

Decision Notice



Decision 022/2014 Mr Alan Laing and Scottish Ministers

Scottish Government content on YouTube and Flickr

Reference No: 201302589

Decision Date: 13 February 2014

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Rosemary Agnew

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews KY16 9DS
Tel: 01334 464610



Summary

On 9 September 2013, Mr Alan Laing submitted two separate information requests to the Scottish Ministers (the Ministers) regarding the Scottish Government's content on the websites Flickr and YouTube, which host pictures and videos. The Ministers stated that they did not hold information about staff involvement and associated costs, in either case. Following a review of both decisions, Mr Laing remained dissatisfied and applied to the Commissioner for a decision.

Following an investigation, the Commissioner found that the Ministers had dealt with Mr Laing's requests for information in accordance with Part 1 of FOISA. The Commissioner concluded that the Ministers had correctly given Mr Laing notice that they did not hold the information he sought, as required by section 17(1) of FOISA. She did not require the Ministers to take any action.

Relevant statutory provisions

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

Flickr request

1. On 9 September 2013, Mr Laing asked the Ministers for the following (including other matters, not the subject of the decision):
 1. How many civil servants are involved in the production of pictures for, management, oversight and any other direct involvement with the Scottish Government's Flickr channel, in each financial year since it was set up.
 2. The total cost of all civil servants involved in the production of videos for, management, oversight and any other direct involvement with the Scottish Government's Flickr channel, in each financial year since it was set up.



2. The Ministers responded on 2 October 2013. In relation to the first part of Mr Laing's request they stated that they did not hold the requested information, as the work was regarded as part of the normal duties of staff and the information was not recorded. In relation to the second part of his request, the Ministers commented that Flickr was used for still images only and a separate YouTube channel was used for video content, therefore they did not hold the information Mr Laing had asked for.

YouTube request

3. On 9 September 2013, Mr Laing asked the Ministers for the following (including other matters, not the subject of the decision):
 1. How many civil servants are involved in the production of videos for, management, oversight and any other direct involvement with the Scottish Government's YouTube channel, in each financial year since it was set up.
 2. The total cost of all civil servants involved in the production of videos for, management, oversight and any other direct involvement with the Scottish Government's YouTube channel, in each financial year since it was set up.
4. The Ministers responded on 2 October 2013. They stated that they did not hold the requested information, as the work was regarded as part of the normal duties of staff and the information was not recorded. In relation to the Flickr request, the Ministers additionally commented that Flickr was used for still images only (not videos).
5. On 2 October 2013, Mr Laing sent a single email to the Ministers requesting a review of both decisions (Flickr and YouTube). With respect to the Flickr response, Mr Laing believed it should have been clear that his request referred to pictures on Flickr. In relation to the YouTube response, Mr Laing considered that such responsibilities would be detailed in the job descriptions of the individuals concerned.
6. The Ministers issued a joint review response to Mr Laing on 30 October 2013. The Ministers explained more about how Flickr and YouTube was used within the Scottish Government, and why the requested information was not held. The Ministers responded to Mr Laing's comment that, in relation to Flickr, his reference to "videos" should have been interpreted as "pictures", but confirmed that even if the request had referred to pictures, they did not hold the information.
7. On 4 November 2013, Mr Laing emailed the Commissioner, stating that he was dissatisfied with the outcome of the Ministers' review to both requests and applying to the Commissioner for decision in terms of section 47(1) of FOISA.
8. The application was validated by establishing that Mr Laing made requests for information to a Scottish public authority and applied to the Commissioner for a decision only after asking the authority to review its response to those requests. The case was then allocated to an investigating officer.



Investigation

9. The investigating officer contacted the Ministers on 13 November 2013, giving them an opportunity to provide comments on the application (as required by section 49(3)(a) of FOISA), and asking them to respond to specific questions. The Ministers were asked to explain why they were satisfied that no information was held.
10. The Ministers responded on 9 December 2013, providing a detailed explanation as to why they did not hold the information sought by Mr Laing, and responding to the investigating officer's questions about how this was discovered.

