



Scottish Information
Commissioner
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Decision Notice 121/2025

Records relating to maintenance, repair and service of vehicle

Authority: City of Edinburgh Council
Case Ref: 202401524

Summary

The Applicant asked the Authority for all maintenance, repair and service history records for a specific vehicle sold to him at auction. The Authority disclosed information to the Applicant. During the investigation, the Authority disclosed further information to the Applicant. The Commissioner found that the Authority failed to comply with FOISA in responding to the request. However, he was satisfied, by the close of the investigation, that the Authority had identified all information falling within the scope of the request.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2), (4) and (6) (General entitlement); 47(1) and (2) (Application for decision by Commissioner)

Background

1. On 26 September 2024, the Applicant made a request for information to the Authority. He explained that he had recently purchased a specific vehicle from the Authority (which he provided details of) and asked the Authority to provide him with all maintenance, repair and service history records for the vehicle.
2. The Authority responded on 23 October 2024 and provided MOT and service history recorded on its systems for the vehicle specified in the request.

3. Later the same day, the Applicant wrote to the Authority requesting a review of its decision. He was dissatisfied with the decision because he believed that the Authority held more information falling within the scope of his request.
4. The Authority notified the Applicant of the outcome of its review on 7 November 2024, which fully upheld its original decision.
5. On 25 November 2024, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. He stated that he was dissatisfied with the outcome of the Authority's review because he did not accept that the Authority did not hold any further information falling within the scope of his request.

Investigation

6. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.
7. On 3 December 2024, the Authority was notified in writing that the Applicant had made a valid application. The case was subsequently 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 Authority was invited to comment on this application and to answer specific questions.
9. The Applicant was also asked to provide further comments, which he did. In doing so, he repeated concerns raised in his application regarding the accuracy of some of the information disclosed by the Authority to him.
10. As stated in many previous decisions, the Commissioner cannot comment on the accuracy of any recorded information an authority holds. To that extent, the Commissioner is not assessing the accuracy of the recorded information, but rather the extent of information held by the Authority and covered by the request.

Commissioner's analysis and findings

11. The Commissioner has considered all of the submissions made to him by the Applicant and the Authority.

Section 1(1) – General entitlement

12. Section 1(1) of FOISA provides that a person who requests information from a Scottish public authority which holds it is entitled to be given that information by the public authority, subject to qualifications which, by virtue of section 1(6) of FOISA, allow Scottish public authorities to withhold information or charge a fee for it. The qualifications contained in section 1(6) are not applicable in this case.
13. The information to be given is that held by the Authority at the time the request is received, as defined by section 1(4). This is not necessarily to be equated with information an applicant believes the public authority should hold.

Information disclosed during the investigation

14. The Applicant was dissatisfied with the Authority's initial response as he expected further information to be provided, namely in relation to mileage or repair records.
15. During the investigation, the Authority confirmed that mileage information for the vehicle was held on its fuel management system. However, it said this information also contained personal data relating to the individual who fuelled the vehicle, and it therefore could not be disclosed to the Applicant. Following further correspondence with the Commissioner, the Authority disclosed this information to the Applicant subject to some personal data redactions.
16. This information should have been disclosed to the Applicant by the date of the review outcome (at the latest). The Commissioner must therefore find that the Authority's failure to disclose this information in response to the initial request or requirement for review was a breach of section 1(1) of FOISA.

Does the Authority hold any further relevant information?

17. The standard of proof to determine whether a Scottish public authority holds information is the civil standard of the balance of probabilities. In determining where the balance of probabilities lies, the Commissioner considers the scope, quality, thoroughness and results of the searches carried out by the public authority.
18. The Commissioner also considers, where appropriate, any reason offered by the public authority to explain why it does not hold the information. While it may be relevant as part of this exercise to explore expectations about what information the authority should hold, ultimately the Commissioner's role is to determine what relevant recorded information is (or was, at the time the request was received) actually held by the public authority.

The Applicant's submissions

19. As stated above, the Applicant was dissatisfied with the Authority's response as he considered it held more information than it had identified and disclosed to him.
20. The Applicant referred to the Authority's retention schedule, which specified retention of vehicle maintenance records for a minimum of seven years following disposal of the item.
21. The Applicant also explained that he had recently seen a similar vehicle for sale online, with one of the pictures advertising the vehicle showing a "vehicle folder" from the Authority's Fleet Services. He said this was the sort of information he would expect would also be available for the vehicle he purchased, particularly given the Authority's retention schedule.

The Authority's submissions

22. By way of background, the Authority explained that the vehicle referred to in the Applicant's request was sold as part of a major fleet replacement project – forming part of a group of 200 vans which were not compliant with the LEZ being introduced in Edinburgh. It was a major project and operated in such a way that there was a clear process mapped out for completing the offboarding of old assets and onboarding of new vehicles.
23. The Authority said that once a vehicle was disposed of and the sale proceeds confirmed, the vehicle was taken off the system in order to keep the data completely accurate. It reiterated that the vehicle referred to in the Applicant's request was just one of part of a major replacement programme but explained that this process was followed consistently and that all vehicles were sold at auction and sold as presented without service history.

