

Decision Notice 167/2021

Supply of canine cadavers

Applicant: the Applicant

Public authority: University of Edinburgh

Case Ref: 202001420



Scottish Information
Commissioner

Summary

The University was asked for various details on the supply of canine cadavers to its Veterinary School, from 2017 to date.

The University estimated the total costs were well in excess of the £600 threshold in FOISA, so it was not obliged to comply with the request. The Commissioner agreed.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) and (6) (General entitlement); 12(1) (Excessive cost of compliance)

The Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004 (the Fees Regulations) regulations 3 (Projected costs) and 5 (Excessive cost – prescribed amount)

The full text of each of the statutory provisions cited above is reproduced in Appendix 1 to this decision. The Appendices form part of this decision.

Background

1. On 2 March 2020, the Applicant made a request for information to the University of Edinburgh (the University). The information requested can be summarised as follows (the full text of the request is set out in Appendix 2):

Part 1

All information relating to the supply of canine cadavers from 1 January 2013 to date

Parts 2 to 4

Numbers of canine cadavers (broken down by organisation/individual) received from local authorities, animal rescue centres, warden services or individuals/companies/organisations (dealing directly or indirectly with dogs) between 1 January and 31 December in each of the years 2017, 2018 and 2019.

Parts 5 to 8

For each of parts 1 to 4, names and contact details of any organisation/individual from whom cadavers had been received (with breakdown for each organisation/year), basis upon which dogs were euthanised, who performed euthanasia and contributions to costs of euthanasia and related services.

Part 9

Full details of the University's ethics committee decisions since 1 January 2013 in relation to the supply of cadavers.

2. The University responded on 7 May 2020, providing some information and otherwise citing section 12(1) (Excessive cost of compliance) of FOISA on the basis that the cost of complying with the request would exceed the specified limit of £600. It explained what information it held and how it was structured in its records, as well as citing other provisions of FOISA.
3. On 14 May 2020, the Applicant wrote to the University requesting a review of its decision, explaining what information he would like the University to focus on providing. The Applicant also believed there were strong arguments favouring its disclosure here.

4. The University notified the Applicant of the outcome of its review on 2 June 2020. It continued to refuse to disclose information.
5. On 29 November 2020, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. The Applicant stated he was dissatisfied with the outcome of the University's review, submitting that the University ought to have disclosed all the information sought.

Investigation

6. The application was accepted as valid. The Commissioner confirmed that the Applicant 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. On 5 January 2021 the University was notified in writing that the Applicant had made a valid application. The case was allocated to an investigating officer.
8. Section 49(3)(a) of FOISA requires the Commissioner to give public authorities an opportunity to provide comments on an application. During the investigation (19 March 2021), the University was invited to comment on this application and to answer specific questions. It did so on 29 April 2021, setting out more detail on how it had estimated costs for responding to the Applicant's request.

Commissioner's analysis and findings

9. In coming to a decision on this matter, the Commissioner considered all of the relevant submissions, or parts of submissions, made to him by both the Applicant and the University. He is satisfied that no matter of relevance has been overlooked.
10. The Commissioner is satisfied that the various parts of this request are sufficiently interlinked that it can only reasonably be considered as a single request for the purposes of determining whether section 12(1) of FOISA applies.

Section 12(1) – Excessive cost of compliance

11. Section 12(1) of FOISA provides that a Scottish public authority is not obliged to comply with a request for information where the estimated cost of doing so would exceed the amount prescribed in the Fees Regulations. This amount is currently set at £600 (regulation 5). Consequently, the Commissioner has no power to require the disclosure of information should he find that the cost of responding to a request for information would exceed that sum.
12. The projected costs the authority can take into account in relation to a request for information are, according to regulation 3 of the Fees Regulations, the total costs, whether direct or indirect, which the authority reasonably estimates it is likely to incur in locating, retrieving and providing the information requested in accordance with Part 1 of FOISA.
13. The authority may not charge for the cost of determining whether it:
 - (i) actually holds the information requested or
 - (ii) should provide the information.
14. The maximum rate a Scottish public authority can charge for staff time is £15 per hour.

15. In its submissions, the University stated it had estimated costs for the period 1 January 2017 to date, as stipulated the Applicant. The University stated it had a well-established recording process at the Royal (Dick) School of Veterinary Studies. The majority of the information sought in this request was to be found within email correspondence for donations, in conjunction with the related consent forms needed for the Dick Vet Educational Memorial Programme (EMP). Details of only some other donations are held separately.
16. The University explained that, to extract the relevant information, it needed to check the content of approximately 450 emails in the dedicated EMP inbox, and also search the Small Animals email account. A specific group of staff members in the Vet School itself would also need to check their own email accounts. Overall, it estimated that approximately 2,000 emails would come within the scope of the request.
17. The University confirmed it had not undertaken a sampling exercise of paper records during the Covid-19 pandemic (EMP consent forms are held centrally, in paper format). However, it estimated that preparing these for disclosure, including redaction work of any exempt information, would take approximately 19 hours in total, for the Applicant's shorter timeframe. (However, the Commissioner notes that the Applicant confirmed, in his requirement for review, that he was not seeking the consent forms.)

