

# Decision Notice

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**Decision 177/2015: Mr Stuart Glendinning and Glasgow City Council**

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**Park Quadrant CPO**

Reference No: 201501648

Decision Date: 12 November 2015



Scottish Information  
Commissioner

## Summary

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On 18 June 2015, Mr Glendinning asked Glasgow City Council (the Council) for information relating to a specified Compulsory Purchase Order (CPO). The Council provided him with some information, but told him that it did not hold information as to the amount paid to the original owners of the land, other than that paid to one organisation (which was given to him).

The Commissioner investigated and found that the Council had provided Mr Glendinning with all of the relevant information that it held.

## Relevant statutory provisions

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Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) and (4) (General entitlement); 17(1) (Information not held)

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

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1. On 18 June 2015, Mr Glendinning made a request for information to the Council. He referred to a site adjacent to Park Quadrant Glasgow, currently being marketed by the Council. He stated that the land had been subject to a CPO around 1981, and sought information including the sums paid to previous owners of the land.
2. The Council responded on 16 July 2015. In relation to the sums paid, the Council informed Mr Glendinning that any information held would be contained within historic, archived paper files and not held electronically. It stated the cost of responding to this part of his request would exceed the cost limit specified under section 12(1) of FOISA, with the result that it was not required to comply.
3. The Council also suggested that some of the information might be held in the Registers of Scotland, in which case it would be exempt in terms of section 25(1) of FOISA.
4. On 20 July 2015, Mr Glendinning wrote to the Council requesting a review of its decision on the basis that he did not accept that the cost would exceed the £600 limit. He further wrote to the Council on 31 July 2015, stating that the information was not held in the Registers of Scotland and reiterating that he still sought this information.
5. The Council notified Mr Glendinning of the outcome of its on 17 August 2015. In relation to the sums paid, it informed Mr Glendinning that it had carried out further searches for the information. From these, it concluded that it did not hold information on the sums paid and gave him notice in terms of section 17(1) of FOISA. However, it confirmed that it held information on the figure paid to Greater Glasgow Health Board (GGHB), providing him with that figure. It also confirmed that some of the land had been acquired voluntarily from the Ministry of Defence (MoD), stating that information on this could be obtained from the Registers of Scotland and therefore was exempt under section 25(1) of FOISA.
6. On 8 September 2015, Mr Glendinning wrote to the Commissioner. He applied to the Commissioner for a decision in terms of section 47(1) of FOISA. Mr Glendinning stated he

was dissatisfied with the outcome of the Council's review, in particular that his question relating to the sums paid to previous owners remained unanswered. He did not accept that the Council could take land away from 30 owners as recently as 1981 and have no record of the transactions made

## **Investigation**

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7. The application was accepted as valid. The Commissioner confirmed that Mr Glendinning 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. The case was then allocated to an investigating officer.
8. On 6 October 2015, the Council was notified in writing that Mr Glendinning had made a valid application. The case was allocated to an investigating officer.
9. Section 49(3)(a) of FOISA requires the Commissioner to give public authorities an opportunity to provide comments on an application. The Council was invited to comment on this application and to answer specific questions, in particular to explain the steps it had taken to identify and locate the information requested.
10. The Council responded, providing submissions in support of its position that it did not hold any relevant information other than the amount paid to GGHB. It confirmed that it held information relating to a payment made to the MoD, but this did not fall within the scope of the request: as explained above, this was a voluntary acquisition rather than one under the CPO. Having considered the relevant submissions, the Commissioner accepts this explanation: she also notes that the Council provided Mr Glendinning with the relevant figure during the investigation.

## **Commissioner's analysis and findings**

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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 Glendinning and the Council. She is satisfied that no matter of relevance has been overlooked.

### **Information held by the Council**

12. 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, 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.
13. The information to be given is that held by the authority at the time the request is received, as defined in section 1(4). This is not necessarily to be equated with information an applicant believes the authority should hold. If no such information is held by the authority, section 17(1) of FOISA requires it to give the applicant notice in writing to that effect.
14. The Commissioner notes the submissions provided by Mr Glendinning, in which he provides reasons why he considers the Council should hold the sums paid to the previous owners of the land.
15. The Council explained that any relevant information it held would have been inherited from its predecessor, Glasgow District Council. Given the date of the CPO, the information would

not be held electronically. It confirmed that it had searched any paper files held, identifying the departments involved in the searches. The Council described these searches and provided evidence of their outcomes. They identified no relevant information in addition to that given to Mr Glendinning.

16. Having considered all relevant submissions and the terms of the request, the Commissioner accepts that the Council interpreted Mr Glendinning's request reasonably and took adequate, proportionate steps in the circumstances to establish what information it held in relation to the sums paid to previous owners of the land. Given the explanations provided, she is satisfied that the Council does not hold any further information on this point.
17. The Commissioner is therefore satisfied that the Council was correct to give Mr Glendinning notice, in terms of section 17(1) of FOISA, that (with the exception the information it did provide) it held no information falling within the scope of this part of his request. In providing such information as it did, she is satisfied that it dealt with the requests in accordance with section 1(1) of FOISA.

## Decision

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

## Appeal

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Should either Mr Glendinning or Glasgow City Council 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**

**12 November 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.

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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.

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#### 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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