

# Decision Notice

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**Decision 257/2016: Mr Tom Taylor and East Renfrewshire Council**

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## **Complaint information**

Reference No: 201601416

Decision Date: 5 December 2016



Scottish Information  
Commissioner

## Summary

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The Council was asked for information about a complaint made to the Council. The Council disclosed the information it held.

An application was made to the Commissioner, questioning whether the Council held more information. The Commissioner was satisfied that the Council had carried out appropriate searches and subsequently disclosed all the information it held.

## Relevant statutory provisions

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Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) and (4) (General entitlement)

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

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1. On 8 April 2016, Mr Taylor made a request for information to East Renfrewshire Council (the Council). The information requested was all information and communications that related to a specific complaint made to the Council on 5 January 2016. He stated he was particularly interested in communications between officers, officers and councillors and officers and any other parties.
2. The Council responded on 24 May 2016. The Council provided Mr Taylor with what it considered to be the information requested, explaining that one signature had been redacted as personal data (and disclosure would breach the Data Protection Act 1998). It also explained that other redacted information did not fall within the scope of his request.
3. On 9 June 2016, Mr Taylor wrote to the Council requesting a review of its decision. He believed further information should be held, including information on the selection of witnesses, the conduct and recording of interviews, and the work of the review panel. Mr Taylor made no complaint regarding the redaction of information, so the redacted information will not be considered in this decision.
4. The Council notified Mr Taylor of the outcome of its review on 4 July 2016. The Council provided Mr Taylor with additional information it had located and confirmed that no further information was held.
5. On 9 August 2016, Mr Taylor wrote to the Commissioner. He applied to the Commissioner for a decision in terms of section 47(1) of FOISA. Mr Taylor stated he was dissatisfied with the outcome of the Council's review because he believed further information should be held, in particular about the taking and recording of statements regarding the complaint.

## Investigation

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6. The application was accepted as valid. The Commissioner confirmed that Mr Taylor 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 16 August 2016, the Council was notified in writing that Mr Taylor 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. On 12 September 2016, the Council was invited to comment on this application and to answer specific questions, in particular to explain the steps it had taken to identify and locate the information requested.
9. The Council responded, providing submissions in support of its position that it did not hold any further information, other than that already provided to Mr Taylor.

## Commissioner's analysis and findings

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10. In coming to a decision on this matter, the Commissioner considered all the relevant submissions, or parts of submissions, made to her by both Mr Taylor and the Council. She is satisfied that no matter of relevance has been overlooked.

### Information held by the Council

11. Section 1(1) of FOISA provides that a person who requests information from a Scottish public authority which holds it is entitled to be given that information by the authority, subject to qualifications which, by virtue of section 1(6) of FOISA, allow Scottish public authorities to withhold information or charge a fee for it. The qualifications contained in section 1(6) are not applicable in this case.
12. The information to be given is that held by the authority at the time the request is received, as defined in section 1(4). This is not necessarily to be equated with information an applicant believes the authority should hold, although the applicant's reasons may be relevant to the investigation of what is actually held.
13. The Commissioner has taken account of the submissions provided by Mr Taylor, in which he provides reasons why he considers the Council should hold further information falling within the scope of his request.
14. In its submissions to the Commissioner, the Council confirmed the searches and enquiries it undertook to ascertain whether it held any information falling within the scope of Mr Taylor's request, detailing the places searched and the search terms used. These included searches of relevant electronic and paper records, and consultation with staff who were involved in the complaint concerned and the subsequent review panel. The Council provided supporting evidence confirming the outcomes of its searches, which were repeated during the investigation.
15. The Council explained that the conclusion of the searches and enquiries was that no information was held, in addition to the information provided to Mr Taylor in responding to his request and requirement for review, as outlined above. The Council also confirmed that some advice regarding the issues around the complaint and the panel had been provided verbally, with the result that no recorded information was held.

16. Having considered all relevant submissions and the terms of the request, the Commissioner accepts that the Council interpreted Mr Taylor's request reasonably and took adequate, proportionate steps in the circumstances to establish what information it held. Given the explanations provided, the Commissioner is satisfied, on the balance of probabilities, that the Council held no further information falling within the scope of Mr Taylor's request, in addition to that already provided to him. Consequently, in respect of the information actually held, the Commissioner is satisfied that the Council responded to the request in accordance with section 1(1) of FOISA.

## **Decision**

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The Commissioner finds that East Renfrewshire Council complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by Mr Taylor.

## **Appeal**

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Should either Mr Taylor or East Renfrewshire Council 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**

**5 December 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.

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- (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.

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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](mailto:enquiries@itspublicknowledge.info)

**[www.itspublicknowledge.info](http://www.itspublicknowledge.info)**