The Commissioner's view

18. The explanations provided by the University could have been more detailed in this case, but it is apparent that fulfilling even the shorter time frame (2017, 2018 and 2019) requires a content search of a substantial number of emails, just to locate relevant details. Even if the University could content-search and prepare information at a rate of 20 emails per hour, the cost of this work would be in the region of £1,500 – at £15 per hour for staff time. It is likely that reasonably knowledgeable staff would be required to do this kind of sifting but, even if administrative staff were able to undertake all the tasks involved (which appears unlikely), at the lesser hourly rate of £12, the costs would still be in the region of £1,200.
19. In all the circumstances, the Commissioner is satisfied that the University could not have complied with the Applicant's request within the £600 cost limit. Consequently, he finds that the University was entitled to rely on section 12(1) of FOISA and was under no obligation to comply with the request.
20. Given this finding, the Commissioner need not go on to consider information withheld under the exemptions cited in the University's correspondence.

Decision

The Commissioner finds that the University of Edinburgh complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by the Applicant.

Appeal

Should either the Applicant or the University 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

19 October 2021

Appendix 1: 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.

...

- (6) This section is subject to sections 2, 9, 12 and 14.

12 Excessive cost of compliance

- (1) Section 1(1) does not oblige a Scottish public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed such amount as may be prescribed in regulations made by the Scottish Ministers; and different amounts may be so prescribed in relation to different cases.

...

Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004

3 Projected costs

- (1) In these Regulations, "projected costs" in relation to a request for information means the total costs, whether direct or indirect, which a Scottish public authority reasonably estimates in accordance with this regulation that it is likely to incur in locating, retrieving and providing such information in accordance with the Act.
- (2) In estimating projected costs-
- (a) no account shall be taken of costs incurred in determining-
 - (i) whether the authority holds the information specified in the request; or
 - (ii) whether the person seeking the information is entitled to receive the requested information or, if not so entitled, should nevertheless be provided with it or should be refused it; and
 - (b) any estimate of the cost of staff time in locating, retrieving or providing the information shall not exceed £15 per hour per member of staff.

5 Excessive cost - prescribed amount

The amount prescribed for the purposes of section 12(1) of the Act (excessive cost of compliance) is £600.

Appendix 2: the information request in full

Please can you provide me with the following information. Each of the following questions refers to the supply of canine cadavers to the Royal (Dick) School of Veterinary Studies.

1. Please provide copies of all information held by the University relating to the supply of canine cadavers from 1st January 2013 to date. If the cost of compliance with this request exceeds the statutory limit, please provide the relevant information from 1st January 2017 to date.
 2. Please confirm specifically the number of canine cadavers received from local authorities, animal rescue centres, animal warden services or any individuals, companies or organisations dealing directly or indirectly with dogs, between 1st January 2017 and 31st December 2017. If more than one organisation or individual provided you with the cadavers, please provide a separate breakdown for each organisation and individual.
 3. Please confirm specifically the number of canine cadavers received from local authorities, animal rescue centres, animal warden services or any individuals, companies or organisations dealing directly or indirectly with dogs, between 1st January 2018 and 31st December 2018. If more than one organisation or individual provided you with the cadavers, please provide a separate breakdown for each organisation and individual.
 4. Please confirm specifically the total number of canine cadavers received from local authorities, animal rescue centres, animal warden services or any individuals, companies or organisations dealing directly or indirectly with dogs, between 1st January 2019 and 31st December 2019. If more than one organisation or individual provided you with the cadavers, please provide a separate breakdown for each organisation and individual.
 5. In relation to questions (1), (2), (3) and (4) please provide the names and contact details of any individuals or organisations from whom canine cadavers were received. Please provide a separate breakdown for each organisation or individual, and for each year.
 6. In relation to questions (1), (2), (3) and (4), please confirm the basis upon which the dogs were euthanised. If the dogs were stated to have been euthanised due to illness or injury, please confirm what measures are in place to confirm that this was the case.
 7. In relation to questions (1), (2), (3) and (4), please confirm whether the dogs were euthanised by:
 - i) any employee or former employee of the University (whether or not they were employed by the University, when they euthanised the dogs).
 - ii) any consultant to, or former consultant to the University (whether or not they were employed by the University, when they euthanised the dogs).
 - iii) any individual who provides, or has provided services to the University.
- Please also confirm whether any of the individuals in (i), (ii) or (iii) above subsequently used the cadavers in connection with their employment at the University or with the provision of services to the University.
8. In relation to questions (1), (2), (3) and (4) please can you confirm the following.

- i) Has the University made any contribution towards the cost of euthanising the dogs, transporting the cadavers following euthanasia, or disposal of the cadavers.
- ii) Has the University provided the services (paid or unpaid) of any veterinary surgeons or trainees or students or any other individuals to the individuals, organisations or companies which supply the cadavers.
- iii) Has the University made any payments, directly or indirectly, to any individuals, organisations or companies, which collect, transport or deliver the cadavers.
- iv) Has any individual or organisation made payments on the University's behalf for the collection, transport or delivery of the canine cadavers.

If the cost of compliance with this request exceeds the statutory limit, please provide the relevant information from 1st January 2017 to date.

9. Please provide full details of all ethics committee decisions since 1st January 2013 in relation to the supply of the cadavers. Please include details of any submissions or applications made to the relevant committees, copies of any correspondence held in relation to the submissions or applications, copies of any notes taken during committee meetings and copies of the decisions made.

If the cost of compliance with this request exceeds the statutory limit, please provide the relevant information from 1st January 2017 to date.

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews, Fife
KY16 9DS

t 01334 464610

f 01334 464611

enquiries@itspublicknowledge.info

www.itspublicknowledge.info