

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 5 March 2025

**Public Authority:** British Library  
**Address:** 96 Euston Road  
London NW1 2DB

### **Decision (including any steps ordered)**

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1. The Commissioner's decision is that the British Library is entitled to refuse the complainant's request for information about loans of a named author under section 12(1) of FOIA as the cost of complying with the request exceeds the appropriate limit. The British Library complied with the duty to offer advice and assistance under section 16(1), however the timeliness of its refusal didn't comply with section 17(5) of FOIA.
2. The Commissioner does not require further steps.

### **Request and response**

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3. The complainant made the following information request to the British Library ('the Library') on 23 July 2024:

"I would like to request the following information in respect of the works of the late author George MacDonald Fraser (2 April 1925 to 2 January 2008)

1...In the case of the aforementioned author can you state the total number of library loans (including hard back, paper backs, audio books and large print books) in each of the following years.

1985.

1990 (please only provide figures for 1990 if you have been unable to price figures for 1985.)

The PLR year 2023/2024. I note your assertion that this year came to an end in June 2024.

[2] In the case of the aforementioned author can you identify their three most popular titles in each of the following years. Can you identify the relevant titles. In the case of each of these titles can you state the number of loans for that year.

1985.

1990 (please only provide figures for 1990 if you have been unable to price figures for 1985.)

The PLR year 2023/2024. I note your assertion that this year came to an end in June 2024.”

4. The Library provided the complainant with a section 12 refusal notice on 12 September 2024. The Library explained that it might hold relevant information but couldn't confirm this as a cyber-attack meant that it couldn't access its drives. It went on to say that if it did hold this information, the data would be in a raw, unaggregated state which would take significant resources to extract, collate and analyse.
5. The Library provided an internal review on 23 September 2024 and upheld its reliance on section 12 for both parts of the request; for years prior to 2021 and for Public Lending Right (PLR) year 2023 to 2024. It provided more detail on the work and associated costs involved in complying with these parts.
6. The Library also provided detailed explanations about the cyber-attack it was subjected to, how the Public Lending Right (PRL) system operates and will operate in the future, how the complainant might frame requests for information about loans in the meantime, and the type of requests that the Library wouldn't be able to comply with within the cost limit.
7. On considering their subsequent complaint to him the Commissioner suggested to the complainant that this case might be closed as the Commissioner hadn't upheld section 12 complaints in two previous and similar cases: [IC-137335-R1X3](#) and [IC-229296-V4H8](#).
8. However, the complainant confirmed that they wanted to progress the complaint because, on this occasion, they'd only asked for information about one author and two years.
9. The complainant also indicated that they consider that the Library does hold certain information because the Library is responsible for the PLR scheme. As such, it's responsible for collating information so that proper

payments can be made to authors or their estates. They consider the Library would therefore hold information relevant to that.

## Reasons for decision

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10. The Library advised the complainant that they couldn't definitively confirm whether it holds information relevant to their request because of a cyber-attack. However, it could confirm that, if it did hold the information, it would be exempt under section 12.
11. To the degree that the Library holds information within scope of the complainant's request, this reasoning focusses on whether the Library is entitled to refuse the request under section 12(1) of FOIA, and related procedural matters.
12. Under section 12(1) of FOIA a public authority may refuse to comply with a request for information if the cost of doing so would exceed the appropriate limit. In the case of the Library, the cost is £450 or 18 hours work.
13. In its internal review, the Library had advised that for the years prior to 2021, it couldn't confirm whether it held relevant information because of the cyber-attack. But, it said, if it did hold sample data, that didn't mean that it holds data about the loans of individual titles, as these would have to be specially calculated as "algorithmically derived new data". It confirmed that FOIA doesn't oblige the Library to create new data to comply with a request.
14. The Library went on to say that, insofar as such title level data might exist within the sample dataset, it's stored in a raw and unusable format. Each year would require a substantial amount of effort to load and transform it into a form that would be interrogatable in order to address the complainant's questions.
15. The Library told the complainant that it would take 35 hours and cost £875 to comply with the element of their request for years prior to 2021 and that it had based this estimate on past exercises that the PLR team has carried out. The Library also said that, in reality, given the skilled labour involved the actual cost to it of doing this work would be more than double the £875 sum for each year in question.
16. For the year 2023-2024, the Library advised the complainant that the works of George MacDonald Fraser haven't been registered for PLR. As such, the load data for his works haven't been calculated as part of the annual 'grossing up' process and, by extension, nor has the number of

loans of his work. Again, the Library confirmed that FOIA doesn't oblige it to create new data to answer a request.

