



Scottish Information
Commissioner
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Decision Notice 119/2026

Low Emission Zone fines issued by postcode

Authority: City of Edinburgh Council
Case Ref: 202501299

Summary

The Applicant asked the Authority for information on Low Emission Zone (LEZ) fines issued by postcode. The Authority refused to respond to the request on the grounds that it was manifestly unreasonable. The Commissioner investigated and agreed that the request was manifestly unreasonable, and so the Authority was not obliged to respond.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); 2(1)(b) (Effect of exemptions); 39(2) (Health, safety and the environment); 47(1) and (2) (Application for decision by Commissioner).

The Environmental Information (Scotland) Regulations 2004 (the EIRs) regulations 2(1) (definition of “the Act”, “the applicant” and “the Commissioner” and the definition of “environmental information”) (Interpretation); 5(1) and (2)(b) (Duty to make environmental information available on request); 10(1), (2) and (4)(b) (Exceptions from duty to make environmental information available); 17(1), (2)(a), (b) and (f) (Enforcement and appeal provisions).

Background

1. On 7 January 2025, the Applicant made a request for information to the Authority. He asked for:
“LEZ fines by postcode. Either aggregated, or every fine issued with associated postcode”.

2. The Authority responded on 31 January 2025 in terms of the EIRs. It refused to make information available which would fulfil the request, arguing that it would be manifestly unreasonable (in line with regulation 10(4)(b) of the EIRs) to do so
3. On 4 February 2025, the Applicant wrote to the Authority requesting a review of its decision. He stated that he was dissatisfied with the decision because he disagreed that his request was manifestly unreasonable for because:
 - public authorities could not use the limitations of their IT systems as a justification for refusing to provide information
 - poor record-keeping or disorganised systems were not appropriate reasons for refusing to provide information and public authorities were expected to maintain functional record management practices
 - the estimated time to comply with his request was based on an unnecessarily inefficient method of retrieval of the information requested and the Authority had refused to seek IT assistance on how to undertake a structured data query.
4. The Authority notified the Applicant of the outcome of its review on 26 February 2025, which fully upheld its original response without modification.
5. On 5 August 2025, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. By virtue of regulation 17 of the EIRs, Part 4 of FOISA applies to the enforcement of the EIRs as it applies to the enforcement of FOISA, subject to specified modifications. The Applicant stated that he was dissatisfied with the outcome of the Authority's review because it had:
 - provided insufficient evidence to demonstrate that his request was manifestly unreasonable, including by failing to provide a detailed cost estimate
 - failed to adequately consider the public interest test
 - failed to provide him with reasonable advice and assistance under regulation 9 of the EIRs to suggest ways to narrow his request or explore alternative methods of providing the information requested in a way that would not be manifestly unreasonable.

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 13 August 2025, the Authority was notified in writing that the Applicant had made a valid application. 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 Authority was invited to comment on this application and to answer specific questions related to why it considered the request to be manifestly unreasonable.
9. During the investigation, the Authority confirmed that the reporting functionality of its recording system had changed and that it would no longer be manifestly unreasonable to respond to the Applicant's request. It provided the information requested to the Applicant on 24 September 2025.

10. Despite being provided with the information requested, the Applicant informed the Commissioner that he still required a decision on his application. The Commissioner will therefore consider whether the Authority was entitled to apply the exception in regulation 10(4)(b) of the EIRs to the Applicant's request at the date of the review outcome.
11. During the investigation, the Applicant raised some matters that do not fall within the Commissioner's remit. The Commissioner will therefore not consider these matters in his decision notice. His remit is limited to considering whether the Authority complied with the EIRs in responding to the Applicant's request.

Commissioner's analysis and findings

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

Handling in terms of the EIRs

13. Having considered the subject matter and the terms of the request, the Commissioner accepts the decision of the Authority to deal with the request under the EIRs rather than under FOISA.
14. The Commissioner is satisfied that the information covered by the request is environmental information, as defined in regulation 2(1) of the EIRs. He would also note that he can see no detriment to the Applicant by considering his request under the EIRs rather than FOISA, nor has the Applicant disputed the Authority's decision to handle his request under the EIRs.

Section 39(2) of FOISA – Environmental information

15. The exemption in section 39(2) of FOISA provides, in effect, that environmental information (as defined by regulation 2(1) of the EIRs) is exempt from disclosure under FOISA, thereby allowing any such information to be considered solely in terms of the EIRs.
16. In this case, the Commissioner accepts that the Authority would have been entitled to apply this exemption to the information requested, given his conclusion that it is properly classified as environmental information.
17. As there is a statutory right of access to environmental information available to the Applicant in this case, the Commissioner accepts, in all the circumstances, that the public interest in maintaining this exemption (and responding to the requests under the EIRs) outweighs any public interest in disclosing the information under FOISA.
18. The Commissioner therefore concludes that the Authority would have been entitled to apply section 39(2) of FOISA and consider the Applicant's information request under the EIRs. He will therefore consider this case, in what follows, solely in terms of the EIRs.

