



Scottish Information
Commissioner

**004/2007 Mrs Ann Dromgoole and
Clackmannanshire Council**

*Request for information regarding staffing and management of
schools*

**Applicant: Mrs Ann Dromgoole
Authority: Clackmannanshire Council
Case No: 200601515
Decision Date: 12 January 2007**

**Kevin Dunion
Scottish Information Commissioner**

Kinburn Castle
Doubledykes Road
St Andrews
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KY16 9DS



Decision 004/2007 Mrs Ann Dromgoole and Clackmannanshire Council

Thirteen questions were asked about staffing and management in the Clackmannanshire area. Following review Mrs Dromgoole was satisfied with the answers to ten of her questions. The Commissioner was satisfied that Clackmannanshire Council had responded to Mrs Dromgoole's questions although ordered the Council to provide her with additional information under its duty to advise and assist applicants.

Relevant Statutory Provisions and Other Sources

Freedom of Information (Scotland) Act 2002 sections 1(1) (General entitlement); 15 (Duty to provide advice and assistance); 17 (Notice that information is not held).

The full text of each of these provisions is reproduced in the Appendix to this decision. The Appendix forms part of this decision.

Facts

Mrs Dromgoole wrote to Clackmannanshire Council (the Council) asking thirteen questions regarding the staffing and management of schools in the Clackmannanshire area.

The Council responded to all thirteen questions. However, Mrs Dromgoole was dissatisfied with the Council's response to four of these questions and asked it to review its response to those questions.

Upon review, the Council provided additional responses to the four questions Mrs Dromgoole was dissatisfied with. In answer to two of the questions, the Council provided background information to Mrs Dromgoole, but stated that it did not hold the specific information Mrs Dromgoole was seeking.

Mrs Dromgoole remained dissatisfied with the Council's response to three of the four questions in her review request and submitted an application for a decision by the Scottish Information Commissioner.



Following an investigation, the Commissioner found that the Council had responded fully to Mrs Dromgoole's questions, but ordered the Council to provide her with additional information in line with its duty to provide advice and assistance to applicants under section 15 of FOISA.

Background

1. On 28 June 2006 Mrs Dromgoole emailed the Council asking it thirteen questions about staffing and management of schools in the Clackmannanshire area. On 25 July 2006 the Council wrote to Mrs Dromgoole, responding to her questions.
2. On 9 August 2006 Mrs Dromgoole wrote to the Council to ask it to review its response to four of her questions.
3. The Council carried out a review and, on 4 September 2006, wrote to Mrs Dromgoole, providing an additional response to the four questions. In answer to two of the questions, the Council provided some general information to Mrs Dromgoole but confirmed that it did not hold the actual information Mrs Dromgoole had requested, citing section 17 of FOISA (information not held).
4. On 18 September 2006 Mrs Dromgoole wrote to my Office, stating that she was dissatisfied with the Council's response to three of these four questions and applied to me for a decision.

The three questions that related to Mrs Dromgoole's dissatisfaction were:

1. "How many postholders with Services to People working within the section with the responsible appointment of / care of staff of Primary Schools / hold the designation Personnel Adviser. Of this how many of the Postholders hold a Professional Qualification at HND level or above."
2. "HMI Report on St Mungo's Primary School – Arising from the numerous issues highlighted in the HMI on this school what has been the additional financial cost incurred to the Authority to date in raising the school standards. The cost to include additional resources for materials; training courses for HT (in house and external); external support from other Services of the Council and other Agencies i.e. Health Service; support to HT from those Senior Professionals within Services to People with an "expertise" in teaching/management skills to assist the HT comply with the HMI recommendations."



