



Making an application to the Scottish Information Commissioner

Guidance on completing the application form

This guidance will help you to complete the application form and make a valid application (sometimes called an appeal) to the Commissioner.

What does valid mean?

A valid application is one that meets all the legal requirements of the Freedom of Information (Scotland) Act 2002 (FOISA) or the Environmental Information (Scotland) Regulations 2004 (the EIRs). This includes:

- ensuring you have been through the public authority's [review procedure](#);
- providing the Commissioner with the information needed to investigate your complaint; and
- making it clear why you are unhappy.

Your appeal is most likely to be valid - and we will be able to process it more quickly - if you use the [application form](#).

Why does it need to be valid?

The Commissioner is not allowed to investigate an application that does not meet all the legal requirements. If the Commissioner did, the decision could not be enforced. (For example, we could not order a public authority to disclose information.) This means we need to check your application is valid before we start to investigate.

Timescales

You have six months to make an application after you receive a response to your request for review. If the authority did not respond to your request for review, you must make your application within six months of the date you were due to receive a response.

What you need to do before making an application

You must have:

1. made a request for recorded information (i.e. information already recorded by the authority at the time you ask for it), in writing or in some other permanent form¹ to a **Scottish public authority**.
2. given the authority your full name. You cannot use a fake name and your request must not be anonymous. If you made the request on behalf of someone else, you must have told the authority the name of the person you made the request for.
3. given the authority an address for correspondence. This can be a postal or email address.
4. asked the authority to review the way it responded to your information request, even if they did not reply. You should have asked for this no later than 40 working days after you received the response to your request, or after the response was due². (Remember an authority has 20 **working** days to reply to your request.)

The Commissioner's investigation: what to expect?

The Commissioner can only investigate how the authority handled your information request in line with FOISA and/or the EIRs. Investigations can look at things like whether an authority:

- was entitled to refuse to disclose information to you;
- gave you all of the information falling within the scope of your request;
- was right to tell you that it didn't hold the information you asked for;
- charged the correct fee for providing the information; or
- didn't have to comply with your request because it cost too much, was vexatious or was a repeated request.

The Commissioner **cannot**:

- tell a public authority to create information to respond to an information request, even if it is information the authority might be expected to hold;
- comment on the accuracy of the content of the information held by an authority; or
- comment on the actions of the authority unless it relates specifically to the handling of your information request.

If your application is not valid, we will explain why and help you make a valid application. If it is valid, it will be passed to an Investigating Officer who will let you know what will happen next.

¹ If your request was for environmental information, you can make it verbally. Contact us if you're unsure.

² If you are asking the authority to review the way it dealt with a request for environmental information, the authority can't carry out a review if you were late asking for the review to be carried out.

What you need to do now

Complete the form and send it to us with copies of the following documents:

- Your original request for information
- The authority's response to your information request (if it responded)
- Your request for review
- The authority's response to your review request (if it responded)

If you do not have copies of these documents, ask the authority to give you copies before making an application.

Remember to also include your **full name** in the application form and/or in the body of any letter or email to the Commissioner.

Sending your application

Send the completed application form and copies of documents to the Scottish Information Commissioner via one of the following methods:

Email: enquiries@ItsPublicKnowledge.info

Post: Kinburn Castle, Doubledykes Rd, St Andrews, KY16 9DS

If you need help on how to make an application to the Commissioner, visit our website:

www.ItsPublicKnowledge.info/YourRights.

Alternatively, email us at enquiries@ItsPublicKnowledge.info, or call us on **01334 464610**.

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