Commissioner's analysis and findings

11. 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 Laing and the Ministers. She is satisfied that no matter of relevance has been overlooked.
12. In terms of section 1(4) of FOISA, the information to be provided in response to a request under section 1(1) is that falling within the scope of the request and held by the authority at the time the request is received, subject to certain qualifications which are not applicable in this case.
13. Under section 17(1) of FOISA, where an authority receives a request for information it does not hold, it must give an applicant notice in writing to that effect.
14. Where an application is made to the Commissioner on the basis that the applicant believes there to be information held, or further information held, which has not been provided by the authority (but which should be provided in accordance with Part 1 of FOISA), the Commissioner must satisfy herself that adequate steps have been taken by the authority to identify all the information relevant to the request (or alternatively, be given a reasonable explanation as to why the information or further information is not held). A simple assertion by the authority that the information is not held will not be sufficient.

Flickr request

15. The Ministers explained that they do not record who posts or uploads a picture to the Flickr user account. As there is only one set of log-in details for Scottish Government use of Flickr, there is no record of who has posted any of the pictures: the Flickr password has been shared across the Scottish Government's Communications teams and policy colleagues. An uploaded picture has no "watermark" to establish who uploaded it. The Ministers explained that staff use a range of mobile devices to upload pictures, again with no record of who uploaded a specific picture.



16. The Ministers commented that the person who took the picture may not be the person who uploaded it to Flickr. The Ministers concluded that, apart from it being impractical to search across the Government to establish who had or had not taken pictures or uploaded content, there was also the likelihood that a number of staff would have left the organisation during the time period covered by the request, and their records would no longer exist.
17. The Ministers commented that the Scottish Government does not record time spent on individual tasks and consequently there is no information to show how long staff have spent uploading images or other tasks relating to Flickr.
18. The Ministers explained that the information requested by Mr Laing could not be found in job descriptions as, due to the irregular and opportunistic nature of photography, it was never likely to be a specified duty for any official. The Ministers noted that a member of staff may only upload one picture in a year; therefore this would have no bearing on their official duties for the Scottish Government and they would be unlikely to consider this to be worthy of mention in a job description or as a competency in their personnel report.

YouTube request

19. The Ministers explained that YouTube is used by Communications teams and Policy Divisions for uploading video content. As with Flickr, the Ministers explained that a single password is used for all Scottish Government staff access; there is no record of who uploaded content; and the Ministers do not internally monitor or moderate content. The Ministers explained that the access password can be distributed by any member of Communications staff to anyone with a valid requirement to upload content. The Ministers stated that the Scottish Government therefore has no record of individual staff who have been given the task of placing content on the site.
20. The Ministers also explained that videos are produced across the Scottish Government for a variety of reasons, from training to campaigns and coverage of interesting events or occurrences. The Ministers stated that there was no central record of who specifically may have been involved in the production process, either in the commissioning, by attending meetings, viewing rushes, approving edits etc. The Ministers stated that this work is carried out on a regular basis by the Communications teams and they do not record who has worked on a specific video-related piece of work.
21. The Ministers concluded that as they do not record the information on the numbers of civil servants involved in the production of videos and photos, then it followed that they did not have any record of specific costs for this work. They confirmed that there were no formal procedures laid down for the monitoring of data that is uploaded by officials to Flickr and YouTube.

Conclusion

22. The Commissioner has considered the Ministers' submissions and accepts that the Ministers have taken adequate, proportionate steps to establish that they do not hold any information falling within the scope of the request.



23. On the basis of the evidence provided during her investigation, the Commissioner is satisfied that the Ministers do not hold any information falling within the scope of Mr Laing's request, and that they gave him notice of this, in line with section 17(1) of FOISA.
24. Although not affecting her conclusion on whether the Ministers complied with Part 1 of FOISA in dealing with Mr Laing's requests, the Commissioner considers that it would have been helpful if the Ministers had provided the above explanations to Mr Laing when responding to him.

DECISION

The Commissioner finds that the Scottish Ministers complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information requests made by Mr Alan Laing.

Appeal

Should either Mr Laing or the Scottish Ministers 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
13 February 2014



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.
- ...
- (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.
- ...

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.
- ...