Regulation 5(1) of the EIRs – Duty to make environmental information available

19. Regulation 5(1) of the EIRs (subject to the various qualifications contained in regulations 6 to 12) requires a Scottish public authority which holds environmental information to make it available when requested to do so.
20. Under the EIRs, a public authority may refuse to make environmental information available if one or more of the exceptions in regulation 10 applies.

Regulation 10(4)(b) of the EIRs – Manifestly unreasonable

21. Regulation 10(4)(b) of the EIRs provides that a Scottish public authority may refuse to make environmental information available to the extent that the request for information is manifestly unreasonable. In considering whether the exception applies, the authority must interpret it in a restrictive way and apply a presumption in favour of disclosure. Even if it finds that the request is manifestly unreasonable, it is still required to make the information available unless, in all the circumstances, the public interest in doing so is outweighed by that in maintaining the exception.
22. The Commissioner's general approach is that the following factors are relevant when considering whether a request is manifestly unreasonable. These are that the request:
- (i) would impose a significant burden on the public body;
 - (ii) does not have a serious purpose or value;
 - (iii) is designed to cause disruption or annoyance to the public authority;
 - (iv) has the effect of harassing the public authority; or
 - (v) would otherwise, in the opinion of a reasonable person, be considered manifestly unreasonable or disproportionate.
23. This is not an exhaustive list. Depending on the circumstances, other factors may be relevant, provided the impact on the authority can be supported by evidence. The Commissioner recognises that each case must be considered on its merits, taking all the circumstances into account.

The Applicant's submissions

24. As stated above, the Applicant disagreed that his request was manifestly unreasonable for because:
- public authorities could not use the limitations of their IT systems as a justification for refusing to provide information
 - poor record-keeping or disorganised systems were not appropriate reasons for refusing to provide information and public authorities were expected to maintain functional record management practices
 - the estimated time to comply with his request was based on an unnecessarily inefficient method of retrieval of the information requested and the Authority had refused to seek IT assistance on how to undertake a structured data query.
25. More specifically, the Applicant submitted that the Authority's estimate of 544 hours to comply with his request was "very obviously unreasonable" and that the Authority had failed to provide a breakdown of how the estimate was calculated, or evidence and documentation regarding who made the estimates and their methodology.
26. The Applicant also expressed a belief that the Commissioner had previously ruled that public authorities should make reasonable efforts to retrieve and disclose information "even if that means manually extracting data or using IT resources to generate a new report" and that a lack of reporting functionality was not a valid ground for refusing to provide information in response to an information request.

The Authority's submissions

27. During the investigation, the Authority confirmed that it wished to rely on the position it had set out in its review outcome.
28. The Authority disagreed with the Applicant that its IT system was disorganised and that its inability to retrieve the information requested more easily was a matter of poor record keeping.
29. The Authority explained that the functionality of the system used to administer LEZ fines did not (at the date of the review outcome) include the ability to report on or extract postcode information. It said that this was due to “current operational requirements of the system” which, at the date of the request and review outcome, meant that it could not extract the information requested in the manner the Applicant expected (including his suggestion of using an SQL query).
30. The Authority submitted that extracting the information requested would require a manual search of each LEZ fine issued. At the time of the request, this number was 32,645. It considered it would take approximately one minute per file to extract the postcode, meaning it would take a member of staff approximately 544 hours to retrieve the information requested.
31. As no upper cost limit exists under the EIRs, the Authority considered whether the burden of handling the request was reasonable. Given that the task of retrieving the data would take around 13 weeks and require a member of staff to be reassigned from other duties to complete this task, it considered that complying with the request would not be a reasonable use of resources – especially at a time when its resources were limited.
32. During the investigation, the Authority confirmed that it was made aware of the new reporting functionality (regarding LEZ fines) around 15 September 2025. It explained that this update was tied into the renewal of its “decriminalised parking enforcement contract”. As stated above, the Authority subsequently provided the information requested to the Applicant.