3. “By comparison following the HMI on St Bernadette’s, Tullibody what any (sic) “expert” input if any was required and if so at what cost to the Authority?”
5. The application was subsequently validated by establishing that Mrs Dromgoole had made a request for information to a Scottish public authority and had applied to me for a decision only after asking the public authority to review its response to her request. On 22 September 2006, the Validation Officer wrote to the Council, giving notice that an appeal had been received and that an investigation into the matter had begun and inviting comments from the Council as required under section 49(3)(a) of FOISA.
6. On 17 October 2006, the Council wrote to the Validation Officer, providing a detailed response to the questions raised in the letter of 22 September 2006.
7. The case was then allocated to an Investigating Officer.

The Investigation

8. Further correspondence took place between the Investigating Officer and the Council in October and November in relation to how certain of the questions raised by Mrs Dromgoole had been interpreted by the Council and how school costs were accounted for. During this time, the Council also provided further information to the Investigating Officer, including copies of action plans associated with the two schools in question and confirmation that monies used to raise the school standards to the recommendations in the HMI report came from existing allocations and were not additional allocations.
9. The investigating officer also sought further information from Mrs Dromgoole, about the recording of costs associated with raising school standards. Mrs Dromgoole responded to this letter on 28 November 2006.

The Commissioner’s Analysis and Findings

10. In coming to a decision on this matter, I have considered all of the information and the submissions that have been presented to me by both Mrs Dromgoole and the Council and I am satisfied that no matter of relevance has been overlooked.



11. I shall consider each of the questions in turn that Mrs Dromgoole considers has not been fully answered by the Council.

Question 1 – “How many postholders with Services to People working within the section with the responsible appointment of / care of staff of Primary Schools / hold the designation Personnel Adviser. Of this how many of the Postholders hold a Professional Qualification at HND level or above.”

12. This question can be split into two parts:
- a. How many postholders with Services to People working within the section with the responsible appointment of / care of staff of Primary Schools / hold the designation “Personnel Adviser”.
 - b. Of this how many of the postholders hold a Professional Qualification at HND level or above.
13. In its initial response to Mrs Dromgoole on 25 July 2006 the Council’s reply was “None”. The Council provided a further explanation on review, explaining that there are no posts within Services to People which carry the designation of HR Advisers, Personnel Officers, or anything similar. The Council further explained that it operates a centralised Human Resources (HR) Service and that all staff engaged at the level of HR Advisor or above meet, or exceed, the minimum essential education qualifications and experience deemed appropriate to their grade. There are four officers within the HR Service who deal principally with matters relating to the Services to People department. The HR Advisers who work in the Human Resources Service meet or exceed the minimum educational qualification and experience deemed appropriate for the grade.
14. In my view, the initial response provided by the Council was not helpful. However, the review response provided by the Council does answer the first part of Mrs Dromgoole’s question in that there were no Personnel Advisers directly employed in the Services to People department.
15. Given that the answer to the first part of the question is “none”, it follows that the answer to the second part of the question is also “none.”
16. It should be noted, however, that the Council has a duty to provide reasonable advice and assistance to applicants in responding to requests for information as stated in section 15 of FOISA.



17. In this instance, I find that it would have been reasonable for the Council to have provided a more detailed response to the second part of this question, by confirming whether the Personnel/HR Advisers hold a professional qualification at HND level or above. Consequently, I require the Council to provide confirmation to Mrs Dromgoole whether the four officers within the Human Resources Services who deal with matters relating to the Services to People department hold a professional qualification at HND level or above.

Question 2 – “HMI Report on St Mungo’s Primary School – Arising from the numerous issues highlighted in the HMI on this school what has been the additional financial cost incurred to the Authority to date in raising the school standards. The cost to include additional resources for materials; training courses for HT (in house and external); external support from other Services of the Council and other Agencies i.e. Health Service; support to HT from those Senior Professionals within Services to People with an “expertise” in teaching/management skills to assist the HT comply with the HMI recommendations.”

