

Finance and Corporate Resources
Executive Director **Paul Manning**
Administration and Legal Services
Head of Administration and Legal Services **Geraldine McCann**

Ms. K. Morgan
Request-332627-
5a2a2950@whatdotheyknow.com

Our ref: WAD/CDCREV-13010
Your ref:
If calling ask for: Bill Dunn
Phone: 01698 454564
Date: 21 June 2016

Dear Ms Morgan

Freedom of Information (Scotland) Act 2002 (FOISA)
Request for a review – Decision Notice – R2016/23

I refer to your email dated 3 June 2016 in which you asked for a review of the way that the Council has dealt with your requests for information. I can advise that a review has now been held. This is the formal notification of the decision of the Review Panel.

Background

On 4 May 2016, you made requests for the following

- What is the housing law concerning adding a person or family member to a housing application (**Question 1**)
- What is councils law/ responsibility in advising the addition of a person or family member to a housing application (**Question 2**)
- What is the council's law/responsibility to advice given by a social workers recommendation concerning a medical reason to add said person or family member to a housing application in order to ensure a support system (**Question 3**)
- What is the council's responsibility to a person when question 3, fails. (**Question 4**)
- What is the council's responsibility to reprimand it's workers failing to adhere to housing laws (**Question 5**)
- What is the recommended action to take against the council when it's workers are continually failing to serve the public's best interests regarding advice on the housing law (**Question 6**)
- What action is taken against its employees when they take a prejudice against a member of the public & wrongly give advice on housing laws (**Question 7**)
- What is the law on providing a house for a family when the housing stock is not available (**Question 8**)
- What is the law on the council purchasing new properties when housing stock is not available (**Question 9**)
- What is the council's law/responsibility on timescales in housing families with a social work report on serious health conditions, mental health conditions (where a person has been sectioned & released) & overcrowding in temporary accommodation. (**Question 10**)

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On 2 June 2016, Housing and Technical Resources responded to you by refusing to process these questions as they were not valid requests for information. To assist you, Housing and Technical Resources referred you to, in relation to

- **Questions 1, 8 and 9**, the terms of the Housing (Scotland) Act 1987
- **Questions 2, 3, 4 and 10**, the Council's allocation policy and explained that the policy was available from the Council's website
- **Questions 5 and 7**, the Council's Code of Conduct for Employees and Discipline and Grievance policies and offered to provide these to you if these documents were of assistance and
- **Question 6**, the Council's comments, compliments and complaints procedures and where these documents were obtainable

On 3 June 2016, you requested a review of the handling of your questions. In particular, you complained that these questions should have been answered in terms of FOISA as the questions were valid requests for information.

Summary of the decision of the Review Panel

The Review Panel confirmed the decision of Housing and Technical Resources that all of these questions were not valid requests for information in terms of FOISA.

The Review Panel's considerations

This review related to the decision by Housing and Technical Resources in relation to all of the questions as not being valid requests for information. You clearly disagreed with that decision. The Review Panel had to, therefore, consider whether these matters were valid requests for information.

Section 8(1) of FOISA sets out the criteria for a valid request for information. These are

- (a) the request must be made in a permanent format such as an email
- (b) states the name of the applicant and provides an address for correspondence and
- (c) describes the information requested.

There is no dispute that the contents of your email dated 4 May 2016 met criteria (a) and (b) above. However, Housing and Technical Resources were of the view that none of the questions seek information but were asking for legal advice or speculation as to the Council's response to certain situations. This would mean that these matters were not valid requests for information.

There is no particularly detailed meaning given to the word "information" contained within FOISA (the only definition that is relevant relates to the format of information covered by FOISA). Consequently, the Review Panel had to consider the "normal" meaning of "information". It concluded that this definition relates to the facts or opinions or record created by or provided to or used by the Council as part of its functions.

However, after consideration of all of questions, the Review Panel was of the view that they did not relate to obtaining information. Your requests related to the legal basis for the discharge of Council functions, its responsibilities and consequences for non-compliance with its obligations. The Panel decided, therefore, that these matters related to the obtaining of legal advice and speculation rather than information.

Under those circumstances, the Review Panel upheld the decision by Housing and Technical Resources that none of the questions were valid requests for information and so do not fall within the remit of FOISA and the Review Panel.

The Review Panel considered that it may be that you were seeking information but had framed your requests incorrectly. The Review Panel offers to assist you in framing your requests for information in such a way as it is clear as to what information you want. You can obtain this assistance by contacting the Council's Information Compliance Manager. His

contact details are as follows

Mr. W. Dunn
Information Compliance Manager
Finance and Corporate Resources
Floor 13
Council Offices
Almada Street
Hamilton
ML3 0AA

Alternatively, you can contact him by email at bill.dunn@southlanarkshire.gov.uk

The Council's Information Compliance Manager will provide advice and assistance in relation to what information you are seeking in relation to these matters (unless that advice and assistance amounts to the provision of legal advice in respect of Housing and Technical Resources' operational decisions/actions and in that case, you should consult with your own independent legal adviser such as a solicitor or the Citizen's Advice Bureau).

Appeal to the Scottish Information Commissioner

If you are unhappy with the outcome of our review, you have the right to appeal to the Scottish Information Commissioner. You have 6 months from receiving this notice to appeal.

The Commissioner will decide whether the Council has dealt with your request properly. The Commissioner's contact details are as follows:-

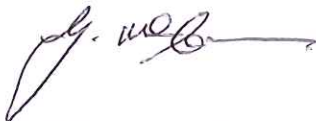
Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife KY16 9DS
Tel: 01334 464610
Fax: 01334 464611

E-mail: enquiries@itspublicknowledge.info

For further details, please see the Commissioner's website at <http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>. In addition the Commissioner has prepared a form that can be used to appeal to her. It can be found here - <http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/ApplicationForm.aspx>

If you are unhappy about the final decision of the Commissioner, you are entitled to appeal to the Court of Session on a point of law.

Yours sincerely



Geraldine McCann
Reviewing Officer