The Commissioner's view

33. The Commissioner has carefully considered the submissions from the Applicant and the Authority.
34. The Commissioner acknowledges that the Applicant clearly believed that the Authority's systems (at the date of the review outcome) should have allowed it to more easily retrieve the information requested.
35. However, the Commissioner is required to consider whether regulation 10(4)(b) of the EIRs applies in this case, regarding the recording systems in use by the Authority (at the date of the review outcome), and not with regard to what an Applicant might wish these systems to be capable of. Furthermore, as noted in [Decision 050/2021](https://www.foi.scot/sites/default/files/Decision050-2021.pdf)¹, it is not within the Commissioner's remit to instruct a public authority to change its data recording systems.
36. That said, and while recognising that not every requester's expectations can be anticipated (or will necessarily be reasonable), the Commissioner would strongly recommend that public authorities ensure that their systems and associated software can extract and interrogate

¹ <https://www.foi.scot/sites/default/files/Decision050-2021.pdf>

information effectively, so that requests under FOISA and the EIRs can be responded to as easily and efficiently as possible.

37. Having considered the Authority's submissions, the Commissioner accepts that a manual review of each record would be required and, consequently, that complying with the request would impose a significant burden on the Authority. However, he considers the Authority's estimate of the time required to extract the data (approximately 5,444 hours for 1 minute per document) excessive. He is not persuaded that this estimate is wholly accurate, and he would urge authorities to ensure that their estimates are accurate and robust.
38. There is no cost limit for determining what is deemed to be an excessive cost of compliance under the EIRs, as there is in FOISA. Under FOISA, public authorities do not have to comply with a request if the cost of compliance exceeds £600. Despite the EIRs themselves lacking a cost ceiling, the Commissioner recognises that there may be cases where the time and expense involved in complying with a request for environmental information means that any reasonable person would regard it as excessive.
39. Despite his reservations over the accuracy of the Authority's estimated costs, the Commissioner notes that an estimate of 30 seconds per document rather than a minute would amount to approximately 272 hours (or 136 hours for 15 seconds per document). Proceeding based on either of these lesser (and more reasonable) calculations would still lead to an estimated cost of complying with the request which would far exceed the upper cost limit at which a request considered under FOISA could be refused.
40. The Commissioner acknowledges the Applicant's dissatisfaction that the Authority had failed to provide them with a more detailed estimate setting out the cost of responding to his request.
41. The Commissioner's [briefing on the content of notices](#)² confirms that an authority which refuses to respond to a FOISA request on the grounds of excessive cost (section 12(1) of FOISA) is required to set out the projected costs in its refusal notice, in terms of section 16(4) of FOISA. However, there is no equivalent requirement under the EIRs where an authority has refused to respond to a manifestly unreasonable request.
42. In the circumstances, the Commissioner is therefore satisfied that the Authority did not fail to comply with the EIRs by not providing a more detailed estimate setting out the cost of responding to the Applicant's request.
43. Having considered the nature of the information requested and the submissions provided by the Authority, the Commissioner accepts that there is a significant volume of information that would require to be interrogated and that to comply with the request would therefore impose a significant burden on the Authority, given the time, cost and diversion of resources that would be involved.
44. In all of the circumstances, despite his reservations over the accuracy of some of the Authority's estimated costs, the Commissioner is satisfied, on balance, that responding to this request have would imposed (based on the capabilities of the Authority's systems at the date of the review outcome) a significant burden on the Authority, which would, in the circumstances, have been manifestly unreasonable. Having reached this conclusion, the Commissioner is required to consider the public interest test in regulation 10(1)(b) of the EIRs.

² <https://www.foi.scot/sites/default/files/2022-03/BriefingContentOfNotices.pdf>

The public interest test

45. The exception in regulation 10(4)(b) is subject to the public interest test in regulation 10(1)(b) of the EIRs. This means that, although the Commissioner is satisfied that the Applicant's request is manifestly unreasonable, he must still require the Authority to respond to that request if the public interest in making the information available outweighs that in maintaining the exception.

The Applicant's submissions on the public interest

46. As stated above, the Applicant believed that the Authority had failed to adequately consider the public interest test.
47. More specifically, the Applicant argued that the Authority had failed to consider the public interest in ensuring equitable enforcement, assessing potential disproportionate impact on vulnerable communities and balancing the public interest against the claimed burden.
48. The Applicant submitted that disclosure of the information requested could reveal disparities in LEZ fine enforcement which he said had implications for equality and fairness under the Equality Act 2010 and the European Convention on Human Rights.
49. Given the public impact of the LEZ scheme, the Applicant considered that there was a strong public interest in transparency which outweighed the claimed administrative burden – particularly when that burden appeared to have been “artificially inflated due to system inefficiencies”.

