



Scottish Information
Commissioner
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Decision Notice 116/2025

Agenda and minutes of Angus Robertson's meeting with the Israeli deputy Ambassador

Authority: Scottish Ministers
Case Ref: 202401430

Summary

The Applicant asked the Authority for the agenda and minutes of Angus Robertson's meeting with Israel's deputy ambassador to the UK. The Authority withheld the information, arguing that disclosure would or would be likely to, prejudice substantially relations between the UK and the state of Israel and would, or would be likely to, prejudice substantially the effective conduct of public affairs.

The Commissioner investigated and found that the Authority had wrongly withheld the agenda, which he required to be disclosed. He also found that the Authority should have informed the Applicant that it did not hold the minutes of the meeting at the time the request was made.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2), (4) and (6) (General entitlement); 17(1) (Notice that information is not held); 30(c) (Prejudice to effective conduct of public affairs); 32(1)(a) and (3) (International relations); 47(1) and (2) (Application for decision by Commissioner)

Background

1. On 14 August 2024, the Applicant made a request for information to the Authority. He asked for the minutes of the meeting between Angus Robertson (the Cabinet Secretary for

Constitution, External Affairs and Culture) and the Israeli deputy ambassador to the UK, Daniela Grudsky. The Applicant also requested correspondence regarding the organisation of the meeting and any follow-up correspondence after the meeting including emails, texts, WhatsApps and correspondence on any other messaging app.

2. The Authority responded on 11 September 2024. It provided some information to the Applicant and withheld other information under sections 29(1)(a) and (d) (Formulation of Scottish Administration policy etc); 30(b)(i) (Prejudice of effective conduct of public affairs); 32(1)(a) (International relations) and 38(1)(b) (Personal information) of FOISA.
3. On 13 September 2024, the Applicant wrote to the Authority requesting a review of its decision to withhold the agenda and minutes of the meeting under section 32(1)(a) of FOISA. The Applicant stated that he was dissatisfied with the decision because he did not agree that disclosing the information would substantially prejudice UK and Israeli relations and he believed disclosure was in the public interest.
4. The Authority notified the Applicant of the outcome of its review on 10 October 2024 and stated that it was upholding its original decision without modification.
5. On 28 October 2024, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. The Applicant stated he was dissatisfied with the outcome of the Authority's review because he did not agree that disclosing the agenda and minutes would cause substantial prejudice to the relationship between the UK and Israel.

Investigation

6. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.
7. On 12 November 2024, the Authority was notified in writing that the Applicant had made a valid application. The Authority was asked to send the Commissioner the information withheld from the Applicant. The Authority provided the information, and the case was allocated to an investigating officer.
8. Section 49(3)(a) of FOISA requires the Commissioner to give public authorities an opportunity to provide comments on an application. The Authority was invited to comment on this application and to answer specific questions. These related to its application of the exemption in section 32(1)(a) of FOISA, including its consideration of the public interest test.
9. The Authority provided submissions and stated that, it was retrospectively applying the exemption contained in section 30(c) (Prejudice to effective conduct of public affairs) of FOISA to the information it was also withholding under section 32(1)(a). The Authority provided submissions in relation to this exemption.

Commissioner's analysis and findings

10. The Commissioner has considered all of the submissions made to him by the Applicant and the Authority.

Interpretation of the request

11. The Commissioner has interpreted the Applicant's information request as seeking the finalised minutes of the meeting of 12 August 2024. He notes that the Applicant did not refer to any draft versions in his request, he referred only to the "minutes of the meeting". In subsequent correspondence to the Commissioner, the Applicant repeatedly referred to "the minutes of the meeting".
12. The Commissioner's considers that a plain English understanding of "the minutes of the meeting" would be taken to mean the Applicant was seeking the official record of that meeting, as would be contained in the finalised minutes of the meeting. He does not consider that the request extends to any draft versions of minutes.

