

Decision Notice 155/2021

Coercive control assessment protocol

Applicant: The Applicant

Public authority: Fife Council

Case Ref: 202100488



Scottish Information
Commissioner

Summary

The Council was asked for the coercive control assessment protocol used to identify whether a child was being coercively controlled. The Council explained that it did not hold a specific coercive assessment protocol. The Commissioner investigated and found that the Council had complied with FOISA in responding to the request.

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 March 2021, the Applicant made a two-part request for information to Fife Council (the Council), only the second part of which is the subject of this Decision Notice. The information requested in part 2 was:
Please supply the coercive control assessment protocol that your social work children and families team use to identify if a child is being coercively controlled or not.
2. The Council responded on 12 March 2021. It informed the Applicant, in terms of section 17(1) of FOISA, that it did not hold the information requested. The Council explained that its assessment of risk affecting children reflected the impact of multiple risk factors.
3. On 13 March 2021, the Applicant wrote to the Council requesting a review of its decision to rely on section 17(1) of FOISA. The Applicant stated he understood the Scottish Government had provided funding in previous years to roll out coercive control training for frontline staff and, since the inception of the Domestic Abuse (Scotland) Act 2018, there would be a requirement for frontline staff to conduct assessments for identifying coercive control in children.
4. The Council notified the Applicant of the outcome of its review on 7 April 2021, upholding its original decision in full. Under the duty in section 15 of FOISA to advise and assist, the Council explained there was no coercive control protocol, but social workers in the Children and Families Team were trained in the “Safe and Together” approach, and were aware of the risks of coercion when completing risk assessment frameworks. While the Children and Families Team used a number of different risk assessment frameworks, the Council explained these were not specifically labelled as such.
5. On 19 April 2021, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. The Applicant stated he was dissatisfied with the outcome of the Council’s review because he believed that the Council held, but was refusing to disclose, the information requested. He asked for the disclosure of all coercive control framework documents and protocols used to identify (or not identify) children who were being coercively controlled by parents or carers.

Investigation

6. The application was accepted as valid. The Commissioner confirmed that the Applicant had made a request for information to a Scottish public authority and had asked the authority to review its response to that request before applying to him for a decision.
7. On 3 June 2021, the Council was notified in writing that the Applicant had made a valid application and the case was subsequently 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. The Council was invited to comment on this application and to answer specific questions. These focused on the searches carried out which led the Council to conclude that it held no relevant information, and whether it considered that any parts of the risk assessment frameworks (referred to in its review outcome) could be considered to fall within the scope of the request.
9. On 26 July 2021, the Council identified three documents which, in its view, related to the request (although they did not relate specifically to coercive control). The Council disclosed this information to the Applicant that same date.
10. On 4 August 2021, the Applicant confirmed he wished to continue with his application for a decision by the Commissioner.
11. The Council subsequently provided submissions to the Commissioner.

Commissioner's analysis and findings

12. In coming to a decision on this matter, the Commissioner has considered all of the relevant submissions, or parts of submissions, made to him by both the Applicant and the Council. He is satisfied that no matter of relevance has been overlooked.

Whether the Council held the information requested

13. 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.
14. The information to be given is that held by the authority at the time the request is received, as defined by section 1(4). This is not necessarily to be equated with information an applicant believes the authority should hold. If no such information is held by the authority, section 17(1) of FOISA requires it to give the applicant notice in writing to that effect.
15. The standard of proof to determine whether a Scottish public authority holds information is the civil standard of the balance of probabilities. In determining where the balance of probabilities lies, the Commissioner considers the scope, quality, thoroughness and results of the searches carried out by the public authority. He also considers, where appropriate, any reason offered by the public authority to explain why it does not hold the information. While it may be relevant as part of this exercise to explore expectations about what information the authority should hold, ultimately the Commissioner's role is to determine what relevant recorded information is (or was, at the time the request was received) actually held by the public authority.

The Applicant's submissions

16. In his application to the Commissioner, the Applicant contended that the "Safe and Together" approach (which, he stated, was sourced from a private sector company) could be providing the Council with information and "risk assessment frameworks" that were inappropriate, which was the reason why no children were being identified as being coercively controlled.
17. The Applicant submitted that it was clear, from the Council's review outcome, that risk assessments were performed for coercive control. He argued that he had asked for "...the coercive control assessment protocol that your social work children and families team use to identify if a child is being coercively controlled or not". While the Council had admitted they used a "number of different frameworks", he contended that his request was not for those protocols that were *labelled* as being *coercive control framework*, but was for the protocols themselves. He believed the Council held, but was refusing to disclose, the information, possibly due to a confidentiality agreement with the private sector company.