The Authority's submissions on the public interest

50. The Authority recognised that information relating to the LEZ was of significant public interest and that there was a presumption in favour of disclosure of environmental information under the EIRs.
51. However, the Authority considered that the diversion of staff time that would be required to respond to the request would result in public resources that were required to be utilised for the benefit of all citizens in Edinburgh being diverted disproportionately “to respond to the specific concerns of a single applicant”.
52. In all of the circumstances, the Authority therefore considered that the public interest in making the information available was outweighed by that in maintaining the exception.

The Commissioner's view on the public interest

53. In the Commissioner's view, there is an inherent public interest in the disclosure of information to ensure that an authority is transparent and accountable. In this case, disclosure of the information requested would allow public scrutiny of the number of LEZ fines issued by the Authority by postcode.
54. Against this, the Commissioner has considered the strong public interest in ensuring an authority can carry out its statutory functions without unreasonable or disproportionate disruption.
55. As rehearsed earlier, the Commissioner has already accepted that providing the information requested in this case would incur significant costs to the Authority in staff time and resources and, to a certain extent, divert resources away from core functions

56. While public authorities are encouraged to act in a transparent and accountable way, which benefits the public as a whole, the Commissioner acknowledges that responding to requests which require them to devote excessive or disproportionate amounts of time can only be at the expense of other areas of work.
57. The Commissioner recognises that there is a public interest in protecting the integrity of the EIRs, but it is not the intention of the legislation to require public authorities to devote excessive or disproportionate amounts of resource to a particular request. In fact, one aspect of protecting the integrity of the regime is ensuring that it can function effectively, without being disrupted by requests that require them to devote a disproportionate amount of time to responding.
58. On balance, therefore, the Commissioner accepts that, in all the circumstances of this case, the public interest arguments in favour of making the information captured by this request available are outweighed by the public interest in maintaining the exception in regulation 10(4)(b) of the EIRs.
59. The Commissioner again notes that the Authority provided the information requested to the Applicant during his investigation.

Regulation 9 – Advice and assistance

60. Regulation 9(1) of the EIRs requires Scottish public authorities to provide advice and assistance to applicants, so far as it would be reasonable to expect them to do so.
61. Regulation 9(3) provides that a Scottish public authority shall be taken to have complied with this duty if it conforms to the guidance contained in the Scottish Ministers' Code of Practice on the Discharge of Functions by Scottish Public Authorities under FOISA and the EIRs ([the Section 60 Code](#)³).
62. As stated above, the Applicant considered that the Authority had failed to suggest ways to narrow his request or explore alternative methods of providing the information requested in a way that would not be manifestly unreasonable.
63. The Commissioner notes that the Authority's initial response acknowledged that the Applicant might not have been aware of the "size and scope" of the information requested and suggested that it might be possible to provide him with a portion of the information requested. The Authority invited the Applicant to contact it to discuss this option further.
64. In addition, the Commissioner notes that, after issuing its initial response but prior to issuing its review outcome, the Authority engaged with and responded to questions from the Applicant regarding the capabilities of its systems and whether, for example, the relevant data could be exported and a SQL query used to interrogate these data.
65. In these respects, while he recognises that the Applicant was not satisfied with the responses he received, the Commissioner considers that the Authority complied with its duty under regulation 9(1) of the EIRs.
66. Following the Authority's review outcome, the Applicant asked the Authority to clarify several points from its review to avoid him having to refer the matter to the Commissioner. At this

³ <https://www.gov.scot/publications/foi-eir-section-60-code-practice/>

point, the Authority advised the Applicant that it considered the matter closed and reiterated his right of appeal to the Commissioner.

67. The Section 60 Code states (at paragraph 9.2.1 of Part 2): “The obligation to provide advice and assistance continues at the point of issuing a response.” The Commissioner would urge public authorities to provide advice and assistance at all stages of a request, including clarification of points made in review outcomes – so far as it would be reasonable for them to do so.
68. However, in this case, the Commissioner considers that the questions asked by the Applicant at this stage went beyond simple clarification of points made by the Authority in its review outcome and instead largely related to more substantive concerns with the Authority’s handling of his request.
69. Given the right of appeal to the Commissioner that requesters have once they have gone through the review process, the Commissioner is satisfied, in the circumstances, that the Authority did not fail to comply with its duty under regulation 9(1) of the EIRs by declining to respond to the questions the Applicant asked in response to the Authority’s review outcome.
70. The Commissioner also welcomes the Authority’s decision to reconsider its position in relation to the information requested after the changes the capabilities of its systems, and its subsequent provision of the information to the Applicant.

Decision

The Commissioner finds that the Authority complied with the Environmental Information (Scotland) Regulations 2004 in responding to the information request made by the Applicant.

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

19 May 2026