



Scottish Information
Commissioner
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Decision Notice 062/2025

Receipting of artworks

Authority: Renfrewshire Leisure Limited (also known as OneRen)
Case Ref: 202300944

Summary

The Applicant asked the Authority for documents relating to the receipting of artworks arriving at Paisley Museum and Art Gallery from 1950 to 1990. The Authority stated that complying with the request would exceed the £600 cost limit, so it was not obliged to comply. Following an investigation, the Commissioner accepted this.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); 12(1) (Excessive cost of compliance); 15 (Duty to provide advice and assistance); 47(1) and (2) (Application for decision by Commissioner)

Background

1. On 11 February 2023, the Applicant made a request for information to the Authority. They asked for “digital copies of documents relating to the Receipting of art works arriving at Paisley Museum and Art Gallery from 1950 - 1990”.
2. The Authority responded on 15 March 2023, informing the Applicant, in line with section 12 of FOISA, that as it would cost in excess of £600 to fulfil their request it was not obliged to comply with it. It suggested that it may be able to comply with a narrowed request for a subset of the artworks if the Applicant could identify any of particular interest and it also advised that relevant information may be held in its archives (for which it provided contact details).
3. On 18 April 2023, the Applicant wrote to the Authority requesting a review of its decision. They explained that they had requested “receipting documents”, which they described as a

“documenting paperwork process” that all museums have in place, where a receipt is supplied to a donor and copied kept by the museum describing “under what conditions the art work has been presented”. They therefore disagreed that complying with their request would exceed £600 as the list of records the Authority said it would have to search were not “receipting documents”. They also expressed an interest in viewing records in the Authority’s archives.

4. The Authority notified the Applicant of the outcome of its review on 13 June 2023, which fully upheld its original decision. It explained that, for the time period requested, there was not an “identifiable, discrete piece of documentation that can be described as receipting documentation” and that various sources would require to be searched to provide the information requested. For over 580 artworks, it estimated this would take over 40 hours and cost in excess of £600.
5. On 27 July 2023, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. They stated that they were dissatisfied with the outcome of the Authority’s review because they considered that the quoted costs were based upon a misinterpretation of the request and because the Authority had not facilitated access to its archives.

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 10 August 2023, and in line with section 49(3)(a) of FOISA, the Commissioner gave the Authority notice of the application in writing and invited its comments.
8. The Authority provided comments, and the case was subsequently allocated to an investigating officer.
9. During the investigation, further comments were sought from the Authority on its interpretation of the request and its cost calculations and from the Applicant on how they thought the information requested could be identified without exceeding the upper cost limit in FOISA. Both parties provided further comments.

Commissioner’s analysis and findings

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

Interpretation of the request

11. The Applicant considered that the Authority had misinterpreted their request to include a wide range of documents they were not interested in. Specifically, they explained that they do not consider the documents that the Authority intimated it must search to identify the requested information to be “receipting documents”. In their view, these documents do not act as receipts and only record the items after the loan and/or donation is made.
12. The Authority explained that it initially considered the request to be for “any document which recorded the receipt of any work of art into the collection”. However, the Authority came to

understand that the request referred to a process that the Applicant believed all museums have in place, where “a receipt is supplied to a donor and copies kept by the museum, iterating under what conditions the artwork has been presented”.

13. The Commissioner considers that, while it may have been appropriate for the Authority to have sought clarification of the request, the Authority had correctly understood the request by the time of his investigation.

