



Scottish Information
Commissioner
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Decision Notice 260/2025

Breakdown of income and expenditure relating to Forres House Community Centre

Authority: Moray Council
Case Ref: 202500500

Summary

The Applicant asked the Authority for a breakdown of income and expenditure relating to Forres House Community Centre. The Authority provided some information, but the Applicant was dissatisfied because he did not consider that it had provided him with the detailed breakdown he had requested. The Commissioner investigated and found that the Authority had failed to comply with FOISA in responding to the Applicant's request. He required the Authority to reconsider the Applicant's request, carry out fresh searches and issue a revised review outcome.

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 4 February 2025, the Applicant made a request for information to the Authority. He asked for a breakdown of income and expenditure relating to Forres House Community Centre (Forres House). He requested that the information be as detailed as possible, including:
 - (i) costs and income for the library facility and café (i.e. any income and expenditure relating to any lease)
 - (ii) how customers using Fit Life cards are accounted for in the income

- (iii) carbon dioxide emissions from Forres House.
2. The Authority responded on 26 February 2025, in the following terms:
 - for part (i), it provided the 2024/2025 budget for Forres House and some other explanatory information
 - for part (ii), it said that the income for Fit Life memberships was allocated monthly to each facility code using monthly usage figures (i.e. the busier facilities get a larger proportion of the income)
 - for part (iii), it confirmed that carbon dioxide emissions from Forres House were calculated at 97,790 KgCO₂e.
 3. On 27 February 2025, the Applicant wrote to the Authority requesting a review of its decision. He stated that he was dissatisfied with the decision because the Authority's response was "wholly inadequate" as he had asked that the breakdown be as detailed as possible.
 4. More specifically, the Applicant explained that the Authority should have provided income derived from Fit Life customers when using the services, facility hire and any other income – all itemised on an annual basis. He said that the same applied to costs, other than staff cost, which was a "valid heading in itself".
 5. The Authority notified the Applicant of the outcome of its review on 28 March 2025. It said that it considered its initial response had answered the Applicant's request. However, to be helpful, it provided links to further information contained in a committee report and further details on carbon dioxide emissions.
 6. On 3 April 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 provided no details of breakdown of income and expenditure and no account had been taken of other occupants of Forres House. He submitted that the Authority had not satisfied his request for the response to be "as detailed as possible" and said that he had expected information under "headings such as energy, maintenance, supplies, income derived from Fit Life members, bookings, classes etc" to have been provided.

Investigation

7. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.
8. On 17 June 2025, the Authority was notified in writing that the Applicant had made a valid application.
9. The case was subsequently allocated to an investigating officer.
10. 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 related to how it had interpreted the request and how it established what information it held that fell within the scope of the request.

11. The Commissioner's investigation will not consider the Authority's response to part (iii) of the request as the Applicant did not express dissatisfaction with this in his requirement for review or his application to the Commissioner.

Commissioner's analysis and findings

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

Section 1(1) of FOISA - General entitlement

13. 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 authority, subject to qualifications which, by virtue of section (6) of FOISA, allow Scottish public authorities to withhold information or charge a fee for it. The qualifications contained in 1(6) are not applicable in this case.
14. 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.
15. The standard of proof to determine whether a Scottish public authority holds the 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.
16. The Commissioner also considers, where appropriate, any reasons 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 information is (or was, at the time the request was received) held by the public authority.

The Applicant's submissions

17. As stated above, the Applicant requested a breakdown of income and expenditure relating to Forres House. He asked that breakdown be as detailed as possible and said that he did not consider that the Authority's response had satisfied his request.
18. The Applicant provided examples (set out above in paragraphs 4 and 6) of the type of information that he would expect to be included as part the detailed breakdown requested.

The Authority's submissions

19. The Authority explained that, in response to the request, the headings and corresponding data it disclosed were the same headings as given in the financial reports held for Forres House.
20. The Authority said that further, more thorough, breakdowns in monthly reports could provide more detail. However, it said that this information was "not considered initially" as it believed that the information it had provided to the Applicant "covered" his request and because "more detailed monthly reports could potentially provide commercially sensitive data". It also said that there can be "variations between what is budgeted against what the actual costs cover".

