



Scottish Information
Commissioner
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Decision Notice 268/2025

Economic Impact Assessment calculation for the 2023 Air Show

Applicant: The Applicant
Authority: South Ayrshire Council
Case Ref: 202500782

Summary

The Applicant asked the Authority for the Economic Impact Assessment (EIA) calculation for the 2023 Air Show to show how the publicised figure of £7.2m was derived. The Authority advised the Applicant that the information requested could be obtained from its website and was therefore otherwise accessible. The Commissioner investigated and found that the specific information requested was not otherwise accessible and that the Authority should have informed him that it did not hold the information requested.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); 17(1) (Notice that information is not held); 25(1) (Information otherwise accessible); 47(1) and (2) (Application for decision by Commissioner).

Background

1. On 19 March 2025, the Applicant made a request for information to the Authority. He asked for the £7.2m EIA calculation for the 2023 Air Show, showing how it was derived from the 140 survey responses. He noted that he had already received the 140 survey responses in the response to a previous request.

2. The Authority responded on 14 April 2025. It informed the Applicant that details of the calculation could be found on page 5 of the EIA Report, which was available to the public.
3. On 14 April 2025, the Applicant wrote to the Authority requesting a review of its decision. He stated that he was dissatisfied with the decision because page 5 of the EIA report did not show how £7.2m was derived from the 140 survey responses. He noted that he had previously provided his calculation using the 140 response survey data (and he attached a further copy). He submitted that the Authority would have to make a similar calculation from the data to obtain the publicised figure of £7.2m.
4. The Authority notified the Applicant of the outcome of its review on 2 May 2025. It maintained that the information requested was publicly available and, accordingly, applied the exemption in section 25 of FOISA. Specifically, it advised that a copy of the EIA for the 2023 Air Show was available in the public domain, and it provided a link to this information. It clarified that the figures within the EIA were calculated based on the number of people who attended, multiplied by the average spend. It noted that the Applicant had provided an example of how it considered the Authority should have recorded this information but said that FOISA obliged it to provide the recorded information that it held.
5. On 13 May 2025, 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 it had failed to provide him with the specific information he had requested.

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 4 June 2025, 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 on how it had interpreted the Applicant's request, how it established what information it held that fell within the request and why section 25 of FOISA had been applied.
9. During the investigation, the Authority changed position and confirmed that it was now relying on section 17(1) of FOISA as it did not hold the specific information requested by the Applicant.

Commissioner's analysis and findings

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

Section 25(1) of FOISA – Information otherwise accessible

11. Information which an applicant can reasonably obtain other than by requesting it under section 1(1) of FOISA is exempt from disclosure. This exemption is not subject to the public

interest test in section 2(1)(b) of FOISA. Section 25(1) is not intended to prevent or inhibit access to information, but to relieve public authorities of the burden of providing information that an applicant can access readily without asking for it.

12. The Applicant disagreed that the information already in the public domain satisfied the terms of his specific request. During the investigation, the Authority (as stated above) accepted that the information already in the public domain was not the specific information requested by the Applicant and confirmed that it instead wished to rely on section 17(1) of FOISA as it did not hold the information requested.
13. The Commissioner agrees that the information already in the public domain was not the specific information requested by the Applicant. He therefore must find that the Authority was not entitled to rely on section 25(1) of FOISA in response to the Applicant's request.
14. The Commissioner will now consider whether the Authority was entitled to rely on section 17(1) of FOISA.

Section 17(1) of FOISA – Notice that information is not held

15. 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
16. 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 that an applicant believes the public authority should hold. If no such information is held by the public authority, section 17(1) of FOISA requires the authority to give the applicant notice in writing to that effect.
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) held by the public authority.

The Applicant's submissions

19. The Applicant was dissatisfied because the Authority had not provided information to support the publicised calculation of £7.2m – the accuracy of which he questioned. He said that he was simply looking for the Authority's calculation of this figure using the survey data it had collected.
20. In response to the Authority advising the Commissioner during his investigation that it now wished to rely on section 17(1) of FOISA, the Applicant made the following points:
 - the EIA report was produced in-house by an employee of the Authority for the 2023 Air Show and provided to the Authority in January 2025. He considered it highly unlikely that

the calculation supporting the paper could be “lost” in such a short space of time (and suggested this raised serious concerns regarding the Authority’s records retention policy)

- he had provided to the Commissioner copies of emails received from the former Chief Executive of the Authority and his direct report in March 2025 in relation to the EIA calculation for the 2023 Air Show, neither of which had stated that the Authority did not hold the information
- he had provided the Authority with his own calculation using the 140 visitor survey responses it had disclosed to him in response to a previous FOI request. He submitted that the Authority therefore held its “own raw survey data” from his spreadsheet and could “reperform” the EIA calculation using it.