The Council's submissions

18. As stated previously, during the investigation, the Council identified three documents which, it considered, related to the request. It explained, at that time, that it used these to carry out child protection risk assessments, and that these were the risk assessments mentioned in its review outcome. Although these assessments did not relate specifically to coercive control, these factors were taken into account when carrying out the assessments.
19. On 26 July 2021, the Council disclosed this information to the Applicant, explaining that the risk assessments provided did not relate specifically to coercive control, but these controls did factor in the overall assessment of the child.
20. In its submissions to the Commissioner, the Council maintained that it did not hold specific protocols for coercive control. It explained that the information referred to in its review outcome, and which was subsequently disclosed to the Applicant, comprised the current assessments carried out by social work professionals for the purpose of assessing whether child protection measures required to be taken, and that those involved in carrying out the assessments took coercive control into account when completing their investigations.
21. The Council submitted that while the information now disclosed did not specifically match the terms of the request (i.e. for the coercive control assessment protocol used by Social Work), it comprised the assessments used by social workers to determine whether there were child protection concerns. Although the assessments disclosed did not have a specific section dedicated to coercive control, the Council explained that this was a factor, along with various other considerations, that would be taken into account with completing these documents.
22. The Council explained and provided evidence in support of the searches and enquiries it had undertaken, to identify whether it held any information falling within the scope of the request:
 - At initial request stage, contact was made with the Senior Manager, Children and Families and Criminal Justice (C&F/CJ). She stated that the Council's assessment of risk affecting children would reflect the impact of multiple risk factors, but the Council did not record under a title of coercive control and so was unable to provide any data.
 - At review stage, further enquiries were made with the Senior Manager (C&F/CJ) to ascertain whether there was a wider risk assessment protocol that included assessing the risk of coercive control. In response, she stated she was not aware of the Scottish Government commitment referenced in the request, only a commitment for adults at risk of coercive control, but had asked Training staff to clarify this.

- The Training Officer (Workforce Development Lead Officer, Social Work Children and Families and Corporate Parenting Services) identified that Fife Violence Against Women Partnership (FVAWP) provided a training programme which included themes relating to manipulation and coercive control.
- The FVAWP Co-ordinator was contacted. Noting that the request specifically asked about children and families, and not solely about domestic abuse or other forms of violence against women, she stated that FVAWP played a part in responding to coercive control, ensuring practitioners understand coercive control in the context of domestic abuse. She stated that there was not a coercive control assessment protocol, but children and families social workers were trained in the Safe and Together approach and would be aware of the risks of coercion when completing risk assessment frameworks. The Children and Families Team used a number of different risk assessment frameworks but these were not specifically labelled as such.
- As a result of the discussions held with the Senior Manager (C&F/CJ), the Trainer and the FVAWP Co-ordinator, the Council identified that specific coercive control assessments were not used by staff and had not been produced, and so no further searches were required.
- At the start of the Commissioner's investigation, a discussion took place between the Information Requests Lead Officer, the Information Specialist, the Review Officer and the Senior Manager (C&F/CJ). This meeting confirmed that the Service used the National and Initial Risk Assessments to assess children as a whole, not only relating to coercive control. The decision was therefore taken to provide these risk assessments carried out by professional social work staff. While these might not contain specific reference to coercive control, they incorporated and recorded many factors, amongst which coercive control would be taken into account.
- The Senior Manager (C&F/CJ) carried out searches of Microsoft Edge to identify and download the National Risk Assessment document held on the Scottish Government website, and of Outlook to identify the assessment templates (i.e. the information disclosed to the Applicant during the investigation).

23. The Council submitted that, in reviewing the original request, it now considered that the assessment information identified (and disclosed to the Applicant) were the documents used by the Social Work Children and Families Team to identify coercive control, and were therefore deemed to fall within the scope of the request.

24. The Council confirmed that the risk assessment information provided comprised the current and only assessments used by staff carrying out these investigations within the Council.

The Commissioner's conclusions

25. Having considered all relevant submissions and the terms of the request, the Commissioner considers the interpretation of the request is a relevant factor in this case. On the one hand, the request could be interpreted as seeking information relating specifically to coercive control assessment protocols. On a wider interpretation, it could be taken as capturing assessment protocols that take into account a number of factors, one of which may be coercive control.

26. In relation to information relating specifically to coercive control assessment protocols (as set out in the request), the Commissioner is satisfied that, by the end of the investigation, the Council took adequate, proportionate steps in the circumstances to establish whether it held

any information that fell within the scope of the request in this regard. He has also considered the reasons provided by the Council which explain why it does not hold any information relating specifically to coercive control assessment protocols.

27. The Commissioner is satisfied that the searches described by the Council would have been capable of identifying any information relevant to the request in this regard. The Commissioner is therefore satisfied, on the balance of probabilities, that the Council does not (and did not, on receipt of the request) hold any information relating specifically to coercive control assessment protocols.
28. With regard to the assessment information identified and disclosed during the investigation, the Commissioner notes that none of this information specifically references or cites “coercive control”. He therefore considers that, to determine whether any or all of this information fell within the scope of the request, would not only be a matter of judgement, but would require some level of expert knowledge, training or experience, in order to be able to do so. As such, while the Commissioner recognises that this information relates to the Applicant’s request more generally, he cannot conclude that it falls within the scope of the request, when interpreted as seeking information on assessment protocols specifically relating to coercive control.
29. Notwithstanding this, the Commissioner acknowledges, and welcomes, the Council’s explanation that these are the documents used to identify, among other things, coercive control, and that the Council disclosed this information to the Applicant early in the investigation.
30. In the circumstances therefore, the Commissioner finds that the Council was correct to give notice, in terms of section 17(1) of FOISA, that it did not hold the information requested, and so responded to the request in accordance with Part 1 of FOISA.

Decision

The Commissioner finds that Fife Council 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 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

6 October 2021

Appendix 1: 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.

...

- (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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