

Decision Notice

Decision 180/2018: Dr A and the Chief Constable of the Police Service of Scotland

Cost of adding "Poileas" to Police Scotland vehicles

Reference No: 201801316

Decision Date: 13 November 2018



Scottish Information
Commissioner

Summary

Police Scotland were asked how much it had cost to paint "Poileas" on all their vehicles. Police Scotland told the requester they did not hold the information. The Commissioner investigated and accepted that Police Scotland did not hold information which would answer the request.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections (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 Appendix 1 to this decision. The Appendix forms part of this decision.

Background

1. On 24 April 2018, Dr A made a request for information to the Chief Constable of the Police Service of Scotland (Police Scotland). Dr A requested the cost of painting the Gaelic word "Poileas" on all Police Scotland vehicles, "including replacement and alteration of existing signage, time per vehicle off road and all and any ancillary administrative, labour and material costs".
2. Police Scotland responded on 27 April 2018, giving notice under section 17 of FOISA that they did not hold any of the information requested. They explained that changes to their logo were carried out "in house" by Police Scotland's design team and there were no associated costs in this respect. Police Scotland said that "as any such changes will be introduced to police equipment as these items are replaced or updated there is no specific budget dedicated for the implementation and Police Scotland does not record any specific costs involved."
3. On 25 May 2018, Dr A wrote to Police Scotland challenging their response. He believed there should be records of instructions given and a corresponding planned workload with costings. The Commissioner has accepted this email as a request for a review of the initial response to Dr A's request.
4. Police Scotland wrote to Dr A on 31 May 2018, reiterating that there were no costs attributed to the changes of logos on police vehicles and no separate budget for this task; the vehicles logos are updated when vehicles are replaced or updated. Police Scotland stated: "we do not hold the information requested and are not obliged to create new data for a FOI request." The Commissioner has taken this as a response to Dr A's request for review.
5. On 6 August 2018, Dr A applied to the Commissioner for a decision in terms of section 47(1) of FOISA. Dr A asked the Commissioner to investigate whether the response he received from Police Scotland was correct.

Investigation

6. The application was accepted as valid. The Commissioner confirmed that Dr A made a request for information to a Scottish public authority and asked the authority to review its response to that request before applying to him 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. Police Scotland were invited to comment on this application and to answer specific questions including justifying their reliance on any provisions of FOISA.
8. Police Scotland confirmed that they were relying on section 17 of FOISA, and that they did not hold the information requested by Dr A.

Commissioner's analysis and findings

9. In coming to a decision on this matter, the Commissioner considered all the relevant submissions, or parts of submissions, made to him by both Dr A and Police Scotland. He is satisfied that no matter of relevance has been overlooked.

Section 17(1) - Notice that information is not held

10. 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. This is subject to qualifications, but these are not applicable here. If no such information is held by the authority, section 17(1) of FOISA requires the authority to give the applicant notice in writing to that effect.
11. The standard of proof to determine whether a Scottish public authority holds information is the civil standard of the balance of probabilities. In determining this, the Commissioner will consider the scope, quality, thoroughness and results of the searches carried out by the public authority. He will also consider, where appropriate, any reason offered by the public authority to explain why the information is not held.
12. Police Scotland were asked how they had established that they did not hold any recorded information falling within Dr A's request.
13. Police Scotland replied that the information sought in this case had been requested previously, by others, after Police Scotland issued a press release¹ on 19 September 2017 about the change of their logo to include Gaelic.
14. Police Scotland had asked their Fleet Department and their Finance Department, but neither department held any information. (Police Scotland gave the Commissioner the responses from each of these departments). Police Scotland stated that "the information the applicant seeks does not exist."
15. Having considered all the relevant submissions about the searches and enquiries carried out by Police Scotland, the Commissioner accepts that Police Scotland do not hold information falling within Dr A's request. In reaching this conclusion, the Commissioner has taken into account that the information requested by Dr A relates to a specific issue that has been the subject of a press release, media attention, and has already led to other information

¹ <http://www.scotland.police.uk/whats-happening/news/2017/september/police-scotland-rolls-out-english-gaelic-logo>

requests. He takes the view that the relevant information (cost) would be easily identified by staff already aware of the issue, if relevant information was held.

16. The Commissioner is not aware of any information in the public domain that suggests there is an identifiable cost for the signage change: quite the reverse. Police Scotland have their own Gaelic Language Plan (GLP), which is a legal requirement stemming from The Gaelic Language (Scotland) Act 2005. In the category *Financial Implications* it states:

“No new budget allocations are presumed to deliver the elements of this plan. The challenge is to deliver the GLP using existing resources efficiently and to maximise outcomes through effective partnership activity and the use of staff time. Police Scotland have accessed external funding and will continue to explore opportunities to add value to the delivery of this plan.”

17. The GLP states in the table on page 33 that “Police Scotland Vehicles to have bilingual markings on a replacement basis” and provides in the lead category “Fleet Department and Procurement”. Staff in those departments of Police Scotland have confirmed that no recorded information is held.
18. The Commissioner also notes that the Chief Executive of the Scottish Police Authority has stated publicly that the changes would take place over five years on a “cost-neutral” basis².
19. Taking all of the above into consideration, the Commissioner is satisfied - on the balance of probabilities - that Police Scotland do not hold any information falling within the scope of Dr A’s request, and correctly gave notice of this to Dr A, as required by section 17(1) of FOISA.

Decision

The Commissioner finds that the Chief Constable of the Police Service of Scotland complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by Dr A.

Appeal

Should either Dr A or the Chief Constable of the Police Service of Scotland 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 November 2018

² <https://www.pressandjournal.co.uk/fp/news/scotland/1127256/police-confirm-plans-to-use-gaelic-logo-on-cars-and-uniforms/?sso-c=MC4yMjU0OTlwMCAxNTQxNjg3NjY0>

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.

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