

# Decision Notice

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## **Decision 268/2016: Ms Claire Miller and the Scottish Ambulance Service Board**

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### **Data on incident calls and response times**

Reference No: 201601719

Decision Date: 15 December 2016



## Summary

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The Scottish Ambulance Service Board was asked for data about incident calls and response times. It refused to provide the information but did not apply any FOISA exemptions.

The Commissioner required the Board to provide a response to the request in terms of FOISA.

## Relevant statutory provisions

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Freedom of Information (Scotland) Act 2002 (FOISA) section 16 (Refusal of request)

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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### Request 1:

1. On 12 February 2016, Ms Miller asked the Scottish Ambulance Service Board (the Board):  
*“For each postcode district (e.g. AA1), please provide for each priority:*
  - *the number of incidents/calls with a response*
  - *the median response time*
  - *the longest response time**for each month from June 2014 to January 2016. Please provide the information as a spreadsheet or CSV.”*
2. On 1 March 2016, the Board contacted Ms Miller, explaining that as she had requested the data by postcode district, month and priority, about 30,000 individual incidents would need to be checked manually to ensure that the data was accurate. This could take over a year to complete. The Board offered to provide Ms Miller with partial information, based on its suggested reduction in the scope of her request.
3. Ms Miller responded to the Board on 2 March 2016, stating that she just required it to provide her with raw anonymised incident data (postcode district, month, response time), which she would then analyse herself.
4. On 4 April 2016, the Board provided Ms Miller with a partial response. It disclosed some information consisting of the total number of emergency incidents attended and the median response times between the months of June 2014 and January 2016. It provided the median response times by month but stated that due to the nature of fact checking required to provide the longest times it had split these into response time ranges and provided the aggregated figures for the numbers of category A, B and C incidents. The Board provided no reasons in terms of FOISA for not providing all the requested information.

### Request 2:

5. Ms Miller made a second information request on 31 May 2016. She asked the Board:

*“Please could you send me the raw anonymised data from the approximately 30,000 incidents and any notes on issues that may affect accuracy.”*

6. The Board responded on 5 July 2016, stating that the data Ms Miller was asking for was not in a format that could be sent to her or that would be understood by her. The Board advised that for the data to make any sense it would need to be examined by one of its analysts, which would be extremely time consuming. The Board asked Ms Miller if there was anything “in more general terms” that might be helpful to her.

### Request 3:

7. On 5 July 2016, Ms Miller made a third request to the Board. She asked the Board to advise her in what format the data she had requested was held. She also asked if she could be provided with a data dictionary or similar for the Board’s call logging system.
8. The Board responded on 8 August 2016 and reiterated that in order to make sure the raw data was accurate before providing it to Ms Miller it would have to manually check around 30,000 records, which could take over a year to complete. Ms Miller was informed by the Board that it did not use, and therefore could not provide, a data dictionary. The Board also stated that it considered Ms Miller’s suggestion that it provide her with the raw data was unrealistic, give her unfamiliarity with the data set and the sources/systems from which it came.
9. On 19 August 2016, Ms Miller wrote to the Board, requesting a review of its decision not to disclose the raw data to her. She explained that she was a very experienced data journalist, used to dealing with big and complex data sets on a daily basis. She did not accept that there was any need for the Board to manually check the data before disclosing it to her and stated that the Board’s assumption about her level of understanding was not a legitimate basis for refusing to provide the information.
10. The Board notified Ms Miller of the outcome of its review on 15 September 2016. It upheld its position that the raw data needed to be checked before it could be disclosed to her. As this would equate to over 240,000 manual checks, it was applying section 12 of FOISA (Excessive cost of compliance) for refusing to provide the manually checked information.
11. On 19 September 2016, Ms Miller wrote to the Commissioner. She applied to the Commissioner for a decision in terms of section 47(1) of FOISA. Ms Miller stated that she was dissatisfied with the outcome of the Board’s review because she did not believe the Board needed to manually check the raw data and believed it should be provided to her as raw data.

## **Investigation**

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12. The application was accepted as valid. The Commissioner confirmed that Ms Miller 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.
13. On 5 October the Board was notified in writing that Ms Miller had made a valid application and the case was then passed to an investigating officer.
14. Section 49(3)(a) of FOISA requires the Commissioner to give public authorities an opportunity to provide comments on an application. The Board was invited to comment on this application, with reference to provisions of FOISA it considered applicable to the information requested.

15. The Board adhered to its position that it was not willing to disclose the raw data to Ms Miller, because it believed it would almost certainly be misunderstood. The Board provided details of the costings it had calculated in reaching its application of section 12(1) of FOISA to the manually checked data.

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

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16. In coming to a decision on this matter, the Commissioner has considered the relevant submissions, or parts of submissions, made to her by both Ms Miller and the Board. She is satisfied that no matter of relevance has been overlooked.