21. The Authority was asked whether it considered the more detailed information specified by the Applicant in his application to the Commissioner (set out above in paragraph 6) fell within the scope of his request.
22. The Authority responded that these headings were not mentioned in the Applicant's request, and that it had provided the headings from reports instead. It said that:

"The level of information requested under these headings would be difficult to provide and some explanations were given: for example, Fitlife membership contributions/payments per site are not held as the records are not held in a per site format and as such that level of breakdown would not have been possible to provide. We accept that perhaps we could have been clearer on this point."
23. The Authority was asked whether it held the more detailed breakdown that the Applicant said he had requested. It responded not that was "clearly covered" by the Applicant's request or requirement for review. It explained that it had answered the request by providing data using the headings in reports covering areas of expense, as well as explanations regarding why other data (such as the café's operations) were not available. It said that it had also endeavoured to be helpful by providing links to publicly accessible documents where more data was available.
24. The Authority explained that it held "one more layer of detailed data" (i.e. finance reports that cover both budgets and actual spend). It commented that these reports were not limited to Forres House and "could be open to misinterpretation, as well as potentially provide staffing person data and commercially sensitive data". As such, it said that these reports "would have been exempt if they had been considered".
25. The Authority provided more detailed documentation to the Commissioner for the purposes of his investigation. However, it noted that the documentation it had supplied had been produced after the date it had received the Applicant's request.
26. The Authority explained how it had established what information it held that fell within the scope of the request. In this case, the Service Manager liaised with the Authority's Finance department and collated the pertinent information. They then checked financial systems for the relevant budgets and added explanatory comments from their own knowledge and expertise to explain the exceptions (i.e. the café operations).
27. The Authority also commented that neither the Applicant's request nor requirement for review specified a timeframe for the information requested. As such, it had provided current budget data for 2024/25. It said that "monthly budget vs actuals" would have been held, though these would not have been "produced for the whole year" at the time of the request.
28. The Authority stated that it endeavoured to respond to all information requests with sufficient detail and that it encouraged requesters to add enough detail to ensure that it provided the desired level of response. In this instance, it did not have any confirmed timespan or subheadings in the original request and, as such, the request was answered in the format available.

The Commissioner's view

29. The Commissioner has carefully considered the terms of the Applicant's request, together with the information that he specified in his requirement for review and application that he had expected the Authority's response to have provided (set out above in paragraphs 4 and 6).

30. As a starting point, the Commissioner would like to make clear that he understands that the Applicant's request asked for a breakdown of income and expenditure relating to Forres House. In what follows, he refers to "parts" (i) and (ii) of the request for convenience. However, these are strictly not parts of the request and are instead clarifications of the type of information that the Applicant expected to be included as part of the breakdown he had requested.
31. For part (i) of the request, the Authority provided the Applicant with budget figures rather than the detailed breakdown he had requested. The Commissioner accepts that the information provided by the Authority was relevant to the request. However, the Commissioner considers that the Authority should have realised, given the express wording of his request and his requirement for review, that the Applicant was seeking greater detail than it had provided.
32. Had the Authority considered the Applicant's request to be unclear (either because it did not understand the breakdown being requested or because no timeframe had been specified), it should have sought clarification. Where a request is unclear, the Commissioner would urge the Authority, indeed all Scottish public authorities, to take steps to clarify with applicants any matter which is open to interpretation, prior to proceeding with a request (as provided for by sections 1(3) and 15 of FOISA).
33. As stated above, the Authority provided the Commissioner with information containing further detail than that disclosed to the Applicant. It said that this information was "not considered initially" as it believed that the information it had provided to the Applicant "covered" his request and because "more detailed monthly reports could potentially provide commercially sensitive data".
34. It therefore appears to the Commissioner that the Authority does (and did, at the time it received the request) hold further and more detailed information relevant to the Applicant's request in addition to the information that it had already disclosed to him. The Commissioner must therefore find that the Authority failed to comply with Part 1 of FOISA (specifically, section 1(1)) by failing to identify and consider this information for disclosure.
35. To the extent that the Authority has concerns about disclosure of elements of potentially commercially sensitive information, it can consider whether it would be appropriate to apply an exemption in FOISA to withhold this specific information. Any decision to do so must be considered on a case-by-case basis in relation to the specific information in question and be justified and explained to the Applicant.
36. If recorded information is covered by the terms of the request, it must be considered for disclosure, whatever its status. To the extent that the Authority has concerns about information being misinterpreted if disclosed, it is open to it to choose to provide a commentary which places the information in context or explains its limitations.
37. For part (ii) of the request, the Authority explained in general terms how income from Fit Life members was allocated. However, the Applicant requested a specific breakdown of this income as it related to Forres House.
38. As stated above, the Authority indicated that its response to part (ii) of the request could have been clearer. It explained that Fit Life membership contributions/payments per site were "not held in a per site format" and that it therefore could not provide the level of breakdown requested by the Applicant.