Minutes of the meeting

13. During the investigation the Authority provided the Commissioner with comments on the minutes of the meeting. It stated that the minute was drafted by an official working within International Division and was shared with the Cabinet Secretary for Constitution and External Affairs for approval. It added that two draft versions of the minutes were circulated prior to the final minute being created.
14. In communications with the Commissioner, the Authority confirmed that the first draft minute was created on 9 August 2024, the second draft on 14 August 2024 and the final minutes on 30 August 2024.
15. Section 1(1) of FOISA provides that a person who requests information from a Scottish public authority which holds it is entitled to be given that information by the authority, subject to certain qualifications. The information to be given is that held by the authority at the time the request is received (section 1(4) of FOISA).
16. The Commissioner considers that the minutes the Applicant had requested (the approved minute of the meeting) did not exist at the time he made his request, and they were therefore not held under section 1(4) of FOISA. In his view, the Authority was incorrect to apply section 32(1)(a) of FOISA to the minutes, instead it should have given the Applicant notice, under section 17(1) of FOISA, that the minutes were not held.
17. The Commissioner considers that, if the Authority had considered the request properly, at the time the request was received, it should have been apparent that the information was not, in fact, held (given that the final minutes were not created until 16 days following receipt of the request) and the Applicant should have been informed of this. If the error was missed in the original response, the Commissioner would have expected the Authority to rectify this in its review outcome. Moreover, in not recognising the Section 17(1) exemption applied the Authority missed the opportunity to provide the Applicant with information about making a future request at a time when the minutes were held.
18. By failing to notify the Applicant that it did not hold the minutes of the meeting, the Commissioner finds that the Authority failed to comply with section 17(1) of FOISA.
19. As that the Commissioner has determined that the minutes were not held at the time the Applicant submitted his information request, he will not consider them any further in this decision.

The agenda

20. The only part of the Applicant's appeal that remains to be considered is the agenda for the meeting between Mr Robertson and Ms Grudsky.
21. In general terms, the agenda forms a brief section within Document 1 of the Withheld information. (Document 2 was the minute of the meeting.) The Authority provided comments in relation to its application of the exemption at 32(1)(a) in relation to both the agenda and the minute, but the Commissioner will consider them only in relation to the agenda.
22. The Authority submitted that no agenda was agreed between itself and the Israeli Embassy prior to the meeting. It stated that the suggested agenda was added to the briefing (Document 1 of the Withheld Information) by policy officials based on their assessment of the subjects the Israeli DCM may wish to discuss alongside the topics of interest to the Scottish Government, which was primarily calling for an immediate ceasefire in Gaza.
23. It further clarified that no agenda was shared or agreed between the parties in advance of the meeting.

Section 32(1)(a)(i) – International relations

24. The Authority has relied on the exemption in section 32(1)(a)(i) of FOISA for withholding the agenda. Section 32(1)(a)(i) states that information is exempt information if its disclosure under FOISA would, or would be likely to, prejudice substantially relations between the United Kingdom and any other state.
25. For the purposes of this exemption, the Commissioner accepts that Israel is a state other than the United Kingdom, in line with the definition in section 32(3) of FOISA.
26. For the exemption in section 32(1)(a)(i) to apply, the harm caused or likely to be caused by disclosure requires to be at the level of substantial prejudice: it must be of real and demonstrable significance. For the substantial prejudice to be "likely", the Commissioner takes the view that there must be a significant probability that it will occur, in the near (certainly the foreseeable) future.
27. In his [guidance on section 32](https://www.foi.scot/sites/default/files/2023-05/BriefingSection32InternationalRelations_25.5.23.pdf)¹ the Commissioner emphasises the need to justify the use of this exemption on a case by case, document by document basis. Authorities should be aware that the international relations of the whole of the United Kingdom must be engaged for the exemption to apply and should consider the potential impact of disclosure on the United Kingdom's particular relationship with the State in question rather than looking solely at the nature, content and/or sensitivity of the information. The other state's attitude to freedom of information may be relevant.
28. Even if a negative reaction is anticipated from the release of information, an assessment will have to be made as to whether this reaction would, or would be likely to, prejudice the relationship in question substantially. There may be circumstances where the release of information may cause diplomatic annoyance or irritation, but would not necessarily result in significant, long term harm to relations with the State in question. The timing of release may also be an issue, and the risk of substantial prejudice may well diminish as time passes.

