

Decision Notice



Decision 035/2014 Mr D Gallant and Strathclyde Partnership for Transport

Strathclyde concessionary travel scheme

Reference No: 201302543

Decision Date: 19 February 2014

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Rosemary Agnew

Scottish Information Commissioner

Kinburn Castle
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Summary

On 15 April 2013, Mr Gallant asked Strathclyde Partnership for Transport (SPT) for information on the Strathclyde concessionary fare scheme. SPT provided information. Following an investigation, the Commissioner found that SPT had provided Mr Gallant with all of the information it held and which fell within the scope of his request.

Relevant statutory provisions

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 the Appendix to this decision. The Appendix forms part of this decision.

Background

1. On 15 April 2013, Mr Gallant wrote to SPT requesting the following information:
... full details of the Strathclyde concessionary fare scheme, including the precise rules of the scheme as applicable to rail travel, and what special arrangements apply to disabled people who cannot use certain stations as a result of being disabled, for example, those who are currently being charged half-fare because they cannot use a station that would qualify them for the much lower flat-fare tariff due to being unable to use a station within the flat-fare zone. I also want to know why there have been very recent changes to the scheme without any consultation with disabled customers.
2. SPT responded on 15 May 2013 and provided Mr Gallant with information relating to the concessionary travel scheme. SPT also explained that the most recent change to the concessionary scheme (concerning an evening peak restriction) did not apply to disabled concession card holders.
3. On 17 May 2013, Mr Gallant wrote to SPT requesting a review of its response. He did not agree that SPT had provided him with all the information he sought. He referred to a “secret agreement between SPT and Scotrail” and stated that he wanted a copy of this, including “the provision that SPT rules over-ride the national conditions”.



4. SPT notified Mr Gallant of the outcome of its review on 6 June 2013. It concluded that the original decision should be upheld, confirming that no recent changes had been made to the Strathclyde Concessionary Travel Scheme (the SCTS) which affected disabled passengers.
5. On 31 October 2013, Mr Gallant wrote to the Commissioner, stating that he was dissatisfied with the outcome of SPT's review and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
6. The application was validated by establishing that Mr Gallant made a request for information to a Scottish public authority and applied to the Commissioner for a decision only after asking the authority to review its response to that request. The case was then allocated to an investigating officer.

Investigation

7. The investigating officer contacted SPT, giving the authority notice of the application and an opportunity to provide comments on it (as required by section 49(3)(a) of FOISA). It was asked to describe the searches undertaken for any relevant information, and to respond to specific points raised by Mr Gallant.
8. Mr Gallant was also contacted by the investigating officer, to clarify his reasons for dissatisfaction with SPT's response.
9. Both SPT and Mr Gallant provided submissions, considered further below.

Commissioner's analysis and findings

10. In coming to a decision on this matter, the Commissioner considered the relevant submissions, or parts of submissions, made to her by both Mr Gallant and SPT. She is satisfied that no matter of relevance has been overlooked.
11. Mr Gallant's dissatisfaction, as expressed in his requirement for review and application to the Commissioner, appeared to relate to what he perceived to be recent changes to the SCTS affecting the cost of his rail travel. He believed there to be "secret" elements of the SCTS, communicated to ScotRail but not in the public domain. He emphasised these "secret rules", which he understood applied only to SPT concession card holders and which he believed to be incompatible with the National Rail Conditions of Carriage (the NRCC), throughout his correspondence with the investigating officer.
12. SPT was asked for any comments it wished to make on these reasons for dissatisfaction, and for details of the searches carried out to identify and locate any information falling within the scope of Mr Gallant's request.



13. SPT explained that while it was responsible for the administration of the SCTS, the NRCC was administered by ScotRail. SPT stated that it had issued no instruction to ScotRail concerning the NRCC and had no locus to do so. It was not aware of any aspects of the SCTS which violated the NRCC and had no knowledge of the specific changes identified by Mr Gallant.
14. In an effort to assist Mr Gallant, SPT submitted, it had informal discussions with ScotRail. ScotRail confirmed that it had made no changes to its fares of the kind suggested by Mr Gallant. It also provided copies of related correspondence with Mr Gallant on the matter.
15. In relation to searches, SPT detailed all the staff consulted in connection with the request. It reiterated that it had provided Mr Gallant with all the information that fell within the scope of his request (which was in the public domain in any event) and held no further information.
16. SPT emphasised that it had never authorised, considered or had any dealings in relation to the issue of “secret” instructions to ScotRail.
17. Having taken account of the submissions from both SPT and from Mr Gallant, the Commissioner is satisfied that SPT took reasonable steps in the circumstances to establish what information it held and which fell within the scope of Mr Gallant’s request. That information was provided to Mr Gallant. The Commissioner accepts that SPT could not provide Mr Gallant with details of changes to the scheme where no relevant changes had been introduced.
18. In all the circumstances, therefore, the Commissioner finds that SPT complied with Part 1 (and in particular section 1(1)) of FOISA in responding to Mr Gallant’s request.
19. The Commissioner acknowledges that Mr Gallant’s request would extend to “secret rules” communicated only to ScotRail, were such rules to exist. However, she does not accept that it would extend to consideration of elements of the SCTS by SPT prior to these elements coming into force, as contained in SPT minutes: Mr Gallant is free to make a separate request for this information, should he wish to do so.

DECISION

The Commissioner finds that Strathclyde Partnership for Transport complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by Mr Gallant.

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and Strathclyde Partnership for Transport



Appeal

Should either Mr Gallant or Strathclyde Partnership for Transport 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
19 February 2014



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.
- ...
- (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.
- ...