

Decision Notice

Decision 068/2019: Dr S and City of Edinburgh Council

Parking fee and permit information

Reference No: 201801686
Decision Date: 2 May 2019



Scottish Information
Commissioner

Summary

The Council) was asked for all parking fee and permit purchasing events and details of each purchase between October 2014 and May 2018.

The Council explained that providing a response to the request would exceed £600 and so it was not obliged to comply with the request. Following an investigation, the Commissioner agreed.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (4) and (6) (General entitlement); 12(1) (Excessive cost of compliance)

The Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004 (the Fees Regulations) regulations 3 (Projected costs) and 5 (Excessive cost – prescribed amount)

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 16 August 2018, Dr S made a request for information to the City of Edinburgh Council (the Council). He asked for the following in machine processable format (e.g. zipped CSV file):
 - (i) All parking fee purchase events, including both ticket machine and mobile phone (“RingGo”) purchases and purchases to extend a stay (either as separate event or as included in the total length of the stay), from October 2014 to May 2018, including:
 - the street
 - the time
 - date of the purchase
 - the length of the stay
 - price paid (Q1).
 - (ii) All parking permit issuing events from October 2014 to May 2018, including:
 - the date of issue
 - the expiry date
 - the price paid
 - the type of permit
 - and the parking zone(s) (Q2).

Dr S also asked for histograms (in the form of tables) of the length of stay purchased, broken into 10-minute buckets, in the event that the Council was unable to answer question (i) in full. He explained what information he wanted to be included in the histograms (Q3).

2. The Council responded on 11 September 2018. The Council informed Dr S that it was unable to respond to Q1 and Q3 as the cost of locating, retrieving and providing the information would exceed the £600 statutory maximum. The Council cited section 12(1) of FOISA, provided an explanation of the work required to obtain the information from Parkfolio (a parking services management tool) and a cost calculation. The Council provided a response to Q2.
3. On 12 September 2018, Dr S wrote to the Council requesting a review of its decision. He did not accept the explanation as adequate and considered there would be other ways to obtain the data other than that described. He considered Parkfolio's technical support could be asked to export the data as this ought to be a routine request as part of the contract and this technical support should be provided at no extra cost. If those options were unavailable, the reply to the request ought to have explained why.
4. The Council notified Dr S of the outcome of its review on 10 October 2018. The Council apologised for failing to explain why it was not in a position to provide Dr S with the information. It explained that it had not included the Parkfolio system of data reporting in the last procurement process as it was considered too expensive. Therefore, the Council had very limited system functionality to retrieve the requested data and access could only be through the route explained in its response of 11 September 2018. It therefore confirmed its decision that it was not obliged to comply with the request.
5. On 10 October 2018, Dr S wrote to the Commissioner. Dr S applied to the Commissioner for a decision in terms of section 47(1) of FOISA. He was dissatisfied with the outcome of the Council's review because he considered the costings to be unreasonable, not reflecting the true cost of providing the information. Dr S also expressed concern about the way the contract had been awarded.

Investigation

6. The application was accepted as valid. The Commissioner confirmed that Dr S 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 1 November 2018, the Council was notified in writing that Dr S 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.
9. Dr S was also invited to submit any further concerns with regard to the application.

Commissioner's analysis and findings

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

Section 12(1) – Excessive cost of compliance

11. Section 12(1) provides that a Scottish public authority is not obliged to comply with a request for information where the estimated cost of doing so would exceed the relevant

amount prescribed in the Fees Regulations. This amount is currently set at £600 (regulation 5 of the Fees Regulations). Consequently, the Commissioner has no power to require the disclosure of information should he find that the cost of responding to a request for information exceeds this sum.

12. The projected costs the public authority can take into account in relation to a request for information are, according to regulation 3 of the Fees Regulations, the total costs (whether direct or indirect) which the authority reasonably estimates it is likely to incur in locating, retrieving and providing the information requested in accordance with Part 1 of FOISA. The public authority may not charge for the cost of determining whether it actually holds the information requested, or whether or not it should provide the information. The maximum rate a Scottish public authority can charge for staff time is £15 per hour.
13. The Council explained that it was unable to answer Q1 due to the costs involved in providing the information and that the same work would be required to answer Q3. The Council stated that it held summary data on the number of transactions and value of income received on a monthly basis, which is provided by the enforcement contractor each month. As previously stated in the review response, the Council decided not to include paying for the data reporting package within the contract for the ticket issuing machines as it was considered too expensive.
14. The propriety computer system, Parkfolio, still manages the ticket machines, but is no longer supported as it was written for Windows 2000 with some upgrading for Windows XP. Therefore, the only way for the Council to obtain the individual transaction information requested by Dr S would be to run around 150 separate reports using the outdated system with its very limited capabilities or to request a database extract from the IT contractor.
15. The Council provided the Commissioner with confirmation from the contractor that providing an extract as described by Dr S would cost the Council £11,500.
16. The Council also provided the Commissioner with a further breakdown of how the estimate provided in their response and review response was calculated:
 - Parkfolio only allows 2,000 lines of data to be accessed at a time which means a number of reports would be necessary to capture the data required
 - 12 minutes would be required to set up and run each report
 - A Senior Business Administrator, at £10.55 per hour, would then have to extract and collate the information from each report at approximately eight minutes.
 - It would require 150 exports to cover the 44 months' worth of data requested.
 - 6,600 blocks of data would require to be processed. It would take at least 20 minutes per block to obtain and collate the information taking an estimated 2,200 hours of staff time at a total cost of £23,210.00.
17. In response to a question from the Commissioner, the Council explained that there is no legal obligation or requirement of good practice for the Council to hold parking transactions in a fashion that would allow the production of the information requested or to pay for additional data reporting as part of the contract: the requirement is to report annual figures to the Scottish Government compiled using the monthly figures provided by the contractor.
18. The Commissioner is satisfied that the Council's estimate reflects the actual cost to the Council of responding to Dr S's request. It is clear that, even if the work was to be conducted

by staff of a lower grade and hourly rate, the cost of responding would still be significantly in excess of the £600 limit.

19. In all the circumstances, the Commissioner is satisfied that the request could not have been complied with within the £600 cost limit. Consequently, he finds that the Council was entitled to rely on section 12(1) of FOISA and was under no obligation to comply with the request.

Decision

The Commissioner finds that the City of Edinburgh Council complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by Dr S.

Appeal

Should either Dr S 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

02 May 2019

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.
...
- (6) This section is subject to sections 2, 9, 12 and 14.

12 Excessive cost of compliance

- (1) Section 1(1) does not oblige a Scottish public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed such amount as may be prescribed in regulations made by the Scottish Ministers; and different amounts may be so prescribed in relation to different cases.
...

Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004

3 Projected costs

- (1) In these Regulations, "projected costs" in relation to a request for information means the total costs, whether direct or indirect, which a Scottish public authority reasonably estimates in accordance with this regulation that it is likely to incur in locating, retrieving and providing such information in accordance with the Act.
- (2) In estimating projected costs-
 - (a) no account shall be taken of costs incurred in determining-
 - (i) whether the authority holds the information specified in the request; or
 - (ii) whether the person seeking the information is entitled to receive the requested information or, if not so entitled, should nevertheless be provided with it or should be refused it; and
 - (b) any estimate of the cost of staff time in locating, retrieving or providing the information shall not exceed £15 per hour per member of staff.

5 Excessive cost - prescribed amount

The amount prescribed for the purposes of section 12(1) of the Act (excessive cost of compliance) is £600.

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