

# Decision Notice

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**Decision 067/2016: Mr X and Glasgow City Council**

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**Distance calculations for placing requests in schools**

Reference No: 201502276

Decision Date: 18 March 2016



Scottish Information  
Commissioner

## Summary

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On 26 August 2015, Mr X asked Glasgow City Council (the Council) for all records of errors made when calculating distance criteria for placing children in primary and secondary schools for the academic year 2015-2016. The Council responded confirming two errors relating to the same school. Mr X thought more errors existed. He did not accept that the Council had fully addressed the terms of his request.

The Commissioner investigated and found that the Council had properly responded to Mr X's request for information in accordance with Part 1 of FOISA as all the recorded errors had been disclosed to him.

## Relevant statutory provisions

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

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 26 August 2015, Mr X made a request for information to the Council. The information requested was:  
“... all recorded information on all errors that have occurred when calculating distance criteria for placing requests to all Glasgow City Council primary and secondary school for academic year 2015-2016.”
2. The Council responded on 1 September 2015, confirming two recorded errors (both in relation to the same school).
3. On 2 September 2015, Mr X wrote to the Council requesting a review of its decision. He did not believe he had been given a full response in relation to the errors identified and submitted there should be additional errors recorded. He also questioned whether the request had been considered fully, suggesting that the information the Council held on placing requests should have been reanalysed for the purposes of the request.
4. The Council notified Mr X of the outcome of its review on 29 September 2015. It upheld its original decision without modification, although it provided further explanation in response to the points Mr X had made. It considered any further information it held on the two errors was exempt as personal data under provisions in section 38 of FOISA.
5. Responding to Mr X's suggestion that information should have been reanalysed in responding to the request, the Council submitted that the recalculation of all placing requests would involve the creation of new information. It was not required to do this under FOISA.
6. On 2 December 2015, Mr X wrote to the Commissioner. He applied to the Commissioner for a decision in terms of section 47(1) of FOISA. Mr X stated he was dissatisfied with the outcome of the Council's review because he expected the Council to hold more information on errors. He did not, however, challenge the Council's application of section 38 of FOISA.

## Investigation

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7. The application was accepted as valid. The Commissioner confirmed that Mr X made a request to a Scottish public authority and asked the authority to review its response to that request before applying to her for a decision.
8. On 21 December 2015, the Council was notified in writing that Mr X 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 answer specific questions, in particular questions on the steps taken by the Council to identify and locate any relevant information it held.

## Commissioner's analysis and findings

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10. In coming to a decision on this matter, the Commissioner considered all of the withheld information and the relevant submissions, or parts of submissions, made to her by both Mr X and the Council. She is satisfied that no matter of relevance has been overlooked.

### Scope of investigation

11. The Commissioner's remit is limited to deciding whether the Council complied with Part 1 of FOISA in responding to Mr X' request of 26 August 2015. The Commissioner cannot consider whether the Council has in place appropriate processes for calculating distances and verifying these calculations. These matters do not fall within the remit of the Commissioner in terms of FOISA.
12. The Commissioner notes that the Council has written to Mr X separately regarding a review of its processes for calculating distances. This review of its processes does not fall within the scope of the information request under consideration here (and therefore cannot fall within the scope of Mr X's present application).
13. Mr X's requirement for review refers to the need for reanalysis of all placing requests for the purposes of his information request. The Council responded to the effect that this would involve the creation of new information, rather than the provision of information already held, and therefore was not something it was required to do under FOISA. The Commissioner agrees: section 1(1) of FOISA only gives a right to recorded information held by the public authority at the time it receives the request.
14. Mr X asked for information on errors and was entitled to any such information recorded by the Council and held by it at the time it received his request. That is, information the Council held relating to errors, not data from which errors might be identified should further analysis be carried out. In the circumstances, the Commissioner would have to agree with the Council's view that such analysis would amount to the creation of new information and therefore went beyond its duties under FOISA.
15. The Commissioner can understand that the Council's initial reference to "known recorded errors" might have caused some confusion and suggested that there might also be unknown errors. To a large extent, Mr X's concerns appear to have been rooted in this possibility. As explained above, however – and as explained by the Council in responding to Mr X's requirement for review – information on unknown errors could not be the subject of a request

under section 1(1) of FOISA. It would, by definition, not be recorded information and the errors could not be identified without the creation of new information.

### **Whether more information is held**

16. Mr X was also concerned that the Council should hold further (recorded) information on errors, noting further errors he was aware of and also that the two identified errors related to the same school (i.e. there were none identified for other schools). As noted above, however, he has not challenged the withholding of further information on the identified errors under section 38 of FOISA (i.e. on the basis that disclosure of the information would involve the disclosure of personal data).
17. 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 in this case.

### *Searches*

18. During the investigation, the Council was asked how it established what information it held which fell within the scope of Mr X's request.
19. The Council explained the processes for calculating distances for the purposes of placing requests, and for recording that information, with samples of the relevant documentation. It went on to explain that this information would not itself disclose errors. These would be identified, and the information recorded, only if the calculation had been queried, for example by way of a complaint. Errors in the calculations would only be identifiable, therefore, from the correspondence relating to complaints and other queries in relation to those calculations.
20. The Council went on to explain that two relevant lead officers in the Education Department had searched the complaints correspondence in relation to all schools. They had identified no further errors.
21. The investigating officer also queried a reference in correspondence to a further error. The Council confirmed that this was an error in the ranking of placing requests, which came about as a result of the two distance calculation errors, not a further error in the calculation of distances.
22. The Commissioner has considered all of the Council's submissions carefully. In the circumstances, she accepts that the Council carried out adequate, proportionate searches and enquiries to ascertain what information it held and which fell within the scope of Mr X's request. On balance, therefore, she is satisfied that it identified and located all relevant information it held.
23. Consequently, in respect of the matters raised in Mr X's application and falling within her remit, the Commissioner is satisfied that the Council complied with Part 1 of FOISA in responding to the information request made by Mr X.

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

## **Appeal**

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Should either Mr X or the 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**

**18 March 2016**

### 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.

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