

Decision Notice

Decision 240/2016: The Applicant and the Office of the Scottish Charity Regulator

Central Borders Citizens Advice Bureau

Reference No: 201601432

Decision Date: 8 November 2016



Scottish Information
Commissioner

Summary

The Office of the Scottish Charity Regulator (OSCR) was asked for information it held about Central Borders Citizens Advice Bureau. OSCR said it did not hold the information requested. 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 10 July 2016, the applicant made a request for information to OSCR. The information requested was:

“Any and all information that would show or otherwise provide a statistical count of any time a paid member or volunteer of Central Borders Citizens Advice Bureau has communicated in any way, to any person or organisation, an anti-Semitic statement regarding fight against a NWO a so called “New World Order” between 1/1/2011 – 11/7/2016.”
2. OSCR responded on 13 July 2016, informing the applicant that it did not hold the information they sought.
3. On 14 July 2016, the applicant wrote to OSCR, requesting a review of its response.
4. OSCR notified the applicant of the outcome of its review, confirming that it had carried out a range of searches and confirming its original decision that the information was not held.
5. On 11 August 2016, the applicant wrote to the Commissioner. The applicant applied to the Commissioner for a decision in terms of section 47(1) of FOISA. The applicant was dissatisfied with the outcome of OSCR’s review and asked the Commissioner to investigate the checks OSCR conducted for the information.

Investigation

6. 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 her for a decision.
7. On 7 October 2016, OSCR was notified in writing that the applicant had made a valid application. The case was allocated to an investigating officer.
8. Section 49(3)(a) of FOISA requires the Commissioner to give public authorities an opportunity to provide comments on an application. OSCR was invited to comment on this application and answer specific questions on the searches conducted for the information sought by the applicant.

Commissioner's analysis and findings

9. In coming to a decision on this matter, the Commissioner considered all of the withheld information and the relevant submissions, or parts of submissions, made to her by both the applicant and OSCR. She is satisfied that no matter of relevance has been overlooked.
10. The applicant's application set out the reasons for the request of 10 July 2016. The applicant asked that the Commissioner check OSCR's review to ensure that it was factually correct and that the full checks (i.e. searches) claimed by OSCR were conducted. The applicant also wished to be informed in the event that OSCR was withholding any information capable of addressing their request.
11. OSCR provided submissions to support its position that it did not hold any information covered by the applicant's request. It explained that all of its information is held in a central document management system called "Objective". It described the searches it conducted at the time of review and supplied supporting evidence in the form of screen shots showing the search parameters used and which files were checked.
12. OSCR explained that it searched against the unique reference for Central Borders Citizens' Advice Bureau. It carried out further searches of the content of all files and emails located. OSCR confirmed that no information of the kind described by the applicant was held in these files or emails.
13. For clarity, OSCR also confirmed that it would not expect to hold information about a "New World Order" in its Objective system, given its remit and statutory functions in regulating charities.
14. Having considered all relevant submissions and the terms of the request, the Commissioner is satisfied that OSCR took adequate, proportionate steps in the circumstances to establish what information it held. Given the explanations of recording practice in the "Objective" system, together with the evidence of the searches conducted, and the checks the reviewer carried out, she is satisfied that OSCR does not (and did not, on receipt of the information request dated 10 July 2016) hold the information requested by the applicant.
15. The Commissioner, therefore, finds that OSCR 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 this request.
16. For clarity, as no information within the scope of the applicant's request was held, there was no information to which an exemption could be applied.

Decision

The Commissioner finds that OSCR 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 Office of the Scottish Charity Regulator 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

8 November 2016

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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Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews, Fife
KY16 9DS

t 01334 464610

f 01334 464611

enquiries@itspublicknowledge.info

www.itspublicknowledge.info