¹ https://www.foi.scot/sites/default/files/2023-05/BriefingSection32InternationalRelations_25.5.23.pdf

The Authority's comments on section 32(1)(a)

29. The Authority stated that disclosure of the information would be likely to prejudice substantially relations between the UK and the state of Israel. It argued that the information concerned the suggested agenda for a meeting which included primarily using the opportunity to present the Scottish Government's position on the conflict in Gaza. It added that it also covered a range of devolved interests (community relations, trade, climate change, diaspora) and that it was done with the full knowledge of the UK Government.
30. The Authority submitted that as foreign relations were reserved to the UK Government, it considered that UK interests were as directly involved as any distinctly Scottish interests and indeed that they were inextricably linked. It stated that the topics discussed were proactively released in a social media post by the Scottish Government at 14:37 on 12 August 2024.
31. The Authority explained that, in line with best practice, once the FOI request was received, the case handler sought the views of those with a material interest in the information, which included the Israeli Government. In its comments, the Israeli Government stated that any disclosure against its wishes would be substantially prejudicial not only to its relationship with Scotland but also to its diplomatic relationship with the UK as a whole.
32. The Authority (during the course of preparing a response to a separate FOI request relating to the same meeting) also sought the view of the Foreign, Commonwealth and Development Office (FCDO) of the UK Government to understand more fully the views of the UK Government in regard to this relationship. The FCDO view was that releasing the information against the wishes of the Israeli Embassy was highly likely to see a negative response, and that disclosure could prejudice substantially relations between the UK and Israel.
33. The Authority submitted that diplomatic communications were generally made in terms of inferred or assumed confidentiality and argued that the Israeli Government had a history of requesting that the Authority did not release information with respect to their correspondence. It therefore argued that there was an expectation of confidentiality by the state of Israel with the Scottish Government, based on precedent which demonstrated a less open approach to disclosure. It also argued that the Israeli Government made its official view in relation to the expectation of confidentiality clear on both 6 and 16 of August 2024 (that is, both before and after the meeting).
34. The Authority argued that the views expressed, together with existing diplomatic sensitivities, had led it to conclude that if the information were to be disclosed, this would result in a greater risk of substantial prejudice.
35. In addition to the above, the Authority made submissions in relation to three specific topics.

UK relations with Israel

36. In terms of UK relations with Israel, the Authority argued that the effective conduct of international relations depended upon maintaining trust and confidence between the UK Government and other states. It submitted that, in this case, the meeting with the Scottish Government occurred on the understanding that it would be treated as being in confidence. It stated that, given Israel's clear view that diplomatic meetings were confidential (which had been its position for a number of years), the Authority felt strongly that the release of such information would substantially prejudice UK relations with the Israeli Government relations.

