

Decision Notice



Decision 061/2008 Mr James Duff and the Chief Constable of Dumfries and Galloway Constabulary

Cost of specified investigations

Reference No: 200800518
Decision Date: 4 June 2008

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Kevin Dunion

Scottish Information Commissioner

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Summary

Mr James Duff (Mr Duff) requested from the Chief Constable of Dumfries and Galloway Constabulary (Dumfries and Galloway Constabulary) the cost of investigations into two specified matters. Dumfries and Galloway Constabulary responded that it does not allocate financial data in relation to specific investigations or enquiries and as such, in terms of section 17(1) of FOISA, it did not hold the information requested. Following a review, Mr Duff remained dissatisfied and applied to the Commissioner for a decision.

Following an investigation, the Commissioner found that Dumfries and Galloway Constabulary had dealt with Mr Duff's request for information in accordance with Part 1 of FOISA by stating that it did not hold the information requested. He did not require Dumfries and Galloway Constabulary to take any action.

Relevant statutory provisions and other sources

Freedom of Information (Scotland) Act 2002 (FOISA): sections 1(1) (General entitlement) and 17(1) (Notice that information is not held)

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

Background

1. On 25 February 2008, Mr Duff wrote to Dumfries and Galloway Constabulary requesting the cost of police investigations into two specified matters.
2. Dumfries and Galloway Constabulary responded on 11 March 2008. It stated that it does not allocate financial data in relation to specific investigations or enquiries and as such, in terms of section 17(1) of FOISA, did not hold the information requested. Dumfries and Galloway Constabulary explained that a police officer may be engaged in a number of enquiries at a particular time and it is not practical to record and code such information.



3. On 14 March 2008, Mr Duff wrote to Dumfries and Galloway Constabulary requesting a review of its decision. In particular, Mr Duff indicated that he believed that police forces do maintain records of time and costs associated with investigations. He also noted that there were instances when the police issue to the press details of time and expense involved in investigations. Mr Duff cited an instance when a police force had issued details of the time and cost of an investigation.
4. Dumfries and Galloway Constabulary notified Mr Duff of the outcome of its review on 1 April 2008. It upheld its initial decision that, in terms of section 17(1) of FOISA, it did not hold information falling within the terms of the request. Dumfries and Galloway Constabulary explained that there would be occasions when it may record time and cost for an investigation, but there would need to be a specific intention to do so. This was not the case with the investigations referred to by Mr Duff in his initial request. Dumfries and Galloway Constabulary declined to comment on the practice of another police force in respect of the instance quoted by Mr Duff.
5. On 7 April 2008, Mr Duff wrote to the Commissioner's office, stating that he was dissatisfied with the outcome of Dumfries and Galloway Constabulary's review and applying to the Commissioner for a decision in terms of section 47(1) of FOISA. Mr Duff explained that police investigations should be accountable and he was of the view that the information requested was held by Dumfries and Galloway Constabulary.
6. The application was validated by establishing that Mr Duff had made a request for information to a Scottish public authority and had applied to the Commissioner for a decision only after asking the authority to review its response to that request. The case was then allocated to an investigating officer.

Investigation

7. On 10 April 2008, Dumfries and Galloway Constabulary was notified in writing that an application had been received from Mr Duff.
8. The investigating officer subsequently contacted Dumfries and Galloway Constabulary on 29 April 2008, providing it with an opportunity to provide comments on the application (as required by section 49(3)(a) of FOISA) and asking it to respond to specific questions.

Commissioner's analysis and findings

9. In his application to the Commissioner's office, Mr Duff stated that he was dissatisfied that Dumfries and Galloway Constabulary had not provided the information requested (the costs of the investigations) and that he believed this information was held.



10. In order to determine whether Dumfries and Galloway Constabulary was correct to cite section 17(1) of FOISA, the Commissioner must establish whether the Dumfries and Galloway Constabulary holds (or held at the time of Mr Duff's request) information which would address his request.
11. Dumfries and Galloway Constabulary provided details of the searches carried out in respect of Mr Duff's request. It explained that it held voluminous files in respect of the relevant complaints and these files were reviewed. It was explained that no electronic files were held which could fall within the request, due to the age of the investigations concerned, and all the material searched was manual information consisting of files and folders held by the Complaints and Professional Standards Unit at Dumfries and Galloway Constabulary Headquarters. Having searched this material, Dumfries and Galloway Constabulary confirmed that they contained no recorded information in relation to the cost of investigations or the time involved with the specified investigations.
12. Additionally, Dumfries and Galloway Constabulary noted that it had checked with its Financial Services Department for records of costs (such as overtime records) associated with these investigations, and none was found. Dumfries and Galloway Constabulary noted that the Association of Chief Police Officers in Scotland (ACPOS) Recommended Retention Period Schedule recommends that such material only be held for Current year + 6 years, and the age of the investigations in question made it highly unlikely that such information would be held. Furthermore, it was noted that it was unlikely that overtime would have been claimed in relation to the specific investigations under consideration, but rather that the officers involved would have carried out the work routinely.
13. Dumfries and Galloway Constabulary explained that information in relation to the cost of an investigation is not recorded unless it incurs additional spending in relation to staff cost or equipment and that this is most common when it relates to a major investigation (e.g. murder, high-value theft, etc).
14. The Commissioner accepts that the relevant documents held by Dumfries and Galloway Constabulary (i.e. files relating to the specified investigations) were searched by Dumfries and Galloway Constabulary, and that the search extended even to an area which was thought unlikely to contain relevant information, but which was nevertheless checked. The Commissioner regards the scope of the Dumfries and Galloway Constabulary's searches for information falling within the scope of Mr Duff's request as thorough and reasonable in the circumstances.
15. Having considered the submissions made by Dumfries and Galloway Constabulary and Mr Duff, the Commissioner is satisfied that Dumfries and Galloway Constabulary does not (and did not at the time of Mr Duff's request) hold recorded information falling within the terms of the requests.
16. The Commissioner is therefore satisfied that Dumfries and Galloway Constabulary correctly notified Mr Duff in terms of section 17(1) of FOISA that the information requested was not held. He does not require any action to be taken by Dumfries and Galloway Constabulary in response to this decision.



DECISION

The Commissioner finds that the Chief Constable of Dumfries and Galloway Constabulary acted in accordance with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by Mr Duff.

Appeal

Should either Mr Duff or the Chief Constable of Dumfries and Galloway Constabulary wish to appeal against this decision, there is an 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 notice.

Kevin Dunion
Scottish Information Commissioner
04 June 2008



Appendix

Relevant statutory provisions

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.

17 Notice that information is not held

- (1) Where-
 - (a) a Scottish public authority receives a request which would require it either-
 - (i) to comply with section 1(1); or
 - (ii) to determine any question arising by virtue of paragraph (a) or (b) of section 2(1),

if it held the information to which the request relates; but

- (b) the authority does not hold that information,

it must, within the time allowed by or by virtue of section 10 for complying with the request, give the applicant notice in writing that it does not hold it.