Whether the information requested is held

14. 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.
15. 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.
16. The standard of proof to determine whether a Scottish public authority holds information is the civil standard of the balance of probabilities.
17. A public authority is entitled to charge for the direct and indirect costs incurred in locating, retrieving and providing information. However, an authority is not entitled to charge for any costs incurred in determining whether it actually holds the information. If an authority does not hold the information, it cannot apply section 12 of FOISA to the request.
18. In this case, the Authority indicated during the investigation that it could not be certain that it held the information requested.
19. The Applicant considered it to be inconceivable that the Authority did not hold the information requested as this documentation would be relied upon in a dispute. They submitted that failing to maintain these records suggested the Authority had not followed professional standards. They stressed that they had used the generic term “receipting documents” to cover the purpose of the documents and to ensure that they were located regardless of terminological semantics.
20. The Authority explained that the standard process for receiving items into a collection outlined by the Applicant was modern best practice, not necessarily the approach taken in the 1950s.
21. While the Commissioner notes that the Authority has not confirmed with absolute certainty that it holds the information requested, it has not suggested that it does not hold it (e.g. by issuing a notice, under section 17(1) of FOISA, to this effect).
22. Given the shifts in curatorial practice over time, the Commissioner considers it plausible that not all of the collection specified in the request (i.e. over a 40-year period) will have a full set of records, including the specific information requested by the Applicant. However, he considers it unlikely that none of the specific information requested by the Applicant would be held in relation to at least some of the collection specified in the request.

23. In all of the circumstances of this case, and on the balance of probabilities, the Commissioner is satisfied that at least some of the information requested is held by the Authority. (Had he not been satisfied, on balance, that at least some of the information requested was held, the Authority would have been entitled to issue the Applicant with a notice, under section 17(1) of FOISA, to this effect.)
24. As the Commissioner has found, on balance, that at least some of the information requested is held by the Authority, he will now consider whether complying with the request would breach the upper cost limit under FOISA.

Section 12(1) – Excessive cost of compliance

25. Section 12(1) of FOISA provides that a Scottish public authority is not obliged to comply with a request for information where the estimated cost of doing so would exceed the relevant amount prescribed in the Fees Regulations. This amount is currently £600 (see regulation 5). Consequently, the Commissioner has no power to require the disclosure of information should he find that the cost of responding to a request for that information would exceed this sum.
26. The projected costs a Scottish public authority can consider in relation to a request for information are, according to regulation 3 of the Fees Regulations, the total costs (whether direct or indirect) it reasonably estimates it will incur in locating, retrieving and providing the information requested, in accordance with Part 1 of FOISA.
27. The authority may not charge for the cost of determining whether it:
 - (i) actually holds the information, or
 - (ii) whether or not it should provide the information.
28. The maximum hourly rate the authority can charge for staff time is £15 per hour.

The Authority's submissions

29. The Authority explained that over 580 artworks were identified as falling within the scope of request. Over the time period covered by the request, there are various types of documentation and various sources of this information, including art registers, main registers, artist files, minutes, letter books and card indexes.
30. The Authority submitted that the documentation on the collections held by Paisley Museum was different at different periods of time. For the time period requested, there was not an identifiable, discrete piece of documentation that can be described as "receipting documentation". Various sources would therefore require to be searched to provide information relating to the receipt of works into the collection during this time period.
31. The Authority explained that prior to 2015 the museum collection had been managed by Renfrewshire Council. The museum's historical collection documentation used multiple formats and methods in the recording, documenting and management of the collection. Over the museum's 150-year history, there have been over 20 different numbering systems used to document the collection).
32. The Authority noted that this did not reflect modern-day professional museum practice established in recent decades. No single or consistent form of record or receipt was created for each artwork which entered the collection during the time period specified in the request. Historically, there was no consistent method or location of recording each artwork received. The records are in different physical locations and could be held in a variety of formats,

which made it very difficult to assess where the information requested was located and in what form.

33. The Authority explained that all depositories of information would therefore need to be searched to determine, in respect of each artwork, what information was held. Once the pool of information for each artwork was located, the contents would then need to be reviewed to assess whether they fell within the scope of the request.
34. As such, the Authority estimated that it would take three to four hours to carry out a search in respect of each artwork. This search would be carried out by one of the Authority's curators who is familiar with the collection and whose hourly rate exceeds the maximum hourly rate of £15, which would mean complying with the request would exceed the £600 cost limit under FOISA.

