



Scottish Information
Commissioner

Decision 036/2008 Mr J A Ritchie and Kenilworth Medical Centre

Minutes of a meeting

Applicant: Mr J A Ritchie
Authority: Kenilworth Medical Centre
Case No: 200800086
Decision Date: 28 February 2008

Kevin Dunion
Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS



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Copy of minutes relating to a particular meeting

Relevant Statutory Provisions and Other Sources

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

Mr Ritchie requested a copy of the minutes of a particular meeting which was held at the Kenilworth Medical Centre, which he identified to the Medical Centre, under section 1(1) of the Freedom of Information (Scotland) Act 2002 (FOISA).

Kenilworth Medical Centre responded by providing Mr Ritchie with a copy of the minutes of a meeting which took place within the Medical Centre on 18 June 2007.

Mr Ritchie was not satisfied that these were the minutes he was seeking and so requested a review. Kenilworth Medical Centre maintained its position following a review.

Mr Ritchie remained dissatisfied and applied to the Commissioner for a decision.

Following an investigation, the Commissioner found that Kenilworth Medical Centre held no further information falling within the scope of Mr Ritchie's request for information and therefore had dealt with it in accordance with Part 1 of FOISA. He did not require Kenilworth Medical Centre to take any action.



Background

1. On 8 January 2008, Mr Ritchie wrote to Kenilworth Medical Centre requesting the following information:

A copy of the minutes of the meeting arranged by [a named person] at Kenilworth Surgery.

2. On 8 January 2008, Kenilworth Medical Centre responded to Mr Ritchie's information request, and in doing so provided him with a copy of meeting minutes dated 18 June 2007.
3. Mr Ritchie wrote to Kenilworth Medical Centre on 9 January 2008 to highlight his dissatisfaction with the minutes provided and to ask that he be given the correct minutes for the meeting that he attended. Mr Ritchie was of the view that the minutes he had been given were not an accurate reflection of the discussion which took place during the meeting.
4. Kenilworth Medical Centre responded to Mr Ritchie's request for review on 11 January 2008. In this response Kenilworth Medical Centre advised that the notes provided to Mr Ritchie were the only notes of the meeting that existed and these were the same notes as had been provided to all other persons who attended the meeting.
5. On 21 January 2008, I received a letter from Mr Ritchie, stating that he was dissatisfied with the outcome of Kenilworth Medical Centre's review and applying to me for a decision in terms of section 47(1) of FOISA.
6. The application was validated by establishing that Mr Ritchie 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 Investigation

7. On 23 January 2008, Kenilworth Medical Centre was notified in writing that an application had been received from Mr Ritchie. The case was allocated to an investigating officer.



8. The investigating officer contacted Kenilworth Medical Centre on 1 February 2008 and was invited to provide my Office with comments, in line with section 49(3)(a) of FOISA. Kenilworth Medical Centre was asked to provide details as to whether there were any other minutes held in the Medical Centre concerning the meeting which Mr Ritchie attended on 18 June 2007 and whether there had been any other meetings with Mr Ritchie which might fall within the scope of his request. It was also asked to provide details of the searches that were carried out to establish what minutes were held regarding the relevant meeting or meetings and to provide comments on Mr Ritchie's concern that he believed he had been provided with the wrong minutes, as he had asked specific questions during the meeting and was concerned that these were not recorded in the minutes he had received. Comments were also sought on Mr Ritchie's concern that the minutes he received were not reflective of the discussion which took place during the meeting.
9. A response was provided by Kenilworth Medical Centre on 5 February 2008. Further communication with Kenilworth Medical Centre followed in the course of the investigation. I will consider Kenilworth Medical Centre's comments further in my analysis and findings below.

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 presented to me by both Mr Ritchie and Kenilworth Medical Centre and am satisfied that no matter of relevance has been overlooked.
11. As indicated already in this decision notice (see paragraph 1 above), Mr Ritchie made a request to Kenilworth Medical Centre for a copy of the minutes from a particular meeting he attended. In its responses to Mr Ritchie, Kenilworth Medical Centre provided him with a copy of the minutes for a meeting which took place on Monday 18 June 2007. Kenilworth Medical Centre has sought to reassure Mr Ritchie that there are no other notes of the meeting held in the Medical Practice, a point it has also confirmed to my investigating officer. It also confirmed to my investigating officer that no other relevant meetings had taken place, with the exception of consultations between Mr Ritchie and individual GPs. Essentially, it has argued throughout that it holds no further information falling within the scope of Mr Ritchie's request.
12. Mr Ritchie is not satisfied that this is the case and is of the view that the minutes he has been given a copy of are not an accurate reflection of the discussions that went on during the meeting he attended.



Section 17 – Notice that information is not held

13. In order to determine whether Kenilworth Medical Centre was justified in advising Mr Ritchie that no other notes of the meeting were held, I must be satisfied that Kenilworth Medical Centre does not hold (and did not hold at the time of Mr Ritchie's request) information which would meet his request.
14. In its submissions to me, Kenilworth Medical Centre advised that it had provided Mr Ritchie with the complete minutes of the meeting he attended. Kenilworth Medical Centre explained that the minute taken at the meeting was not a verbatim one but had been accepted by persons who attended the meeting as a fair and accurate summary of the discussions that took place. It also advised that there were no other notes held relating to this meeting, and that there were no other relevant minuted meetings.
15. Kenilworth Medical Practice has also provided an explanation as to the searches it had undertaken to determine whether any further relevant information was held.
16. Having considered the submissions made by Kenilworth Medical Centre, I am satisfied that it has carried out a thorough search for any relevant records, and that it has already provided Mr Ritchie with a full copy of the minutes of the meeting that took place on 18 June 2007 and that there are no other records held which would satisfy Mr Ritchie's request. I therefore accept that Kenilworth Medical Centre does not (and did not at the time of Mr Ritchie's request) hold any other records which would fall within the scope of the request.
17. Finally, I should note that my remit in carrying out this investigation has been to determine whether Kenilworth Medical Practice had indeed provided Mr Ritchie with all the relevant information it held. It is not my function to consider the accuracy of any information contained in the minutes.

Decision

I find that Kenilworth Medical Centre acted in accordance with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mr Ritchie.



Appeal

Should either Mr Ritchie or Kenilworth Medical Centre 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 after the date of intimation of this decision notice.

Signed on behalf of Kevin Dunion, Scottish Information Commissioner, under delegated authority granted on 14 November 2007.

Margaret Keyse
Head of Investigations
28 February 2008



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.
- (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.