24. At the time of the request, the Authority provided what it considered was available on the system that constituted “service history” of the vehicle referred to in the Applicant’s request. It clarified that the Applicant did not purchase the vehicle from the Authority, but through an auction company that handled the sale on behalf of the Authority. It confirmed that when the Applicant submitted his requirement for review on 23 October 2024, the vehicle had been “removed from the system”.
25. In terms of the searches carried out in response to the request, the Authority confirmed that the request had been allocated to Fleet Services to respond to, specifically, the Fleet and Workshops Manager. Searches were carried out on the fleet management system (Tranman), which is where the Authority holds all vehicle maintenance information. The Authority undertook searches using the registration of the vehicle referred to in the Applicant’s request and the corresponding fleet reference.
26. In response to the Applicant’s concern that there was no recorded mileage in the service entries disclosed to him, the Authority explained that this information was not recorded on the fleet management system but was instead held on a fuel management system linked to the fleet management system. It explained that this information contained data relating to the individual who fuelled the vehicle, and it therefore could not be shared “due to GDPR”. (As rehearsed earlier, this information, subject to personal data redactions, has now been disclosed to the Applicant.)
27. The Authority confirmed that it held no further information falling within scope of the request as the vehicle record had now been removed from the fleet management system as it was no longer an Authority “asset”. While it noted it was required by law to retain maintenance records for any operator licenced fleet it operated (heavy goods vehicles) for a minimum of 15 months, it stated this did not apply to the vehicle referred to in the Applicant’s request (which was a non-operator licensed vehicle).
28. In view of comments made by the Applicant, the Commissioner asked the Authority for further clarity on this point. It subsequently confirmed that the Fleet and Workshops Manager had misunderstood the process for the deletion/retention of vehicle data and that maintenance records relating to the vehicle referred to in the Applicant’s request and that these records should not have been deleted. It said it had escalated this matter to prevent this from happening again.
29. The Commissioner also asked the Authority for further clarity on when the vehicle record was removed from the fleet management system. It confirmed that the vehicle record existed on 7 October 2024 and that this had been disclosed to the Applicant in as part of its initial response, which it considered answered the Applicant’s request. It explained it was unclear exactly when the vehicle record was deleted as it did not hold information that would clarify this point. It reiterated that the vehicle record was deleted alongside over 200 other fleet assets as part of a fleet project unrelated to the Applicant’s request.

The Commissioner’s view

30. Having carefully considered all relevant submissions and the terms of the request, the Commissioner is satisfied that the Authority took reasonable steps to establish what information it held falling within the scope of the Applicant’s request.
31. The Commissioner considers that the Authority’s searches were reasonable in the sense of who it asked to carry out the searches and the locations searched – he finds that they would be capable of locating the information requested. He is therefore satisfied, on balance, that

(by the close of the investigation) the Authority identified, located and provided all the relevant information it held.

32. The Commissioner recognises that the Applicant considered that the Authority should hold further information. Whether a public authority should hold information which it does not hold is not a matter for the Commissioner to decide. As stated above, he also has no locus to comment on the accuracy of the information held by a public authority: he is concerned with what information the authority actually holds.
33. In the circumstances, therefore, the Commissioner is satisfied, on the balance of probabilities, that the Authority does not (and did not, on receipt of the request) hold any further information than that already disclosed, falling within the scope of the Applicant's request.
34. However, in the circumstances, the Commissioner must comment on the Authority's deletion of the vehicle record after receiving the Applicant's request. As stated above, the information to be given in response to a request under FOISA is that held by the authority at the time the request is received, as defined in section 1(4).
35. In this case, it appears the Authority did disclose to the Applicant (as part of its initial response) the vehicle record it subsequently deleted. However, the deletion of information relating to the vehicle referred to in the request has made it more difficult for the Commissioner to interrogate whether further information might have been held.
36. The Commissioner would urge authorities to take care when deleting information, particularly where that information falls within the scope of a live information request. Deletion of such information, where the requester would be deprived of receiving it, would wholly undermine the purpose of FOI law.

Decision

The Commissioner finds that the Authority failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by the Applicant.

Specifically, the Commissioner finds that, by failing to identify and locate all of the information that fell within the scope of the request, the Authority failed to comply with section 1(1) of FOISA.

Given that the Authority identified and disclosed to the Applicant all relevant information it held (subject to some personal data redactions) by the close of the investigation, the Commissioner does not require the Authority to take any action regarding this failure in response to the Applicant's application.

Appeal

Should either the Applicant or the Authority 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.

Euan McCulloch
Head of Enforcement

20 May 2025