

Decision Notice



Decision 185/2013 Mr Paul Drury and NHS 24

Revenue generated from telephone numbers

Reference No: 201301261

Decision Date: 22 August 2013

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Rosemary Agnew

Scottish Information Commissioner

Kinburn Castle

Doubledykes Road

St Andrews KY16 9DS

Tel: 01334 464610



Summary

On 3 April 2013, Mr Drury asked NHS 24 for information on revenue generated from certain types of telephone numbers used for patients' calls. Following an investigation, the Commissioner found that NHS 24 had provided Mr Drury with any relevant information it held.

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

Background

1. On 3 April 2013, Mr Drury, an investigative journalist, wrote to NHS 24 requesting the following information:
... the total telephone revenue produced in the last three years from premium rate phone lines like the number 08454 242424 which you use for patients' calls. Also, can you tell me the exact pricing structure of calls i.e. pence per minute and any set-up charge and the cost of calling from a mobile phone.
2. NHS 24 responded on 24 April 2013 and informed Mr Drury that, as the telephone numbers in use by NHS 24 did not fall into the "premium rate" category, it did not hold any relevant information.
3. On 29 April 2013, Mr Drury wrote to NHS 24 requesting a review of its decision. He clarified that he was interested in any numbers charged at over the standard call charge. He reminded NHS 24 that he had asked how much revenue it generated from receiving calls to such numbers.



4. NHS 24 notified Mr Drury of the outcome of its review on 17 May 2013 and informed him that it generated no revenue from the number he had specified and that it did not hold any information regarding the pricing structure of calls made. NHS 24 advised Mr Drury that the prices paid by callers for making the calls would be dependent upon the individual packages those callers had with their own telephone service providers.
5. On 28 May 2013, Mr Drury wrote to the Commissioner's office, stating that he was dissatisfied with the outcome of NHS 24'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 Drury 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 subsequently contacted NHS 24, giving it an opportunity to provide comments on the application (as required by section 49(3)(a) of FOISA) and asking it to respond to specific questions. In particular, NHS 24 was asked to justify its reliance on any provisions of FOISA it considered applicable to the information requested. The investigating officer informed NHS 24 that Mr Drury had explained he was concerned about numbers beginning 0844 and 0845, and that he was seeking information on *any* revenue generated from these numbers, regardless of whether a profit was made.
8. NHS 24 provided the Commissioner with its submissions, which included a copy of email correspondence with British Telecom (BT), its telephone service provider.
9. Mr Drury also provided comments to the Commissioner on his reasons for dissatisfaction.

Commissioner's analysis and findings

10. In coming to a decision on this matter, the Commissioner has considered the relevant submissions, or parts of submissions, made to her by both Mr Drury and NHS 24. She is satisfied that no matter of relevance has been overlooked.

Submissions from Mr Drury

11. Mr Drury stated that he was looking into the issue of whether Government departments obtained revenue from callers using certain telephone numbers. He submitted that he had been researching how some doctors' practices were receiving revenue from surgery telephone numbers beginning 084.



12. Mr Drury provided the Commissioner with an information leaflet produced by the telephone regulatory body Ofcom, which explained that numbers beginning 084 could, in some circumstances, be more expensive than a local call when called from a landline, and were inevitably so when called from a mobile. Mr Drury believed bodies receiving calls from such numbers were earning a share of any revenue generated by the calls. Bearing in mind that doctors' surgeries had confirmed receipt of "significant funds" from their 084 numbers, he thought it logical that – because of its national reach – the NHS 24 line would generate a lot of revenue.
13. From previous enquiries, Mr Drury said he had established that if the revenue obtained from callers did not equate to the cost of running the telephone line, some bodies claimed that they did not "profit" from 084 numbers (and so no revenue was generated). Mr Drury emphasised that he was interested in any money generated for NHS 24 through phone calls, irrespective of whether it covered the total cost of running the line.

Submissions from NHS 24

14. NHS 24 informed the Commissioner that it did not receive any revenue (as defined by Mr Drury) from any of the inbound numbers it employed. NHS 24 provided the Commissioner with a list of the inbound numbers used by it, which included 0844, 0845, 0800 and 0300 numbers. This list was contained in an email from its telephone provider BT, which confirmed the position.

The Commissioner's conclusions

Revenue generated

15. The Commissioner notes that Mr Drury was dissatisfied with the confirmation provided by BT, suggesting that the Commissioner should question BT further on the matter (confining any enquiry to the kinds of numbers he was interested in).
16. In the absence of any evidence to refute BT's statement, the Commissioner does not accept that anything further could be gained by pursuing this line of enquiry. The Commissioner has no power to compel a response from a private entity such as BT and (in any event) sees no reason in the circumstances why BT should give her a different answer from that provided to NHS 24 already: BT may have provided information on additional numbers, but it was not asked to do so and was clear (without any prompting) in its confirmation that *none* of the numbers generated any revenue for NHS 24.
17. The Commissioner asked Mr Drury to provide her with any further information he might have supporting his own assertions. At the time of writing this decision, no such information had been provided.



18. Having considered the submissions from both Mr Drury and NHS 24, along with the written confirmation from BT, the Commissioner accepts, on balance, that NHS 24 complied with Part 1 of FOISA in its response on this point. She is therefore satisfied that NHS 24 holds no further relevant information. She cannot comment on whether other service providers may generate revenue from numbers used by customers, in accordance with whatever arrangements they may have with their own telephone service providers.

The pricing structure of calls to these numbers

19. The Commissioner has considered Mr Drury's reference to the Ofcom leaflet¹ which states that 0844 and 0845 numbers can cost more than local calls, and up to 41p per minute from a mobile phone. She also notes that the cost of calling these numbers does vary, and will differ from caller to caller (dependent on factors such as the time of day when the call is made, the individual's call plan with their own telephone provider and the exact number called). She accepts that NHS 24 is not responsible for setting the costs of calls made to its 0844 and 0845 numbers.
20. In the circumstances, the Commissioner accepts that NHS 24 does not (and cannot) hold information as to the exact price structure of calls to these numbers. As such, the Commissioner finds that NHS 24 was correct in its application of section 17(1) of FOISA.

DECISION

The Commissioner finds that NHS 24 complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by Mr Drury.

Appeal

Should either Mr Drury or NHS 24 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.

Margaret Keyse
Head of Enforcement
22 August 2013

¹ <http://consumers.ofcom.org.uk/files/2010/01/numbering.pdf>



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.

...

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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