

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 October 2014

Public Authority: Forestry Commission Scotland

Address: Silvan House
231 Corstorphine Road
Edinburgh
EH12 7AT

Decision (including any steps ordered)

1. The complainant has requested any information held from any police force in GB regarding minimising the number and types of firearms required to be used on the National Forest Estate (NFE). The Forestry Commission Scotland (FCS) provided the complainant with some information it considered relevant to the scope of the request. It said that it did not hold any further information other than that which was provided to the complainant under section 1(1)(a) of the Freedom of Information Act 2000 (FOIA).
2. The Commissioner considers that the FCS was correct to confirm that it did not hold any further information under section 1(1)(a) of the Freedom of Information Act 2000 (FOIA).
3. The Commissioner requires no steps to be taken.

Request and response

4. On 8 April 2014 the complainant requested information of the following description:

"I refer to Mr Hodge's letter to me of 4 Oct 2011. I particularly refer to paragraph 5. The first sentence. This is a FOI request for any information you hold from any police force in GB regarding this issue. This is to include but not restricted to minutes from meetings telephone conversations letters emails indeed any form of communication on this matter."

5. On 9 May 2014 the FCS responded. It added for completeness that the text from the letter the request referred to was:

"In liaison with the police and other authorities, the Forestry Commission seeks to minimise the number and types of firearms required to be used on the NFE."

It provided the complainant with the information it held that it considered relevant to the scope of the request.

6. The complainant requested an internal review on 13 May 2014. On 11 June 2014 the FCS sent the outcome of its internal review. It confirmed that no further information was held under section 1(1)(a) FOIA.

Background information

7. FCS explained that it serves as the Scottish Government's Forestry Directorate. It reports to and receives policy direction from Scottish Ministers and receives its funding from the Scottish Government. Forest Policy is also devolved to Scottish Ministers.
8. Scottish Ministers own land, in the form of the NFE. The NFE is managed on behalf of Scottish Minister' by Forestry Commission Scotland, through its agency Forest Enterprise Scotland (FES).
9. However, FCS still forms part of the Forestry Commission, and is designated a Cross-Border Public Body. As such its obligations on matters, such as requests for information, falls under the remit of the Information Commissioner and the rules associated with the FOIA and the Environmental Information Regulations 2004 (EIR).
10. Furthermore the Forestry Commission retains certain functions on a shared and cross border basis, for example research, inventory and certain forest management and operational support issues. It said that for the purpose of this response, these are termed 'FC GB' functions.
11. It explained that the NFE extends to some 650,000 hectares of land (about 9% of Scotland) which is managed on behalf of Scottish Ministers by FES. It said that in 2012/13, around 30,000 deer were culled on the NFE. It said that this figure represents around 30% of the Scottish national cull of 97,630.
12. It said that the management of deer connects with many people who are employed by FES. It confirmed that the culling of deer is usually

carried out by a FCS wildlife ranger, by Professional deer management contractors or recreational deer stalkers.

13. It explained that to support those staff and external stakeholders a number of FES provide administrative support and develop policies.
14. It said that deer management policy, including that on stalking and firearms, on the NFE is a competency of FES. It said deer management policy is articulated through the publication 'Deer Management on the National Forest Estate: Current Practice and Future Directions'. It provided the Commissioner with a link to this document.
15. It said that the basis for FES policy in relation to deer management and the use of firearms on the NES is derived from relevant legislation, historic practice and consultation.
16. It explained that, by agreement, on certain cross border issues, FES collaborates with colleagues in England and Wales to produce 'Operational Guidance Booklets'. These booklets are often produced on a GB basis and form part of detailed manuals for staff on various forest management issues. It said that the current version relevant to this subject is 'OGB 14: Firearms'.
17. It said that OGB14 was produced in collaboration with Forestry Commission England and Natural Resources Wales colleagues, in order to draw on their similar experiences. It confirmed that an FES representative sits on the team which develops this OGB.
18. It explained that this collaboration builds on the historic practices prior to devolution when deer management and a significant proportion of operational guidance was carried out on a central GB basis for all three countries.
19. In addition it said that a GB Cross Border 'Firearms Advisory Group' works to advise the updating of LGBs. It confirmed this group contains FES representation.
20. It said that FCS and FES work closely with other public bodies in Scotland, such as Scottish Natural Heritage and is represented on bodies such as the Deer Management Round Table, the Wild Deer National Approach Steering Group and Scotland's Wild Deer Best Practice Steering Group.
21. It explained that FCS and FES do not hold regular meetings with the police and other public authorities on the subject of minimising the use and type of firearms on the NFE in Scotland. Therefore it said that regular notes, correspondence, papers are not likely to be produced and stored on this subject matter. It said that this information would be