37. The Authority argued that its view was confirmed by the UK Government's view, which was that releasing information against Israel's wishes was highly likely to result in a negative response from Israel which would substantially prejudice their relations.
38. It submitted that this impact could take a number of forms, given that Israel had a multifaceted relationship with the UK where it sought to engage across the country, including with devolved governments and across multiple themes of engagement, including in relation to trade, investment, security, culture and education. The Authority stated that several of these themes were discussed in the meeting to which the request related.
39. Given the devolved settlement, the Authority argued that Israel looked to discuss these issues with devolved governments, such as Scotland, on the confidential terms it had specified, and that limiting the ability to do this would by its very nature prejudice UK relations. This prejudice included partnerships where the UK would expect Scotland to fulfil international obligations, such as within security relations, or trade partnerships. The UK also depended on the ability to engage at a sovereign level on Israel's international and domestic affairs, seeking resolution to the Middle East crisis, and to do so on terms that Israel requested.
40. The Authority submitted that Israel was involved in conflict across the Middle East, with highly sensitive negotiations on peace deals on-going, negotiations on arms trade, and an International Criminal Court ruling which could compel the UK to arrest "the Israeli President" should he visit the UK [The Commissioner understands that when the Authority referred to the "Israeli President", it meant the Israeli Prime Minister]. The Authority went on to argue that, given the extreme delicacy of this relationship, prejudicing the exchange of views between Israel and UK had the strong potential to have a substantial impact, beyond the borders of the UK.
41. Moreover, it stated that disclosure would impact on the Jewish community, and its relationship with the only Jewish state in the world, an area of significant discussion and engagement. The Authority argued that breaching diplomatic confidentiality limited the ability of the UK and Scottish governments to engage at a Ministerial or official level, and in turn the ability to engage on complex community issues.
42. The Authority argued that (as the United Kingdom Government stated), a negative response could be anticipated which could affect any of the areas discussed above and would in the UK Government's view substantially prejudice relations. It stated that Israel was prone to take significant and serious diplomatic responses when provoked and gave the example of Israel's decision in December 2024 to close its diplomatic mission in Dublin, making accusations against the Irish Government, which the Irish Government rejected. The Authority argued that this type of international behaviour was highly unusual and pointed to the unpredictable potential for response from the state of Israel.
43. The Authority further argued that the ongoing situation in Gaza was incredibly delicate.

Relations with other countries

44. The Authority submitted that while some countries did not object to information such as agendas and meeting minutes being released, others did. It argued that disclosure in this case would receive widespread media attention and would lead other foreign governments to consider the nature and substance of their contact with the Scottish Government, if they believed it likely that information which they expected to be kept confidential would subsequently be released.

It would also create immediate concern that information which had been historically shared in confidence could now be released which would create significant diplomatic pressure for both the United Kingdom and Scotland, damaging relationships.

45. While acknowledging that this case was unique to Israel, the Authority stated that disclosure would have far-reaching consequences for Scotland's ability to maintain and build relationships with other governments, as well as the UK's, and indirectly impact on critical aspects of engagement including trade, investment and education.

Scotland's international obligations

46. The Authority stated that, whilst international relations were reserved in terms of the Scotland Act 1998, there was an exemption to that reservation insofar as observing and implementing international obligations was not reserved. It argued that in not disclosing information, it was observing the Vienna Convention (1961) which specified under Article 41 that states should respect the confidentiality of diplomatic communications. It argued that if Ministers were not to observe international obligations then the UK Government could compel them to so in terms of section 58 of the Scotland Act 1998. The Authority further stated that ignoring Israel's wish to respect the confidentiality of diplomatic communications could leave the Authority open to this action and UK may feel pressure to take such action.
47. It also clarified that it was routine to seek the views of another government when considering what information can be released in response to Freedom of Information requests about diplomatic engagements and that Israel had been treated no differently in this circumstance.
48. Finally, the Authority stated that officials, in reviewing this request from Israel were mindful of the need to treat Israel as they would any other democratic nation, in line with the International Holocaust Remembrance Alliance (IHRA) definition of Antisemitism which the Scottish Government formally adopted in June 2017. Ignoring Israel's wishes where other countries' wishes had been respected could therefore be considered (as Antisemitism) under this definition.
49. The Authority confirmed that it had carried out an assessment on whether disclosure would, or would be likely to, prejudice substantially international relations in terms of the Commissioner's guidance as referenced above and had concluded that this would be the result.

The Applicant's comments on section 32(1)(a)

50. The Applicant argued that the public interest favoured the disclosure of the information. He noted that both the First Minister and the Mr Robertson had made significant public statements about the reasons for the meeting with the Israeli deputy ambassador as well as what was discussed at the meeting. The Applicant argued that it was in the interests of open government and transparency for the public to be able to assess whether the Ministers' public pronouncements on this issue matched up with what was actually discussed.
51. The Applicant noted that the Authority had continually been very critical of the Israeli government's actions during the war in Gaza and had announced it would refuse further meetings with Israeli diplomats. He argued that it was unclear how releasing information about an apparently cordial meeting between Mr Robertson and the deputy ambassador (according to her social media post about it) could substantially prejudice these relations

further given the Scottish Government's previous public pronouncements on the Israel-Gaza issue.