The Authority’s submissions

21. The Authority confirmed that, following further internal discussion, it did not hold the “granular calculation information” the Applicant requested. It confirmed that section 17 of FOISA therefore applied. However, it noted that there was information available in the public domain, which provided the “basic rationale” on how the Authority reached the figure of £7.2m for the 2023 Air Show EIA.
22. The Authority accepted that it should have issued the Applicant with a notice, under section 17 of FOISA, that it did not hold the information requested and that to provide such information would require it to create new information, using complex calculations and judgement.
23. The Authority explained that it had carried out searches in response to the request at review stage and during the investigation. These searches used relevant keywords (e.g. “EIA”, “Economic Impact” “Ayr Show”, “Net GVA”, “Gross GVA”, etc.) and included shared drives, SharePoint sites, joint email accounts and the individual email accounts of named staff members directly involved in the 2023 Air Show. It said that it had also attempted to access the personal drive of an employee no longer in post, but that this had not proved possible as the drive had been deleted in line with its “Leaver’s policy”.
24. While the Authority interpreted the Applicant’s request as seeking the specific calculation data to support the £7.2m EIA figure based on the 140 survey responses that had been previously disclosed to the Applicant, it said that it had extended the searches to encompass calculation information that may be held but was not specifically linked to the 140 survey responses.
25. The Authority confirmed that the searches it had carried out established that no further calculation information was held, either in a spreadsheet format or another format, that provided more granular detail on the way in which the £7.2m figure was established for the 2023 Air Show EIA (beyond the details provided in the information in the public domain that it had already linked the Applicant to).

The Commissioner’s view

26. The Commissioner has taken account of all the relevant submissions provided by both the Applicant and the Authority.
27. As stated above, the information to be given is that held by the Authority at the time the request is received, as defined by section 1(4) of FOISA. The relevant question for the Commissioner is therefore not whether the information requested was previously held by the Authority, but whether it was held at the time of the Applicant’s request.

28. Given the explanations and submissions provided, the Commissioner accepts that the Authority has now taken adequate and proportionate steps in the circumstances to establish if the information was held. He 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.
29. The Commissioner is therefore satisfied, on balance, that it does not (and did not, on receipt of the request) hold the specific information requested by the Applicant.
30. The Commissioner understands why the Applicant believed that the Authority would hold (or would have held) the specific information he had requested. He acknowledges, as a point of logic, that the figures published by the Authority must have been informed by a calculation of the sort requested by the Applicant.
31. However, while the Applicant believed and expected the specific information requested to be held by the Authority, the Commissioner is satisfied, on balance, that this was not the case. Whether a public authority should hold information which it does not hold is not, in this context, a matter for the Commissioner to decide.
32. The Commissioner notes the Applicant's position that the Authority could "reperform" the EIA calculation based on the raw survey data he had provided to it as part of his own calculation. His [guidance on section 17 of FOISA](#), states (at paragraph 46):

"Public authorities are not required to create information in order to answer a request. There's a distinction between creating new information, and compiling information. Where a request can be answered by compiling information from readily-available resources held by the public authority, this is not the same as creating new information. However, if collation of the information would require skill and complex judgement, the information is not held."
33. While the Commissioner accepts that the Authority holds the necessary building blocks (i.e. the survey responses) to generate the calculation, he is satisfied that producing this calculation would require a level of skill and judgement that would go beyond compiling information and instead amount to the creation of new information.
34. The Commissioner therefore concludes that the Authority was entitled to state, in terms of section 17(1) of FOISA, that it did not hold the information requested. However, the Authority should have informed the Applicant of this by the date of the review outcome (at the latest).

Decision

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

The Commissioner finds that the Authority failed to comply with section 17(1) of FOISA, by failing to issue the Applicant with a notice, under that section, that it did not hold the information requested.

Given that the Commissioner is satisfied, on balance, that the Authority does not hold the information requested, he does not require the Authority to take any action in respect of 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

31 October 2025