

MW/EW/BAK 01 21 03/2020

30 November 2020



Mr Prabhu

CHIEF EXECUTIVE
Margo Williamson

By email: request-685458-517ac528@whatdotheyknow.com

Dear Mr Prabhu

Freedom of Information Request - Review

Thank you for your request for review dated 30 October 2020 (received by the Council that same day) with regard to your request for information dated 18 August 2020.

Your review request has now been considered by the Council's Review Panel which comprises myself and the Service Leader - Legal. The following sets out the Panel's decision:

A. FOI REQUEST

On 18 August 2020 Mr Prabhu (the Applicant) submitted an FOI Request as follows:

"I'd like to make a request under the Freedom of Information act for all transactions over £500 from 1st Jan 2020 to 30th June 2020. As a minimum, please make sure to include the date, value and recipient of each transaction. Please also provide details on the procurement category of each transaction if you have it.

If it would help, I am specifically looking for payments to suppliers who provide a service in Health and Social Care. This would include all suppliers falling under the following categories :-

- 1. Payments to suppliers who provide fostering and adoption services to the Council*
- 2. Payments to suppliers who provide care services to the council. This would include suppliers who provide care under each of the categories below*

- a. Children's Residential/ Nursing Care Providers
- b. Adult Residential/ Nursing Care Providers
- c. Elderly Residential/ Nursing Care Providers
- d. Domiciliary Care Home Providers
- e. Supported Living Care Home Providers
- f. Care at Home Providers
- g. Providers who carry out Homeless Services

3. Payments to suppliers who provide Special Education Services

In particular I am looking for itemized transactions for suppliers from Jan to June 2020 - preferably in CSV format."

B. THE COUNCIL'S RESPONSE

The Council responded on 15 September 2020 by advising the Applicant as follows:

Angus Council spend information is posted on a 6 monthly basis to our Open Data portal. This can be accessed through the link below. Information currently posted relates to spend up to 31 March 2020. That in relation to April 2020 to September 2020 will be posted during October.

Note the spend categorisations you requested are not included in the information posted on Open Data as such classifications are not held within the Council's financial management system.

<http://opendata.angus.gov.uk>

C. REQUEST FOR REVIEW

By email dated 30 October 2020 the applicant wrote:

"I am writing to request an internal review of Angus Council's handling of my FOI request 'Council Expenditure or Payment to Suppliers from Jan to June 2020[sic]'".

On analysis of your data, we found that fostering spend amounted to 60k whereas for the same period last year it was 95k. So it seems Angus does some amount of In-House Fostering and we would like those transactions also to be furnished (however, any individual carer names may, of course, be redacted).

All Councils in England, Scotland & Wales and Northern Ireland now provide this information on FOI request (We can supply examples if needed). We feel Angus should comply as have every other council have done. Those that have redacted have un-redacted the transactions upon request, where they do not involve the names of private individuals (for eg. carer names for allowances etc). However, payments to Independent Fostering Agencies and In-House fostering must be included as they do not constitute personal sensitive information."

The email was acknowledged as a Request for Review in terms of s 21(1) of the Freedom of Information (Scotland) Act 2002 ("FOISA").

Section 21 (4) of FOISA provides as follows in relation to an application for review: -

"The authority may, as respects the request for information to which the requirement relates—

- a) confirm a decision complained of, with or without such modifications as it considers appropriate;*
- b) substitute for any such decision a different decision; or*
- c) reach a decision, where the complaint is that no decision had been reached."*

D. ANALYSIS

The Panel noted that the applicant in his request for review was referring to a different period than the Council's Open Data reporting period but that the data can be filtered and assembled to correlate to the period requested by the applicant.

The Panel further noted that there is no "in-house fostering".

The Panel proceeded by considering the data provided to the applicant and referred to the explanatory note prefacing the Council's data on the Open Data portal:

"Some areas of spend are covered by the Data Protection Act and are not published in full. This includes:

- Personal information, for example, individual payments for adoption and fostering, care related payments*
- Payments to staff*

These entries have been omitted from the report."

