applicant made reference to documentation which he believed indicated the information should be held by the Council. He submitted that the documents and comments on the Glasgow Events Board clearly stated the involvement of Council officials in the funding process and also the support from Council departments in the "Subvention Strategy".
5. The Council notified the Applicant of the outcome of its review on 29 June 2020. The Council told the Applicant that the conference referred to in the request was facilitated by Glasgow Life and the information requested would be held by Glasgow Life. It upheld its initial response in terms of section 17(1) of FOISA.
6. On 26 November 2020, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. The Applicant stated he was dissatisfied with the outcome of the Council's review as he did not accept that section 17(1) of FOISA applied, with specific reference to documents he believed substantiated the Council's involvement in the relevant funding processes..

Investigation

7. 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.
8. On 3 December 2020, the Council was notified in writing that the Applicant had made a valid application. The case was allocated to an investigating officer.
9. 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, focusing on the steps it had taken to identify and locate any information falling within the scope of the request. It was also asked to comment on the relevance of the documents provided by the Applicant at the time he had requested a review of its response.
10. The Council responded, maintaining it did not hold the information requested by the Applicant and explaining the searches carried out.

Commissioner's analysis and findings

11. 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.

Information held by the Council

12. Section 1(1) of FOISA provides that a person who requests information from a Scottish public authority which holds it is entitled to be given that information by the authority, subject to qualifications which, by virtue of section 1(6) of FOISA, allow Scottish public authorities to withhold information or charge a fee for it. The qualifications contained in section 1(6) are not applicable in this case.
13. The information to be given is that held by the authority at the time the request is received, as defined in section 1(4). This is not necessarily to be equated with information an applicant believes the authority should hold. If no such information is held by the authority, section 17(1) of FOISA requires it to give the applicant notice in writing to that effect.
14. The Commissioner notes the submissions provided by the Applicant, in which he provides reasons why he considers the Council should hold the requested information. In support of this, the Applicant made reference to the documents he had provided to the Council at the time he sought a review.
15. In its submissions to the Commissioner, the Council confirmed the position that it held no record of the information requested by the Applicant. In this regard, the Council referred to documents referenced by the Applicant. In relation to a report by the Council's Executive Director of Development and Regeneration Services referenced in the Applicant's application to the Commissioner, the Council explained that this detailed conference sales by Glasgow City Marketing Bureau (GCMB). It advised that this document was dated 20 August 2013, but explained that the GCMB was merged on 27 May 2016 with Glasgow Life.
16. The Council also commented that a further document provided by the Applicant, dated 9 November 2010, related to the Council's involvement in the subvention process with the

Strategic Major Events Forum (SMEF) at that time. It advised that the SMEF became the Glasgow Events Board in 2016, to provide strategic governance for all major public events (such as the European Championships) and related activities. The Council confirmed that the Glasgow Events Board has no involvement in respect of business events or any associated subvention.

17. The Council confirmed that subvention funding for business events was managed by Glasgow Life and had been since May 2016.
18. The Council confirmed the searches and enquiries it undertook to ascertain whether it held any information falling within the scope of the Applicant's request, with details. These included searches of relevant records and consultation with relevant staff. The Council provided supporting evidence regarding the searches and their outcomes. The conclusion of the searches and enquiries was that no information was held falling within the scope of the request.
19. The standard proof to determine whether a Scottish public authority holds information is the civil standard of the balance of probabilities. In determining where the balance lies, the Commissioner considers the scope, quality, thoroughness and results of the searches carried out by the public authority. He also considers, where appropriate, any reason offered by the public authority to explain why it does not hold the information. Ultimately, however, the Commissioner's role is to determine what relevant information is actually held by the public authority (or was, at the time it received the request).
20. Having considered all relevant submissions and the terms of the request which is the subject of the application, the Commissioner accepts that the Council interpreted the Applicant's request reasonably and took adequate, proportionate steps in the circumstances to establish what information it held. Given the explanations and other submissions provided, he is satisfied that the Council did not hold the information under consideration here and was correct to give the Applicant notice, in terms of section 17(1) of FOISA, that it held no information falling within the scope of his request.

Decision

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

Appeal

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.

Margaret Keyse
Head of Enforcement

17 March 2021

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.

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