

Authority:

Scottish Information Commissioner

Country/State:

Scotland

Case title:

Charging Fees for Environmental Information – Sport Pitch Construction

Official citation:

Decision 257/2024

Date of decision:

2024

Relevant law:

Environmental Information (Scotland) Regulations 2004 (EIRs), regulations 8(4) and 8(6)

Directive 2003/4/EC on public access to environmental information

Decision:

The Commissioner found that while public authorities may charge fees and require advance payment under the EIRs, a blanket policy of charging for all environmental information requests is inconsistent with the purpose of the legislation. The authority was required to review and amend its approach to ensure fees are reasonable and do not impede access to environmental information.

Key words:

Right to Information, environmental information, fees, reasonableness, access to information, Aarhus Convention

Case Summary**1. Facts**

The requester sought information from a public authority relating to the construction of a sports pitch.

The authority responded within five days by issuing a fees notice under the Environmental Information (Scotland) Regulations 2004, stating that it would not process the request until the fee was paid. After an internal review, the authority upheld its original position.

2. Decision

The Commissioner acknowledged that regulations 8(4) and 8(6) of the EIRs allow authorities to require payment of fees in advance. However, the Commissioner rejected the authority's policy of charging fees for all environmental information requests without considering individual circumstances.

The Commissioner emphasised that charging must align with the fundamental objective of the EIRs: facilitating general access to environmental information. Reference was made to Directive 2003/4/EC, which limits the circumstances in which advance payment should be required, as well as to the Aarhus Implementation Guide, the judgment of the Court of Justice of the European Union in *Commission v Germany* (Case C-217/97), and guidance from the UK Information Commissioner.

During the investigation, the authority confirmed that it routinely charged for every item of environmental information. The Commissioner found this approach incompatible with the right of access to environmental information and required the authority to reconsider its policy.

Note (Optional):

This decision reinforces the principle that fees for environmental information must be exceptional, proportionate, and non-deterrent, ensuring that financial barriers do not undermine the public's right to environmental transparency.

Resource:

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