The Panel considered if the Council could have released any further information. The request had been made for all itemised transactions above £500 which were made to care providers. The Council's Finance service clarified that in the context of the request this had been interpreted as payments to incorporated care providers as it requested payee details, and not as fostering payments to individuals.

The Panel proceeded to determine whether the information requested constituted "personal data". Personal data is defined in Art 4(1) GDPR as data which relate to a living individual who can be identified, directly or indirectly, from various factors relating to that natural person.

The Panel further considered whether the release of this information would breach the Data Protection principles in terms of s 38(1)(b) and 38(2A) (the first condition) of the Freedom of Information (Scotland) Act 2002 (FOISA). The relevant principle

when considering whether to disclose personal data would be the First Principle. This requires that personal data must be processed lawfully, fairly and in a transparent manner.

The Panel was of the view that to disclose information which would identify the individuals concerned would not be lawful or fair. Disclosure would affect the rights and interests of the individuals concerned who have the legitimate and reasonable expectation that their information is not disclosed by the Council.

However, the Panel then explored what information could be disclosed to the applicant. The Council's Finance service suggested two alternatives:

- a) The provision of individual payments to fostering parents, although under redaction of their names;
- b) The provision of an aggregated figure of all payments to fostering parents made over the period(s) in question.

It was concluded that in order to preserve data integrity with the Council's Open Data portal itemised payments to fostering parents would be released to the applicant although under redaction of recipient details.

Just for completeness, care expenditure can vary and fluctuate significantly depending on the care arrangements, e.g. kinship care, corporate or private foster settings, secure accommodation.

Please refer to the attached Appendix which explains your right to complain to the Scottish Information Commissioner if you are unhappy with the Review Panel's decision in this matter.

Yours sincerely



Margo Williamson
Chief Executive

Encl

FREEDOM OF INFORMATION (SCOTLAND) ACT 2002
ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004
INSPIRE (SCOTLAND) REGULATIONS 2009

Your Right to Request a Review by the Council

If you are dissatisfied with the way in which Angus Council has dealt with your request for information under the above legislation, you have a right to ask the council to review its actions and/or decisions regarding your request. If you wish to do this, you should make your request to the Director - Legal & Democratic Services, Angus Council, Angus House, Orchardbank Business Park, Forfar DD8 1AN or e-mail InformationGovernance@angus.gov.uk within 40 working days.

Your request must:

- be in writing (or recordable format);
- give your name and address for correspondence;
- give details of the information which you originally requested from the council; and
- give the reasons why you are dissatisfied with the way in which your application for information has been dealt with.

Your application for review will then be considered by the council's review panel. The review panel will write to you informing you of its decision not later than 20 working days after receipt of your request for a review. The review panel will also provide you with a statement of its reasons for arriving at the decision it has made.

Your Right to Appeal to the Scottish Information Commissioner

If you are dissatisfied with a decision of the council's review panel (or where the review panel has not provided you with a response), you have the right to apply to the Scottish Information Commissioner for a decision as to whether your request for information has been dealt with by the council in accordance with the above statutory instruments.

Your application to the Scottish Information Commissioner must:

- be in a recordable format (letter, e-mail, audio tape etc);
- give your name and address for correspondence.
- give details of the request for information which you originally requested from the council;
- give details of why you were dissatisfied with the council's response to your original request;
- give details of why you were dissatisfied with the decision of the council's review panel.

In the case of an EIR or FOI request your application to the Scottish Information Commissioner must be made within 6 months of receipt of the decision of the council's review panel (or within 6 months of the date that the review panel should have responded). No such time limit applies under the 2009 Regulations.

Appeals to the Commissioner can be lodged online through the following hyperlink:
<http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealintoCommissioner.aspx> or by contacting:

Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews,
Fife, KY16 9BS; Telephone - 01334 464610; Fax - 01334 464611; Email -
enquiries@itspublicknowledge.info)