52. Furthermore, the Applicant argued that the conflict in Gaza was an issue which evoked very strong feelings from people in Scotland. He stated that the Scottish public expected full transparency about its government's dealings with Israel and argued some had expressed concern about the secretive way that this meeting came about and the fact the government was not proactive in informing the public about it. He argued that releasing information about this meeting would help assuage any concerns about transparency and help build trust in the government process.
53. The Applicant noted that the Welsh Government had previously released information about its correspondence with the Israeli ambassador to the UK. He argued that the Authority's decision to withhold the information in relation to his request meant people in Wales were afforded greater transparency about their government's discussions with Israel's ambassadors than the Scottish public.

The Commissioner's view on section 32(1)(a)

54. The Commissioner has carefully considered the all the submissions from the Applicant and the Authority and the nature of the withheld information. On balance, he is not persuaded that releasing the agenda (the only part of the information which is within scope of the request) would result in substantial prejudice.
55. He notes the Authority's position in relation to the international situation and considers that while there may be circumstances where the disclosure of certain information may be relevant to considerations of international security, neither the circumstances nor the withheld information makes that the case here. The Commissioner considers that the Authority has not connected the substantial prejudice it sets out to the specific terms of the agenda, the content of which he considers to be innocuous and non-controversial in terms of how it relates to the state of Israel.
56. The Commissioner considers that there is a significant difference between taking account of the particular sensitivities of other countries and accepting objections presented without sufficient reasoning to back them up.
57. The Commissioner notes the view of the Israeli Government, but his view is that in the circumstances of this particular case, and given the specific withheld information, there is no harm or risk to relations here. He also considers that, had that risk existed, he may have taken a different approach, as set out in [paragraph 10 of his guidance on section 32 of FOISA](#)². This makes clear that this section of FOISA (in common with all sections) needs to be considered on a case by case and document by document basis.
58. Further to the above, the Commissioner has reached varying conclusions at different times in the past with regard to the application of section 32(1)(a) of FOISA, or the equivalent exception of the EIRs, demonstrating the case by case approach taken by his office.
59. Moreover, the Commissioner considers that it is clear that the meeting was between the Scottish Government and the Israeli deputy ambassador. It is equally clear (in general terms, from the withheld information and from the Authority's public statements on the meeting) that the meeting was intended to address matters viewed specifically from a

² https://www.foi.scot/sites/default/files/2023-05/BriefingSection32InternationalRelations_25.5.23.pdf

Scottish perspective (as opposed to the UK as a whole).

60. Even if the Israeli government was to take extreme exception to the information being released (and the Commissioner, given the nature of the information, does not expect this to be the case) it would be clear that the information was released as a result of FOISA and not as a result of any action by the UK Government (or the Scottish Government). Consequently, he believes disclosure in these particular circumstances would be highly unlikely to significantly prejudice relations between the two governments.
61. In addition, the Commissioner notes the Authority's position that the agenda was an internal document drawn up by the Authority's officials independently of the Israeli government and was not shared with it. He therefore considers that the agenda is not a diplomatic communication (as referenced by the Authority in paragraph 33, above) between the two parties.
62. Overall, the Commissioner does not agree that disclosure would, or would be likely to, prejudice substantially relations between the UK and the state of Israel. For the reasons set out above, the Commissioner does not uphold the Ministers' reliance on the exemption in section 32(1)(a)(ii) of FOISA in respect of this information.
63. As the Commissioner is not satisfied that the exemption in section 32(1)(a)(ii) is applicable to the information, he is not required - in relation to this exemption - to go on to consider the application of the public interest test in section 2(1)(b) of FOISA.
64. The Authority has also withheld the agenda under section 30(c) of FOISA. The Commissioner will now go on to consider whether that exemption applies to the withheld information.