39. If the Authority does not hold the specific breakdown of Fit Life income as it relates to Forres House, which appears to be its position, then it must issue the Applicant with a notice, under section 17(1) of FOISA, to that effect. However, the Commissioner requires the Authority to undertake fresh, adequate and proportionate searches before issuing such a notice.
40. In all cases, it falls to the public authority to persuade the Commissioner, with reference to adequate, relevant descriptions and evidence, that it does not hold the information requested. On balance and based on the submissions he has received to date, the Authority has not satisfied him that it does not hold any recorded information that would satisfy part (ii) of the Applicant's request.
41. In summary, the Commissioner is not satisfied that the Authority complied with Part 1 of FOISA (specifically, section 1(1)) in responding to the Applicant's request for a breakdown of income and expenditure relation to Forres House.

Next steps

42. The Commissioner requires the Authority to reconsider the Applicant's request for a breakdown of income and expenditure relating to Forres House and issue him with a revised review outcome (in terms of section 21 of FOISA). In doing so, the Authority must:
 - consider carefully the terms of the request (having specific regard to parts (i) and (ii)) and ensure that its interpretation is reasonable and fully addresses the request
 - take adequate and proportionate steps to establish what information is held (at the time of the request), using appropriate search terms and searching all locations and mediums where relevant information may be held
 - ensure that it clearly identifies any information that it might wish to withhold under an applicable exemption in FOISA and justify and explain why that information is being withheld
 - if the information requested for part (ii) of the request is not held, which appears to be the Authority's position, issue the Applicant with a notice, in terms of section 17(1) of FOISA, to that effect
 - retain evidence of the searches carried out in response to the request, in case of a further appeal to the Commissioner.
43. Given the absence of a timeframe in the Applicant's request, the Commissioner would also encourage the Authority to provide advice and assistance to the Applicant, in terms of section 15(1) of FOISA, with a view to ensuring that it has reached a clear, and mutually shared, understanding of the scope of the request before issuing its revised review outcome in terms of section 21 of FOISA.

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 the Authority has failed to satisfy him that it identified all relevant information falling within the scope of the Applicant's request. As a result, it failed to comply with section 1(1) of FOISA.

The Commissioner therefore requires the Authority to reconsider the Applicant's request, undertake fresh, adequate and proportionate searches for the information requested and provide a revised response to the Applicant's requirement for review (in terms of section 21 of FOISA), by **6 February 2026**. In doing so, he requires the Authority to have regard to the conditions set out in paragraph 42 above.

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.

Enforcement

If the Authority fails to comply with this decision, the Commissioner has the right to certify to the Court of Session that the Authority has failed to comply. The Court has the right to inquire into the matter and may deal with the Authority as if it had committed a contempt of court.

Cal Richardson
Deputy Head of Enforcement

23 December 2025