18. This question is detailed, so part of the investigation involved trying to determine the exact information Mrs Dromgoole had requested. It was subsequently interpreted as “what were the additional costs incurred by the Council in raising the standards at St Mungo’s Primary School in line with the recommendation in the HMI report?”
19. During the investigation, the Council advised my Office that various Council officers input into the preparation of an HMI report and consideration of any recommendations. However, the Council does not quantify such costs separately.
20. The Council also advised that schools apply for funds out of a centrally held budget. Consequently, costs associated with raising school standards to that identified in a HMI report are not separately recorded. In this case, many of the proposed actions were being undertaken anyway and were not seen as an additional cost.
21. The Council later reiterated that additional costs as a consequence of a HMI report could not be separately identified.
22. Mrs Dromgoole did not accept this assertion, however, and questioned how the Council could justify whether best value is delivered to the “customer” as a result of an HMI Report if the Council does not record additional costs incurred as a result of the report.



23. In looking at the information submitted by the Council and considering the matter in some detail, I understand that the Council allocate a budget for each school and the school has to operate within that budget. Specific costs associated with raising school standards would therefore be paid from the existing budget and would not have been viewed as an “additional cost”. As stated above, the Council does not consider it necessary to quantify that input for its own purposes.
24. I have found no evidence to support Mrs Dromgoole’s assertion that the Council does record “additional costs” associated with raising school standards in line with the HMI report. I am satisfied that the Council has provided sufficient evidence to support their claim that the information is not held. Consequently, I do not require the Council to take any further action in responding to this particular question.

Question 3 - By comparison following the HMI on St Bernadette’s, Tullibody what any [sic] “expert” input if any was required and if so what cost to the Authority?

25. In its initial response to Mrs Dromgoole on 25 July 2006, the Council’s reply was “Assistance by QIO in preparation of Action Plan. Costs not quantifiable”. Mrs Dromgoole questioned this response in her request for review on 9 August 2006.
26. On review, the Council confirmed that “QIO” stands for “Quality Improvement Officer” and that Services to People employ two QIOs and one Manager. The Council indicated that, where necessary, this resource can be used to assist and support Head Teachers with policy introduction, change management and a variety of development activities. The Council argued that QIOs are not required to record time spent on particular activities therefore there is no way of identifying the actual monetary cost of their activities.
27. As stated above, the Council has asserted that it does not record additional costs separately as a consequence of a HMI report and monies are allocated from a central fund.
28. I have found no evidence to support Mrs Dromgoole’s assertion that the Council does record “additional costs” associated with raising school standards in line with an HMI report. I am satisfied that the Council has provided sufficient evidence to confirm that the information is not held. Consequently, I do not require the Council to take any further action in responding to this particular question.



Decision

I find that Clackmannanshire Council (the Council) complied in the main with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the three questions in respect of which she made an application to me. I am satisfied that the Council does not hold information in relation two of these questions and that the Council was therefore correct to issue a notice under section 17(1) of FOISA.

However, in failing to advise Mrs Dromgoole whether the four officers within Human Resources Services who deal with matters relating to the Services to People department hold a professional qualification at HND level or above, I find that the Council failed to comply with its duty to provide reasonable advice and assistance to Mrs Dromgoole in terms of section 15(1) of FOISA. Accordingly, I have found that the Council failed to comply with Part 1 of FOISA in this respect.

I therefore require the Council to provide this information to Mrs Dromgoole within 45 days of receipt of this decision notice.

Appeal

Should either Mrs Dromgoole or the Council wish to appeal against this 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.

Kevin Dunion
Scottish Information Commissioner
12 January 2007



Appendix

Relevant statutory provisions

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.

15 Duty to provide advice and assistance

- (1) A Scottish public authority must, so far as it is reasonable to expect it to do so, provide advice and assistance to a person who proposes to make, or has made, a request for information to it.
- (2) A Scottish public authority which, in relation to the provision of advice or assistance in any case, conforms with the code of practice issued under section 60 is, as respects that case, to be taken to comply with the duty imposed by subsection (1).

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.
- (2) Subsection (1) is subject to section 19.
- (3) Subsection (1) does not apply if, by virtue of section 18, the authority instead gives the applicant a refusal notice.