17. In the alternative, the Library said, insofar as such title level data might exist within the sample dataset, this calculation would have to be run many times over to generate the statistics for each title written by the author in question, in order to establish which books of his were most popular within the 2023-2024, or to generate a total number of loans of his work.
18. The Library told the complainant that it would take 27 hours and cost £675 to comply with the element of their request for 2023-2024, that it had again based this estimate on past exercises that the PLR team had carried out, and that it would in reality cost double the £675 sum.
19. In its submission to the Commissioner, the Library has first explained that the complainant's assumptions as to its obligations in relation to the PLR appear to be in error. In particular, the Library said:
  - Under the Public Lending Right Act 1979 and its associated statutory incidents, each year the Library collects a set of loan data from a representative and regularly changed sample set of public libraries. This raw data is representative and does NOT represent the total number of loans made by all public libraries in the UK and would therefore not answer the complainant's questions.
  - The Public Lending Right must be applied for by authors who meet a set of criteria set out in law, who then must register each of their works individually; it therefore doesn't apply to every author, or even to every book written by every author. The Library's PLR team spends a significant proportion of its year cleaning this data to extract the sample data relating only to the registered works claimed by registered authors.
  - A complex algorithm then 'grosses up' this subset of data in order to estimate the total number of loans for each registered work across the entirety of the UK public library network, and the proportion of the PLR scheme payment for that year that therefore accrues to each registered author.
  - This 'grossed up' data is therefore the dataset that contains the estimated total number of loans for each registered work for each year, and the estimated total number of loans for each registered author.

- This 'grossed up' dataset doesn't contain any information relating to works that haven't been registered for the PLR, nor any authors who haven't applied to join the scheme.
  - As it set out in its letter of 23 September 2024 to the complainant, the Library's position is that the 'grossed up' dataset is the derived product of a process of calculation requiring significant manual and technical intervention. A request to calculate the loans of additional authors or works is to request the creation of new information. George Macdonald Fraser isn't a registered recipient of PLR therefore the Library doesn't hold any data relating to the total number of his works loaned in any given year for the purpose of administering the annual PLR payment. The Library is under no obligation to create that new data in order to answer the request.
  - In the alternative, insofar as it might be argued (as the complainant does) that the Library holds the requested information by virtue of it holding the representative sample data and the algorithm and bespoke system that calculates the 'grossed up' dataset, the process to extract any additional data about a specific author or work from the raw sample data is extremely time consuming. Similarly, the algorithmic calculation process itself requires significant manual and technical intervention and is therefore itself both labour and time intensive. This remains true whether the calculation is for one additional author or book, or for many. As such, any request for additional 'grossed up' data beyond that required and created for the administration of the annual PLR payment will always exceed the section 12 limit. The Library's time estimates and costing for these processes are included in its internal review letter of 23 September 2024.
  - The Library, as part of its section 16 duty to advise and assist the complainant, has provided them with a list of the types of questions that it can answer by the 'grossed up' data, and a list of those types of questions that it can't answer without creating new information or incurring additional expense beyond the section 12 limit, or both.
20. The Commissioner is satisfied that the Library has appropriately considered the complainant's request and has thoroughly explained the nature of the data it manages, how it generates that data and the work – and associated time and cost – involved in complying with this request. The Commissioner's decision is that the Library is entitled to refuse the request under section 12(1) of FOIA.

## **Procedural matters**

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21. Section 16(1) of FOIA places duty on a public authority that's relying on section 12 to provide the applicant with advice and assistance as to how their request might be brought within the cost limit, if it's reasonable to do so.
22. In this case, the Library advised the complainant on the types of requests it might be able to comply with within the cost limit (and those it wouldn't be able to). As such, there was no breach of section 16(1).
23. Section 17(5) of FOIA requires a public authority to provide a section 12 refusal notice within 20 working days following the date of receipt of the request. The Library didn't comply with that requirement on this occasion.

## Right of appeal

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24. 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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

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

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