### **What information is Ms Miller seeking?**

17. The Board's arguments for not providing Ms Miller with the information that she had asked for were directly related to the cost of providing a *manually checked version* of the information. Firstly, therefore, the Commissioner must firstly reach a conclusion as to whether a manually checked version of the data is what Ms Miller asked for.
18. The Board submitted that it considered manual checks of the information to be necessary because there might be some inaccuracies in the system's response times, due to (for example) staff inputting errors or occasions where vehicles had been unable to send system updates on arrival at an incident. The Board was concerned that such inaccuracies would present as very long response times, so the data needed to be checked for accuracy. It believed the raw data was likely to be misunderstood, and therefore would not be helpful to Ms Miller.
19. The Board pointed out that on 1 March 2016 it had offered to provide Ms Miller with some information, based on reducing the scope of her request. Ms Miller did not agree to the reducing of the scope of her request. The Board indicated that this option was still open to Ms Miller.
20. Ms Miller, as an experienced data journalist, submitted that she only required the raw data and did not require a manually checked version of the data in order to understand it.
21. The Commissioner has considered Ms Miller's requests carefully, together with her request for review and her application to the Commissioner. Essentially, she has applied in respect of Requests 1 and 2, and in particular in respect of the Board's failure to provide the anonymised raw data for the individual incidents.
22. The Commissioner concludes that the information being sought by Ms Miller is indeed the raw data and not the manually checked version. In the circumstances, she must find that the Board's reliance on section 12 of FOISA (as explained in its submission to the Commissioner) is therefore irrelevant to the subject matter of the application. The exercises described in the section 12 submission do not relate to provision of the information requested: that is not to say that section 12 of FOISA might not be applicable to provision of the raw data, but that is not what the Board has argued here.

### **Section 16(1) - Content of notices**

23. Section 16(1) of FOISA requires that where an authority holds information which is subject to a request under section 1(1) of FOISA, and which it intends to withhold under any exemption, the authority must give the applicant notice in writing to the effect that the information is held, and specify which exemption it considers applies to the information (with reasons). Section

16 also contains provision for explaining the authority's consideration of the public interest, and requirements for giving notice when it is applying sections 12 and 14 of FOISA.

24. In her application to the Commissioner, Ms Miller was of the view that the Board had not provided any valid reason for withholding the raw data. In particular, she highlighted that potential inaccuracy was not a valid reason, under FOISA, for refusing to provide information.
25. The Commissioner has considered the Board's responses to Ms Miller and its submissions during the investigation. At no point do these give reasons, in terms of FOISA, for refusing to provide the information requested by Ms Miller (i.e. the raw data), or identify any provisions of FOISA in relation to that refusal. In failing to do these things, the Board failed to comply with section 16(1) of FOISA.
26. Therefore, the Commissioner requires the Board to respond Ms Miller's request for the raw data in terms of section 16 of FOISA.

## Decision

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The Commissioner finds that the Scottish Ambulance Service Board (the Board) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Ms Miller. The Board failed to give Ms Miller notice, in terms of section 16 of FOISA, in relation to the raw data she requested.

The Commissioner therefore requires the Board to provide a response to Ms Miller's information request, in terms of section 16 of FOISA, by **29 January 2017**.

## Appeal

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Should either Ms Miller or the Scottish Ambulance Service Board 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.

## Enforcement

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If the Board fails to comply with this decision, the Commissioner has the right to certify to the Court of Session that the Board has failed to comply. The Court has the right to inquire into the matter and may deal with the Board as if it had committed a contempt of court.

**Margaret Keyse**  
**Head of Enforcement**

**15 December 2016**

### Freedom of Information (Scotland) Act 2002

#### 16 Refusal of request

- (1) Subject to section 18, a Scottish public authority which, in relation to a request for information which it holds, to any extent claims that, by virtue of any provision of Part 2, the information is exempt information must, within the time allowed by or by virtue of section 10 for complying with the request, give the applicant a notice in writing (in this Act referred to as a "refusal notice") which-
  - (a) discloses that it holds the information;
  - (b) states that it so claims;
  - (c) specifies the exemption in question; and
  - (d) states (if not otherwise apparent) why the exemption applies.
- (2) Where the authority's claim is made only by virtue of a provision of Part 2 which does not confer absolute exemption, the notice must state the authority's reason for claiming that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs that in disclosure of the information.
- (3) The authority is not obliged to make a statement under subsection (1)(d) in so far as the statement would disclose information which would itself be exempt information.
- (4) A Scottish public authority which, in relation to a request for information, claims that section 12(1) applies must, within the time allowed by or by virtue of section 10 for complying with the request, give the applicant a notice which states that it so claims.
- (5) A Scottish public authority which, in relation to such a request, claims that section 14 applies must, within that time, give the applicant a notice which states that it so claims; except that the notice need not be given if-
  - (a) the authority has, in relation to a previous identical or substantially similar such request, given the applicant a notice under this subsection; and
  - (b) it would in all the circumstances be unreasonable to expect it to serve a further such notice in relation to the current request.
- (6) Subsections (1), (4) and (5) are subject to section 19.

**Scottish Information Commissioner**

Kinburn Castle  
Doubledykes Road  
St Andrews, Fife  
KY16 9DS

t 01334 464610

f 01334 464611

[enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info)

**[www.itspublicknowledge.info](http://www.itspublicknowledge.info)**