The Applicant's submissions

35. As rehearsed earlier, the Applicant considered that the Authority had interpreted his request incorrectly and that searches of the wrong information had therefore been carried out.
36. During the investigation, the Applicant was asked how they considered this information could be located without breaching the upper cost limit under FOISA. They did not describe any mechanism by which the records they requested could be identified within the cost limit under FOISA but expressed a willingness to conduct their own archival research.

The Commissioner's view

37. The Commissioner acknowledges that the Applicant believes the Authority should be capable of providing the information they requested without exceeding the £600 cost limit under FOISA.
38. It is not within the Commissioner's remit to instruct a public authority to change its record keeping systems. He is required to consider whether section 12(1) of FOISA applies in this case, with regard to how the Authority has stored the information requested, and not with regard to how the Applicant believes that information should be stored.
39. The Commissioner notes the Applicant's concern that the Authority has inspected the wrong records. He agrees that the categories of document mentioned by the Authority are not necessarily the receipting documents sought by the Applicant. However, he accepts the Authority's explanation that the receipting documents could be contained in any of these documents for the 580 (or more) artworks falling within the scope of the request.
40. The Commissioner considers that it would have been helpful for the Authority to have carried out sample searches to help it accurately estimate the time for searches. He recommends the Authority does so in future where it considers section 12 of FOISA may apply.
41. However, in this case, given the number of artworks falling within Authority's description of its historical collection documentation, the number of artworks falling within the scope of the request and the searches that would be required to locate and retrieve the information requested, the Commissioner accepts that to comply with the request would exceed the £600 cost limit under FOISA.
42. The Commissioner notes that to comply with the request without exceeding the upper cost limit under FOISA would require the Authority to identify the information requested in fewer than three minutes per artwork. In the circumstances, he does not consider that would be possible.

43. The Commissioner notes that the Applicant suggested that they may be able to locate the information requested themselves. Section 1(1) of FOISA holds that the responsibility for providing the information requested rests with the Authority – there is no provision in FOISA permitting a public authority to delegate the work of locating and retrieving information in response to an information request to a requester.
44. In all of the circumstances, therefore, the Commissioner finds that the Authority was, under section 12(1) of FOISA, not obliged to comply with the request as to do so would exceed the upper cost limit.

Section 15 – Duty to advise and assist

45. Section 15(1) of FOISA requires a Scottish public authority, so far as reasonable to expect it to do so, to provide advice and assistance to a person who has made, or proposes to make, a request for information to it.
46. Section 15(2) of FOISA states that a Scottish public authority which, in relation to the provision of advice and assistance in any case, conforms to the *Scottish Ministers' Code of Practice on the discharge of functions by Scottish public authorities under FOISA and the Environmental Information (Scotland) Regulations 2004* ([the Section 60 Code](#))¹, is taken to comply with the duty to provide reasonable advice and assistance in section 15(1).
47. The Section 60 Code provides guidance to Scottish public authorities on the practice which Scottish Ministers consider desirable for authorities to follow in connection with the discharge of their functions under FOISA. The Section 60 Code provides (at 9.4.3):

"When refusing a request on cost grounds, it is good practice for the authority's response to provide clear advice on how the applicant could submit a new, narrower request within the cost limit. In giving advice [the authority] may wish to take account of how much the cost limit has been exceeded. Any narrower request would be a separate new request and should be responded to accordingly."
48. In this case, the Authority attempted to assist the Applicant by advising on how they might narrow the scope of their request to allow it to comply without breaching the upper cost limit. It also provided advice on where additional information relating to the entry of these artworks may be found. In doing so, the Commissioner is satisfied that the Authority complied with the duty, under section 15(1) of FOISA, to provide advice and assistance.

Decision

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

¹ <https://www.gov.scot/publications/foi-eir-section-60-code-of-practice/>

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.

Cal Richardson
Deputy Head of Enforcement

11 March 2025