

Decision Notice

Decision 028/2015: Mr K and the Scottish Prison Service

Standalone PCs

Reference No: 201402630

Decision Date: 5 March 2015



Scottish Information
Commissioner

Summary

On 24 March 2014, Mr K asked the Scottish Prison Service (the SPS) for information on arrangements to access standalone PC facilities within a particular prison.

The SPS responded by providing some information relating to standalone PCs. Following a review, Mr K remained dissatisfied and applied to the Commissioner for a decision.

The Commissioner investigated and found that the SPS had properly responded to Mr K's request for information in accordance with Part 1 of FOISA.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) and 1(4) (General entitlement)

The full text of each of the statutory provisions cited above is reproduced in Appendix 1 to this decision. The Appendix forms part of this decision.

Background

1. On 24 March 2014, Mr K made a request for information to the SPS. The information requested was, in relation to standalone PCs within a particular prison: "...all and any information held by the SPS locally as to the arrangements by which any such facility may have been on offer to prisoners within this establishment since January 2014 and the numbers availing of such a facility".
2. The SPS responded on 21 April 2014. It stated that there were no standalone terminals available to prisoners for personal purposes, but that 50 terminals were available for educational purposes and work parties.
3. On 23 April 2014, Mr K wrote to the SPS, requesting a review of its decision on the basis that the SPS had withheld information from him. Mr K also asked for information regarding the location of such facilities and the withdrawal of such a facility anytime up to 24 March 2014 (which he believed fell within the scope of his original request).
4. The SPS notified Mr K of the outcome of its review on 23 May 2014. The SPS maintained its position without modification and informed Mr K that it would respond separately to his new requests for information (i.e. those in relation to location and withdrawal of facilities) contained in his correspondence of 23 April 2014.
5. On 7 November 2014, Mr K wrote to the Commissioner. He applied to the Commissioner for a decision in terms of section 47(1) of FOISA. Mr K stated he was dissatisfied with the outcome of the SPS's review because he believed information had been withheld from him (i.e. it held information which fell within the scope of his request). He also believed the SPS should not have treated his correspondence of 23 April 2014 as containing new requests for information: he considered the questions of location and withdrawal of facilities to fall within the scope of his original request.

Investigation

6. The application was accepted as valid. The Commissioner confirmed that Mr K made a request for information to a Scottish public authority and asked the authority to review its response to that request before applying to her for a decision.
7. Section 49(3)(a) of FOISA requires the Commissioner to give public authorities an opportunity to provide comments on an application. On 2 December 2014, the SPS was invited to comment on this application and answer specific questions including justifying its reliance on any provisions of FOISA it considered applicable to the information requested.

Commissioner's analysis and findings

8. In coming to a decision on this matter, the Commissioner considered all of the relevant submissions, or parts of submissions, made to her by both Mr K and the SPS. She is satisfied that no matter of relevance has been overlooked.

Interpretation of request

9. Within his application to the Commissioner, Mr K argued that he considered information relating to the withdrawal of this facility, and to the location of any standalone PCs, fell within the scope of his request. He had indicated this in his requirement for review, but the SPS took a different view and responded to these points as new requests for information. He suggested that information on location would be integral to any arrangements for access, while information on such arrangements would include any arrangements for their withdrawal.
10. The SPS stated that it considered Mr K's request of 24 March 2014 to have two elements. The first element, relating to arrangements, the SPS interpreted as the processes a prisoner must go through to obtain access to a standalone computer.
11. The Commissioner has considered the terms of Mr K's request of 24 March 2014, along with the SPS's submissions. She is satisfied that the SPS interpreted the request in a reasonable manner, and therefore that it was correct to interpret Mr K's correspondence of 23 April 2014 as containing new requests. Reasonably interpreted, the request sought information about a formal (or semi-formal) process for gaining access to one of these computers, should they be available. The Commissioner does not accept that this would extend, necessarily, to the withdrawal of that access once achieved, or that it would be reasonable to interpret "arrangements" as being specific to individual PCs.
12. The Commissioner notes that the SPS responded to these additional requests on 25 May 2014. It also appears to her that if she were to accept the SPS's submissions on its handling of the request, considered below, it would be highly unlikely that any information would be held on the withdrawal of any such facility or on the location of any PCs covered by it.

Information held by the SPS

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. This obligation is 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.

14. The information to be given is that held by the authority at the time the request is received, as defined in section 1(4).
15. Within his application to the Commissioner and in his requirement for review, Mr K stated that he was aware that such a facility was available to prisoners in certain locations. He claimed that there was a failure on the part of the SPS to properly identify information falling within the scope of the request, resulting in the improper withholding of information.
16. The SPS provided the Commissioner with some context relating to this request. It explained that some years previously, a number of standalone PCs were distributed amongst the accommodation blocks at the prison in question, following renewal of the computers in the Education Unit. These computers were not networked and the software on them was outdated and basic.
17. The SPS went on to explain that there were no formal arrangements for access to these computers. Through time and use, they began to break down. As this happened, they were removed and disposed of: repairing them was not cost-effective. The SPS explained that these were older computers, which no longer had active service contracts and were not recorded as assets in the prison for the purposes of monitoring.
18. The SPS also provided the Commissioner with details of the searches it undertook to determine that no information was held that fell within the scope of Mr K's request. These included logs of individual searches and information on the staff involved (with reasons why they were involved).
19. Having considered the submissions provided by the SPS, in the context of Mr K's request, the Commissioner is satisfied that that no information is (or was) held that would fall within the scope of this request. It is apparent, and entirely credible, from the explanations provided by the SPS that no formal arrangements existed in relation to these surplus and obsolete PCs.

Decision

The Commissioner finds that the Scottish Prison Service complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by Mr K.

Appeal

Should either Mr K or the Scottish Prison Service 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.

Margaret Keyse
Head of Enforcement

5 March 2015

Freedom of Information (Scotland) Act 2002

1 General entitlement

- (1) A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority.

...

- (4) The information to be given by the authority is that held by it at the time the request is received, except that, subject to subsection (5), any amendment or deletion which would have been made, regardless of the receipt of the request, between that time and the time it gives the information may be made before the information is given.

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