likely to be collected when, for example, a major revision to firearms or deer legislation is undertaken or a consultation is performed by the UK or Scottish Government's.

Scope of the case

22. The complainant contacted the Commissioner on 2 July 2014 to complain about the way his request for information had been handled.
23. It explained that the request was made directly to FCS and not to the Forestry Commission or any other body. It said that the request relates to FES operational policy in Scotland, not a policy of the Forestry Commission or Natural Resources Wales. It said that on this basis, FCS interpreted it as information held by FCS and FES at the time of the request. However FCS also searched records held by the Forestry Commission and consulted staff not directly employed by FCS but who might be relevant to the request.
24. The Commissioner has considered whether or not the Forestry Commission holds any further information other than that which has already been provided.

Reasons for decision

25. Section 1(1)(a) of FOIA states that, "Any person making a request for information to a public authority is entitled – to be informed in writing by the public authority whether it holds information of the description specified in the request".
26. The FCS explained that relevant personnel were consulted and asked to make a search of their records. It explained that it was able to identify key individuals involved in the area of deer management, firearms and contact with the police to carry out these searches. It confirmed that all relevant staff members had over 5 years service with the FCS within this area and therefore were best placed to determine whether any information was held relevant to the scope of the request. It said that some information was found through these searches and was disclosed to the complainant.
27. It said that in communication with these key members of personnel it was identified that other members of staff who had performed similar jobs prior to the work becoming devolved to the countries in 2003, should also be consulted. It confirmed that this identified another current staff member, who whilst no longer working in this subject area,

might be able to search other records. It said this individual confirmed that a number of historic files may be relevant to this request. It said these files were subsequently identified and retrieved. It confirmed that this information formed the principle part of that supplied to the complainant.

28. It confirmed that the FCS does not have a centralised electronic records management system. It said that information is held locally but not on personal drives. It said that search terms were based around the text used within the wording of the request. It said searches were made of FCS records and FC GB records. It explained that these searches identified the main FC GB Forest Management records on firearms, including policies, contact with the police and other authorities. It said the information comprised of 4 file volumes, which contained information from approximately 1987-2004. The files contained appropriate references to review and destruction dates, which indicated that no further volumes were missing or had been destroyed. It again said these records formed the principle part of the disclosure to the complainant.
29. It explained that wider manual searches were also conducted and identified other records which might have been relevant, including firearms and noise, health and safety, historic deer management policies and venison management. It confirmed that these other files were examined to determine whether they contained any information relevant to the scope of the request.
30. FCS said that it is not possible to determine when it or FC GB ceased to retain any information within the scope of the request other than in line with its current file retention policy. It explained that whilst it does hold general lists of destroyed files, it is not possible to guarantee that no relevant information was contained in previously destroyed files as the information requested would not form a complete file, rather individual papers produced or received on an ad hoc basis.
31. Finally it confirmed that there is no statutory obligation for the FCS or FC GB to liaise with the police on this issue.
32. The Commissioner considers that the FCS has provided the complainant with the information it holds which was obtained through the searches described above. It has contacted relevant personnel to ensure that searches were directed accurately. Both manual and electronic searches were conducted and appropriate search terms were used. On the balance of probabilities the Commissioner is satisfied that the FCS does not hold any further information, other than that which was provided to the complainant.

Right of appeal

33. 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 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

34. 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.
35. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Pamela Clements
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