



# Decision Notice 219/2024

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## Driver speed measurements – failure to respond

**Applicant:** The Applicant

**Authority:** Chief Constable of the Police Service of Scotland

**Case Ref:** 202401191

### Summary

The Applicant asked the Authority for information about driver speed measurements at a specific location in East Kilbride. This decision finds that the Authority failed to respond to the Applicant's requirement for review within the timescale set down by the Freedom of Information (Scotland) Act 2002 (FOISA).

### Background

1. The Applicant made an information request to the Authority on 9 November 2023.
2. On 10 November 2023, the Authority asked the Applicant for clarification of his request, which he duly provided that same day.
3. The Authority responded to the information request on 6 February 2024.
4. On 4 March 2024, the Applicant wrote to the Authority requiring a review of its decision.
5. The Applicant did not receive a response to his requirement for review.
6. The Applicant wrote to the Commissioner on 4 September 2024, stating that he was dissatisfied with the Authority's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
7. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.

## **Investigation**

8. Section 49(3)(a) of FOISA requires the Commissioner to notify public authorities of an application and to give them an opportunity to comment. The Commissioner did this on 4 September 2024.
9. The Commissioner received submissions from the Authority. These submissions are considered below.
10. The Authority acknowledged that it had failed to respond to the Applicant's requirement for review within the timescale set out in FOISA. It explained that the delay was attributable to handling an increased number of information requests over the corresponding period.
11. Section 21(1) of FOISA gives Scottish public authorities a maximum of 20 working days following the date of receipt of the requirement to comply with a requirement for review. This is subject to qualifications which are not relevant in this case.
12. It is a matter of fact that the Authority did not provide a response to the Applicant's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
13. The Authority responded to the Applicant's requirement for review on 12 September 2024, so the Commissioner does not require it to take any further action in relation to the Applicant's application.
14. The Commissioner notes that the Authority's review response of 12 September 2024 contained an apology to the Applicant for its failure to handle his requirement for review in accordance with the timescale set out in FOISA.

## **Decision**

The Commissioner finds that the Authority failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in dealing with the information request made by the Applicant. In particular, the Authority failed to respond to the Applicant's requirement for review within the timescale laid down by section 21(1) of FOISA. Given that the Authority has now responded to the Applicant's requirement for review, he does not require the Authority to take any action.

## **Appeal**

Should either the Applicant or the Authority wish to appeal against this decision, they have the right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days after the date of intimation of this decision.

**Wendy Snedden**  
**Freedom of Information Officer**

**2 October 2024**