

## **ABERDEENSHIRE COUNCIL**

### **Freedom of Information (Scotland) Act 2002 ("The Act")**

#### **Decision Notice - Section 21(5), FOISA**

Application by Mr Stuart Benzie

Dear Mr Benzie

In accordance with Section 21(1) of the Act, the Review Panel of Aberdeenshire Council have considered your application for a Requirement for Review received by Aberdeenshire Council on 1<sup>st</sup> December 2016.

In accordance with Section 21(5) of the Act, the Review Panel herewith gives Notice in writing, that it considers that the original decision complained about dated 24<sup>th</sup> October 2016 requires amendment.

The Review Panel determined that there was additional information which should be provided to the applicant.

A statement of the reasons for the decision as required by Section 21(5) of the Act is appended.

#### **Application for a decision by the Scottish Information Commissioner:**

By virtue of Section 47 of the Act, a person who is dissatisfied with a Decision Notice issued under Section 21 (5) or (9) of the Act, may apply to the Scottish Information Commissioner for her decision as to whether, in any respect specified in that application, the request for information under Section 1(1) of the Act, has been dealt with in accordance with Part 1 of the Act.

An application to the Scottish Information Commissioner must be made within six months of receipt of a Section 21 Decision Notice from Aberdeenshire Council's Review Panel. Applications may be made in writing (or in another form having some permanency e.g. a video/tape recording) When applying to the Scottish Information Commissioner to make a decision with respect to the Section 21 Decision Notice in writing, you must state your name and address for correspondence. Applications can also be made online at the following address: [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal).

You must also specify:-

- a) the request for information to which the Requirement for Review which was made to Aberdeenshire Council relate;

- b) the matter which gives rise to your dissatisfaction and your request for review; and
- c) the matter which gives rise to your dissatisfaction pertaining to the decision given in the Section 21 Decision Notice.

Yours sincerely

**Alastair Nicol**

Clerk to  
Review Panel  
Aberdeenshire Council  
26<sup>th</sup> December 2016

**FURTHER INFORMATION:**

**The Scottish Information Commissioner can be contacted at:-**

Scottish Information Commissioner  
Kinburn Castle  
Doubledykes Road  
St Andrews  
Fife  
KY16 9DS

Telephone 01334 464610  
Fax 01334 464611  
Email [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info)

**Appeals Against a Decision of the Scottish Information Commissioner:**

Section 56 of the Act provides that an appeal on a point of law may be made to the Court of Session:

- a) against a decision of the Scottish Information Commissioner (under subsection (2) of Section 49 – i.e. where the Commissioner determines that a decision does not require to be made) by the person who applied to the Scottish Information Commissioner to make such a decision (i.e. an applicant);
- b) against a decision of the Scottish Information Commissioner (under subsection 3(b) of Section 49) by an applicant or by the Scottish Public Authority in respect of which the decision was made or
- c) against a decision which resulted in the giving of an information notice or an enforcement notice to a Scottish Public Authority.

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#### **Statement of Reasons**

The Review Panel had before it the original request from the applicant, the service response, the request for the review and further information from the service.

The Review Panel noted that the original request related to the last inspection of New Deer Primary School and requested a copy of the action plan indicating how the authority would address the main findings of the inspection report, as well as other information about the progress made by the school.

The service response had stated that information about the post-inspection action plan and outcomes was not held. In accordance with the records retention schedule, plans and policies were destroyed after 3 years as action plans/school improvement plans were updated yearly. That was where school post-inspection action plans would be published. The response provided a copy of the latest improvement plan 2016/17 for New Deer Primary School.

The review request stated that the applicant was not convinced that the information would have been deleted so soon.

The Review Panel compared the original request with the service response and considered that there were a number of points in the request which the service response had not addressed. The service was therefore asked to respond in more detail to the individual points and provided the following information.

*At the last inspection of New Deer Primary School*

*"The school and the education authority have been asked to prepare an action plan indicating how they will address the main findings of the report, and to share that plan with parents and carers."*

*Can you please provide a copy of the Action Plan.*

The service was asked to confirm that the information was not held and to give details of what searches had been carried out. The service advised that a search of committee reports from 2005 - 2008 for both the Education, Learning and Leisure Committee and the Buchan Area Committee had been carried out and nothing had been found. The Head of Service and the Director's PAs both stated that they had found no copy of the action plan. The file held in the office at Woodhill House for New Deer Primary School was checked and it did not contain the action plan. The Committee Officer had been asked to check in

case it was intended to go to the Education, Learning and Leisure Committee as well as the Area Manager in case it went to the Buchan Area Committee, but they had no record of it.

*When and how was this shared with parents and carers?*

The Review Panel noted that this had not been answered this at all and asked the service if there was any information. Could there have been a public meeting at the school, was information emailed to parents or did the children get something to take home? The service advised that this information was requested from the head teacher and she could not find anything. It was not known whether this was sent out to parents or carers. One of the Quality Improvement Officers had stated that it would have been sent to the Parent Council but not necessarily to all parents and carers.

*What follow up to this action plan has there been?*

The Review Panel noted that the latest improvement plan had been provided, which fell within the scope of the request.

*Please provide any reports; any emails; minutes/agendas; or other correspondence regarding the action plan requested by the inspectors.*

The service confirmed that all retention schedules said 3 years for correspondence and the information was not held.

*“Within two years of the publication of this report parents and carers will be informed about the progress made by the school.”*

The service advised that there was a follow up report completed by Aberdeenshire Council in 2007 and provided a copy of the report, which highlighted the action points raised by HMIE for New Deer Primary School to work on.

*Please provide copies of the information provided to parents and carers.*

As above, the Review Panel noted that this had not been answered this at all and asked the service if this was more recent than 3 years and whether there was any information. The service confirmed that no information was held.

*When and how was this shared with parents and carers?*

As above, the Review Panel noted that this had not been answered this at all and asked the service if there was any information. Again, could there have been a public meeting at the school, was information emailed to parents or did the children get something to take home? The service confirmed that it was not known if anything was forwarded to parents and carers. A copy of the 2007 follow up report referred to above would have been available in the public domain, but there was no information as to how it had been distributed.

The Review Panel discussed the further responses given by the service and took the view that, on the balance of probabilities, the service had carried out sufficient searches to establish that the information was not held. The Review Panel considered that the additional information provided by the service and the follow up report from 2007 fell within the scope of the request and should have been included in the service response.

The Review Panel considered therefore that the original decision notice required to be amended and that the applicant should be provided with the additional information.