

Freedom of Information Act 2000 (FOIA)

Decision Notice

Date: **8 August 2024**

Public Authority: **City of Derry Airport**
Address: **Airport Road**
Eglinton
Co Derry
BT47 3GY

Decision (including any steps ordered)

1. The complainant has requested information relating to contact between the City of Derry Airport (CODA) and TransReport. At the date of this decision notice, and despite the Commissioner's intervention, CODA has not responded to the request.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Respond to the complainant's request: Firstly, confirm or deny that the requested information is held (or, if the public authority decides to refuse to confirm or deny that any of the requested information is held, then a refusal notice should be issued that complies with the requirements of section 17 of FOIA).
 - Secondly, and subject to the above, if the information is held the public authority must either disclose the requested information or, if it wishes to withhold any information, issue a refusal notice in relation to the information it wishes to withhold and disclose the remainder.
3. The public authority must take these steps within 30 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

Request and response

4. On 2 May 2024 the complainant requested the following information from CODA:

“With respect to the airport or airports you own or operate,

I understand that TransReport has approached airports to sell or solicit commissions for a special assistance management software and service package.

Please advise if they have approached you, and if so, at what stage any negotiations or agreements with them are at.

Please provide any recorded information documenting any representations or assurances they have made regarding their success and impact in their Passenger Assist system and service in the rail sector.

I am particularly interested in any rail passenger assistance related statistics they may have provided or quoted. For example, statistics for reduced unbooked assistance/increased booked assistance, and any and all data they have provided to you on passenger assistance numbers on the railway.

Please also provide any recorded data (in communications or other material) where they indicate that they have facilitated or caused an increase in the proportion of booked assistance or a decrease in the number of unbooked assistance for disabled people on the railway.”

5. The complainant did not receive any response and sent a follow up to CODA on 4 June 2024.

Scope of the case

6. The complainant contacted the Commissioner on 11 June 2024 to complain that he had not received a response to his request.
7. The Commissioner wrote to CODA on 25 June 2024 to request that it respond to the complainant’s request. He contacted CODA again on 16 July 2024 to advise that he was likely to issue a decision notice. The Commissioner did not receive any response to either correspondence.

Reasons for decision

Section 1: general right of access **Section 10(1): time for compliance**

8. Section 1(1)(a) of FOIA requires a public authority to inform the complainant in writing whether or not recorded information is held that is relevant to the request. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued.
9. Section 10(1) requires that the public authority comply with section 1 promptly, and in any event no later than 20 working days after the date of receipt of the request.
10. Despite the Commissioner's intervention, CODA has failed to respond to the complainant's request. It has failed to confirm or deny that it holds the requested information, and has neither disclosed the requested information nor provided a valid refusal notice.
11. Given the lack of acknowledgement of his correspondence, the Commissioner has considered whether CODA is likely to have received the complainant's request. The complainant submitted his request via WhatDoTheyKnow, but did not receive any response or acknowledgement. Nor did he receive any error or bounceback message which may have indicated that there was a problem with the communication.
12. When the Commissioner contacted CODA he used the email address published on CODA's website as listed for general enquiries and customer service.¹ Similarly the Commissioner did not receive any error or bounceback message, therefore he has no reason to believe that his correspondence was not received. Consequently the Commissioner is at a loss to understand why CODA has failed to respond to the complainant, or indeed himself as the FOIA regulator.
13. The Commissioner finds that CODA has failed to comply with section 10(1) of FOIA. He expects CODA to take urgent action to ensure that future requests are responded to within the statutory timescales.

¹ <https://www.cityofderryairport.com/airport-information/contact-us/>

Right of appeal

14. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals
PO Box 9300
LEICESTER
LE1 8DJ

Tel: 0300 123 4504
Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

15. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Tribunal website.
16. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Sarah O’Cathain
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Information Commissioner’s Office
Wycliffe House
Water Lane
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