

Decision Notice 153/2019

Social work guidelines

Applicant: The Applicant

Public authority: West Lothian Council

Case Ref: 201900552



Scottish Information
Commissioner

Summary

The Council was asked for information about guidelines and procedures relating to social workers' development of hypothesis in investigating a case.

The Council responded that it did not hold guidelines, procedures or training covering this specific area.

The Commissioner investigated and agreed that the Council did not hold the information.

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 5 December 2018, the Applicant made a request for information to West Lothian Council (the Council). The information requested was:
 - “guidelines” a social worker follows to formulate their “hypothesis” where they believe abuse by one service user has affected the other service user (part one)
 - “guidelines” which enables a social worker to remain “unbiased” when “formulating a hypothesis”(part two)
2. The Council responded on 12 December 2018. The Council stated it did not hold information as there was no formal procedure, training or guidelines covering these specific areas. The Council provided the Applicant with a general explanation of social work qualifications, training and frameworks followed.
3. On 21 December 2018, the Applicant wrote to the Council requesting a review of part two of this request. The Applicant argued that the Council has a duty to remain impartial in assessments therefore must have a policy or procedure.
4. The Council notified the Applicant of the outcome of its review on 25 March 2019. The Council apologised for the delay in responding, but maintained it did not hold the information requested.
5. On 25 March 2019, 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 argued that the Council's response was disingenuous. The Applicant submitted that hypothesising is a core activity within social work assessment. She also commented that the term “guidelines” would cover policy and procedures or any other recorded information in the form of a standard operating procedure.

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 him for a decision.
7. On 16 May 2019, the Council was notified in writing that the Applicant had made a valid application and 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. The Council was invited to comment on this application and to answer specific questions. These related to whether any information falling within the scope of the request was held by the Council and the searches that it had carried out in order to provide the response to the request and review.

Commissioner's analysis and findings

9. In coming to a decision on this matter, the Commissioner 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.
10. The Commissioner's investigation is limited to consideration of part two of this request and whether the Council held any guidelines which "*enables a social worker to remain unbiased when formulating a hypothesis.*"
11. In terms of section 1(4) of FOISA, the information to be provided in response to a request under section 1(1) is that falling within the scope of the request and held by the authority at the time the request is received. This is subject to qualifications, but these are not applicable here. 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.
12. The standard of proof to determine whether a Scottish public authority holds information is the civil standard of the balance of probabilities. In determining this, the Commissioner will consider the scope, quality, thoroughness and results of the searches carried out by the public authority. He will also consider, where appropriate, any reason offered by the public authority to explain why it does not hold the information.
13. The Council confirmed in their response and review and to the Commissioner that it did not hold the information requested. The Council stated that there were no formal guidelines which would satisfy the terms of the request. The Council explained that all social work staff undertake a professional qualification and access training on a range of topics throughout their career.
14. The Applicant argued that the Council's position was disingenuous, submitting that social workers are required to follow an assessment tool or model and that hypothesising was subject to such a tool. The Applicant argued that the term "guidelines" would cover their policy and procedures or any other recorded information in the form of a standard operating procedure.
15. In response, the Council explained that their Social Policy team do not have generic risk assessment tools and confirmed that the Children and Families Social Work team do not have a specific risk assessment tool.

16. The Council explained that each case has to be considered in the context of the situation to determine how an assessment is to be progressed, who to consult and what action to take. For example, a child protection issue would follow child protection guidelines.
17. In seeking to assist the Applicant, the Council explained that staff followed the National Risk Framework to Support the Assessment of Children and Young People and detailed other child protection procedures in use.
18. The Council detailed to the Commissioner the searches and staff consulted within the area responsible for the service and provided the procedures it used to determine if any information falling within the scope of the request was held.
19. The Commissioner acknowledges the concerns raised by the Applicant in her application, but as noted above, the information an applicant expects an authority to hold cannot be equated with the information an authority actually holds.
20. In the circumstances, the Commissioner is satisfied that the information requested is not held by the Council. In reaching this conclusion, he notes that the request is specific to the formulation of unbiased hypothesis. Whilst the Applicant may think that there should be standalone guidelines/procedures/assessment tools, the Council has explained that social workers have access to a variety of frameworks and texts to enable them to develop their hypothesising which relates to the circumstances of the scenario under consideration.
21. In the circumstances, the Commissioner is satisfied with the explanations provided by the Council as to why it does not hold this specific information. He also considers the searches conducted by the Council to be both thorough and proportionate and is satisfied that the Council took adequate steps to establish what information was held in this case and that, on the balance of probabilities, the Council does not hold any information as specified by the applicant in the request. The Council was therefore correct to give the Applicant notice in terms of section 17(1) of FOISA that it did not hold the information requested

Decision

The Commissioner finds that West Lothian 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

21 October 2019

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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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