

# Decision Notice



Decision 100/2011 Mr Ross Blyth and Glasgow City Council

Type of engines in licensed taxis

Reference No: 201100169  
Decision Date: 24 May 2011

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**Kevin Dunion**  
Scottish Information Commissioner

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## Summary

Mr Ross Blyth (Mr Blyth) asked Glasgow City Council (the Council) for information as to the number of licensed taxis in the Glasgow area that have particular types of engines. The Council responded by giving Mr Blyth a notice under section 17 of the Freedom of Information (Scotland) Act 2002 (FOISA) that it did not hold the requested information. Following a review, in which the Council upheld its reliance on section 17 of FOISA, Mr Blyth remained dissatisfied and applied to the Commissioner for a decision.

Following an investigation, the Commissioner found that the Council had dealt with Mr Blyth's request for information in accordance with Part 1 of FOISA, by advising Mr Blyth that it did not hold the requested information.

## Relevant statutory provisions and other sources

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

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1. On 18 November 2010, Mr Blyth wrote to the Council to request the following information in relation to the 1,428 licensed taxis in the city;
  - a. How many vehicles have Euro 1 engines
  - b. How many vehicles have Euro 2 engines
  - c. How many vehicles have Euro 3 engines
  - d. How many vehicles have Euro 4 engines
2. The Council responded on 29 November 2010, notifying Mr Blyth in terms of section 17 of FOISA that it did not hold the information that he had requested. The Council explained that the information was not held as it was not required within the licensing application form.



3. Mr Blyth wrote to the Council on 8 December 2010, requesting a review of its decision. In particular, Mr Blyth noted that an application for a grant or renewal of a taxi licence asks specifically for the exact model, make, cc rating, fuel type and date of first registration of the vehicle. Mr Blyth commented that this information identifies the type of engine that is in the vehicle. He went on to comment that the Council tests every taxi bi-annually and part of this test is for emissions; therefore, it was his view that the Council's Land and Environmental Services transport section would have a record of every engine they test.
4. In its response to Mr Blyth's request for review, dated 12 January 2011, the Council upheld its previous decision that the requested information was not held. It explained that FOISA provides for a right [of access] to *recorded* information, and submitted that while it may be possible for the information requested by Mr Blyth to be deduced from other information in the Council's possession, the actual information requested by Mr Blyth was not held by it in a recorded format.
5. On 27 January 2011, Mr Blyth wrote to the Commissioner, stating that he was dissatisfied with the outcome of the Council's review and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
6. The application was validated by establishing that Mr Blyth 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

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7. On 17 February 2011, the investigating officer contacted the Council, giving it 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. The Council was asked to explain the nature of the searches that it carried out to determine whether information was held which would address Mr Blyth's request. The Council was also asked to explain why it considered that the searches it carried out would have been likely to retrieve any information covered by Mr Blyth's request.
8. The investigating officer also invited the Council to comment on a contention put forward by Mr Blyth that any local authority that is serious about emissions, and one that purports to have an environmental policy, should record the information requested.
9. The Council provided its submissions on 10 March 2011.
10. All submissions received from the Council and Mr Blyth, in so far as relevant, will be considered in the Commissioner's analysis and findings below.



## Commissioner's analysis and findings

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11. In coming to a decision on this matter, the Commissioner has considered all of the submissions made to him by both Mr Blyth and the Council and is satisfied that no matter of relevance has been overlooked.

### Section 17(1) – Information not held

12. In terms of section 1(4) of FOISA, the information to be provided in response to a request made under section 1(1) is, subject to limited provisions which are not relevant here, that held at the time the request is received. Where a Scottish public authority receives a request for information that it does not hold, it must, in line with section 17(1) of FOISA, notify the applicant in writing that it does not hold the information.
13. In order to determine whether the Council has dealt with Mr Blyth's request correctly, the Commissioner must be satisfied as to whether, at the time it received Mr Blyth's request, the Council held any information which would fall within the scope of the request.
14. The Council advised that it does not hold the information that Mr Blyth has requested in any recorded form.
15. The Council explained that the information it routinely collects and holds regarding taxi licensing comes from the application forms that are completed for the granting or renewal of taxi licenses. Information is also held by the Council which is collected during the inspection and testing of taxis. The Council advised that none of the forms which record this information record whether a vehicle has a Euro 1, 2, 3 or 4 engine. Copies of these forms were provided to the Commissioner.
16. The Council considers that it may be possible for the engine type of the taxis to be deduced from the information that it collects, but certain assumptions would have to be made about the vehicles. It is the Council's view that, for many vehicles, making assumptions about the nature of the engine in the vehicle because of its age is not an entirely accurate method of deducing the engine type, compared to making an actual record of the engine type by undertaking an emissions inspection in respect of the particular vehicle. Therefore, the Council concluded that it would not be possible to deduce entirely accurate figures purely based upon the recorded ages of each of the vehicles within the city's taxi fleet.
17. In relation to Mr Blyth's comment about the Council's environmental policy, the Council commented that it does have an environmental policy and that it also has an action plan regarding reducing emissions and improving air quality in Glasgow.



18. The Council provided the Commissioner with a copy of its Air Quality Action Plan (AQAP). This AQAP includes a section on the Council's taxi fleet and the Euro standards for emissions, which sets out the percentage of private hire vehicles which meet Euro III emission standards, and the percentage of taxis which fall below the Euro III emission standard. The Council explained that this statistical analysis is based upon assumptions which were made about the likely engine type in the taxis based on the age of the vehicle.
19. The Council explained that while the AQAP and the Sustainable Glasgow Initiative indicate the Council's aspirations and long term goals in relation to environmental policy, the legal requirements for the inspection of taxis for licensing purposes are regulated by Part II of the Civic Government (Scotland) Act 1982 (1982 Act). The information that is required to be collected by the 1982 Act is contained in the forms referred to above.
20. The Council also provided the Commissioner with details of the searches it undertook to determine whether it held any recorded information falling within the scope of Mr Blyth's request. It advised that searches were carried out by the Council's Taxi and Private Hire Enforcement Unit, its Air Quality Action Team and its Licensing section to determine whether relevant recorded information was held. In determining whether such information was held reference was made to the nature of the information recorded in the forms mentioned previously.
21. The Council provided the Commissioner with copies of emails to evidence these searches.
22. As the Council correctly pointed out to Mr Blyth in response to his request for review, FOISA provides a right to access any recorded information (subject to the exemptions in FOISA) held by a Scottish public authority covered by FOISA. While the Council has acknowledged that the information sought by Mr Blyth could be deduced if assumptions were made about the recorded information that it holds, FOISA does not require an authority to create information in order to respond to a request for information.
23. The Commissioner is therefore satisfied that the Council took adequate steps in the circumstances of this particular case to identify and locate any recorded information it held which fell within the scope of Mr Blyth's request. Having considered all the submissions received from the Council, the Commissioner is satisfied, on balance, that the Council does not (and did not at the time of Mr Blyth's request and request for review) hold any recorded information which would address his request.



## **DECISION**

The Commissioner finds that Glasgow City Council complied with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mr Blyth.

## **Appeal**

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Should either Mr Blyth or Glasgow City Council 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.

**Margaret Keyse**  
**Head of Enforcement**  
**24 May 2011**



## Appendix

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### 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.

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- (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.

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