



Scottish Information
Commissioner

**Decision 200/2007 Ms B and the
Keeper of the Registers of Scotland**

*Request for property deeds and correspondence involving
banks and solicitors*

**Applicant: Ms B
Authority: Keeper of the Registers of Scotland
Case No: 200701034
Decision Date: 29 October 2007**

**Kevin Dunion
Scottish Information Commissioner**

Kinburn Castle
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Decision 200/2007 Ms B and the Keeper of the Registers of Scotland

Request for property deeds and correspondence – information not held – section 17 (Notice that information is not held) of FOISA

Relevant Statutory Provisions and Other Sources

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) (General entitlement) and 17(1) (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

Ms B requested information regarding a deceased individual; copies of correspondence between the Keeper of the Registers of Scotland (the Keeper) and various banks and solicitors and copies of correspondence between various banks and solicitors. The Keeper responded by providing all the information that was held and that fell within the scope of the request. Ms B was not satisfied with this response and asked the Keeper to review his decision. The Keeper carried out a review and, as a result, notified Ms B that no further information was held. Ms B remained dissatisfied and applied to the Commissioner for a decision.

Following an investigation, the Commissioner found that the Keeper had dealt with Ms B's request for information in accordance with Part 1 of FOISA. He did not require the Keeper to take any action.



Background

1. On 4 June 2007, Ms B wrote to the Keeper requesting all information from 1988 onwards regarding a deceased individual and copies of correspondence involving and between various firms of solicitors and banks pertaining to that individual. Ms B attached a Sasine Register application form which indicated that her request related to a specific property in Scotland.
2. On 7 June 2007, the Keeper wrote to Ms B in response to her request for information. The Keeper advised Ms B that the information which was held was available from the public registers and, as such, was considered exempt from disclosure in terms of section 25 of FOISA (Information otherwise accessible). The Keeper advised Ms B that copy deeds supplied from the public registers would be subject to a fee. The Keeper advised Ms B that she should contact his Customer Services Centre if she wished to be supplied with any copy deeds. Following further correspondence, the Keeper wrote to Ms B on 18 June 2007 supplying copies of deeds at no cost.
3. On 6 July 2007, Ms B wrote to the Keeper requesting a review of her request. She indicated that she did not consider that the documents supplied by the Keeper were complete.
4. The Keeper responded to Ms B on 17 July 2007. He advised Ms B of the nature of the information held within the Registers of Scotland and that the Register, strictly speaking, holds information about property deeds rather than information on people. Consequently, the search carried out by the Keeper was in relation to the specific property previously indicated by Ms B. The Keeper also advised Ms B that banks and solicitors involved in conveyancing transactions did not send copies of correspondence between themselves to the Keeper.
5. The Keeper advised Ms B that he had carried out a Sasine Register search which showed nine deeds recorded from 1989 to 1999. The Keeper supplied Ms B with a copy of the Sasine Register search sheet record and copies of all nine deeds, at no charge. The Keeper advised Ms B that this was all the information that was held by him that fell within the scope of her request.
6. On 23 July 2007, Ms B wrote to my Office, stating that she was dissatisfied with the outcome of the Keeper's review and applying to me for a decision in terms of section 47(1) of FOISA.
7. The application was validated by establishing that Ms B had made a request for information to a Scottish public authority and had applied to me for a decision only after asking the authority to review its response to that request. The case was then allocated to an investigating officer.



The Investigation

8. On 4 September 2007, the Keeper was notified in writing that a valid application had been received from Ms B. At that stage, the Keeper was asked to clarify the significance of the document numbering system employed by him in order to provide the investigating officer with an understanding of the system as it related to the information being sought by Ms B.
9. The Keeper responded with a full explanation of the document numbering system on 7 September 2007.
10. The investigating officer subsequently contacted the Keeper on 26 September 2007 asking him to provide comments on the application in terms of section 49(3)(a) of FOISA and to respond to specific questions on the application.
11. The Keeper responded on 28 September 2007. His submission informed me that the search in this case had been carried out by an experienced Team Leader within the Customer Service Centre.
12. The Keeper explained that the Sasine Register contains information about property rights and only holds information concerning individuals to the extent that their names and addresses are contained within property deeds.
13. The Keeper explained that the search carried out in this case was a straightforward search of structured records. The records and indexes are computerised and so the search was carried out electronically. In this case, all deeds relating to the property indicated by Ms B and naming the individual identified by her were found.
14. The Keeper has advised me that this is the extent of the information that could be obtained from the search that is relevant to Ms B's request.
15. The Keeper also advised me that, at the review stage, an additional manual search was conducted which elicited no further information in addition to that which had already been identified.
16. The Keeper also explained that, due to the passive nature of his role regarding the Sasine Register (which is simply to take in deeds and record them), there is no expectation that solicitors will correspond with him, tell him about their dealings with other parties or offer explanations about the transactions behind the deeds.



17. I note the Keeper has also submitted that, subsequent to his letter to her of 17 July 2007, Ms B had a telephone conversation with a member of his staff and had indicated that she now accepted that the Keeper did not hold the information she was seeking.
18. During the course of the investigation, Ms B has supplied my Office with various documents and has made submissions which have provided background information in relation to her application.

The Commissioner's Analysis and Findings

19. 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 Ms B and the Keeper and I am satisfied that no matter of relevance has been overlooked.

Whether the information requested is held by the Keeper

20. Section 17(1) of FOISA requires that, where an authority receives a request for information that it does not hold, it must give an applicant notice in writing that the information is not held. In this case, the Keeper notified Ms B that no further relevant information was held.
21. Ms B disputed this and applied to me to determine whether the Keeper held any further information.
22. In his submissions, the Keeper has explained to me why he did not expect to hold any correspondence between his office and banks and solicitors nor any copies of other correspondence between banks and solicitors.
23. The Keeper has provided me with details of the methodology of the searches carried out by his Office and the nature of the information held by his office
24. It is clear to me that the Keeper has made considerable efforts to establish whether, and what, information covered by Ms B's request is held. On the evidence of the thorough and extensive searches carried out by the Keeper and, having considered the Keeper's submissions, and the information he has provided in support of those submissions, I am satisfied that he holds no further information that falls within the scope of Ms B's request.
25. I am therefore satisfied that the Keeper has complied fully with the provisions of FOISA in dealing with Ms B's request.



Decision

I find that the Keeper of the Registers of Scotland (the Keeper) acted in accordance with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Ms B. I find that the Keeper was justified in applying section 17(1) of FOISA in relation to the information requested. Accordingly, I do not require the Keeper to take any action in response to this decision.

Appeal

Should either Ms B or the Keeper wish to appeal against this decision, there is a right of 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 notice.

Kevin Dunion
Scottish Information Commissioner
29 October 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.

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.