Section 30(c) – Prejudice to effective conduct of public affairs

65. Section 30(c) of FOISA exempts information if its disclosure "would otherwise prejudice substantially, or be likely to prejudice substantially, the effective conduct of public affairs". This exemption is subject to the public interest test in section 2(1)(b) of FOISA.
66. The use of the word "otherwise" distinguishes the harm required from that envisaged by the exemptions in sections 30(a) and (b). This is a broad exemption, and the Commissioner expects any public authority citing it to show what specific harm would (or would be likely to) be caused to the conduct of public affairs by disclosure of the information, and how that harm would be expected to follow from disclosure.
67. The standard to be met in applying the tests contained in section 30(c) is high: the prejudice in question must be substantial and therefore of real and demonstrable significance. The Commissioner expects authorities to demonstrate a real risk or likelihood of substantial prejudice at some time in the near (certainly foreseeable) future, not simply that such prejudice is a remote or hypothetical possibility. Each request should be considered on a case-by-case basis, taking into consideration the content of the information and all other relevant circumstances (which may include the timing of the request).

The Authority's comments on section 30(c)

68. The Authority contended that the exemption applied because disclosure would be likely to inhibit future candid and robust discussions between the Scottish Government and the Israeli Government in relation to devolved policy interests.

69. It argued that the effective conduct of public affairs depended upon maintaining trust and confidence between it and other states, governments and other international actors.

It reiterated its arguments made, above, in relation to section 32(1)(a) of FOISA and Israel's position that the meeting occurred on the understanding that it would be confidential and that this was a long-standing position held by Israel.

70. The Authority submitted that it felt strongly that the release of such information would substantially prejudice the Scottish Government's relations with the Israeli Government which would have a substantial chilling effect on any future discussion of this nature. It considered that it was important to protect the integrity and confidentiality of sensitive exchanges with Israel and other international contacts as this was critical for maintaining its capacity to be trusted by its interlocutors and thus protect and promote Scottish interests internationally.
71. It added that, while Scottish Ministers had stated they would not engage again at Ministerial level with Israel until such time as progress was made against a ceasefire in Gaza, this was not a permanent position and could become an area of active policy consideration. It added that official engagements would also continue, on an as-needed basis, and argued that release of the information would jeopardise both current and future relations. The Authority stated that, prior to the meeting, Scotland and Israel had an existing relationship on various fronts such as culture, trade and education. The Authority argued that release of this information could have a fundamental and long-lasting impact on these links, making Israel and other countries much more reluctant to engage with Scotland.
72. It contented that disclosing this information would be likely to substantially harm Scotland's relationship with Israel but would also have a wider, negative impact on Scotland's international standing, where other countries would feel less confident engaging with Scotland on devolved matters in case such discussions were made public. Furthermore, it argued that concern over the effect of releasing this information could lead both Scottish Government and international officials to understate or set aside legitimate and important concerns about the matters under discussion which in turn would impact on the overall effectiveness of diplomatic engagements.

Relations with other countries

73. The Authority re-stated its concerns in terms of its arguments as set out above and argued that disclosure would cause significant diplomatic pressure for Scotland, damaging relationships and trust. It submitted that while this case was unique to Israel, disclosure would have far-reaching consequences for Scotland's ability to maintain and build relationships with other governments and indirectly impact on critical aspects of engagements including trade, investment and education.

Scotland's international obligations

74. The Authority reiterated its arguments under this heading, set out above, in paragraphs 46 to 49.

The Applicant's comments on section 30(c)

75. The Applicant did not agree that the exemption should be applied to the withheld information because the Authority had already made substantial public statements about what was discussed at the meeting. According to the Authority's public statements, this included areas of mutual interest, including culture, renewable energy, and engaging the country's respective diasporas, as well as the war in Gaza.

76. The Applicant argued that if the withheld information confirmed this, there was no risk of the conduct of public affairs being prejudiced any more than it was by what had already been publicly said about the meeting.
77. Furthermore, he argued that it was unclear, if these policy areas were all that was discussed at the meeting, how releasing the agenda could prejudice the conduct of public affairs. The Applicant contended that other than the war in Gaza, none of those issues could be seen as particularly controversial, and details of ministerial conversations about these policy issues are regularly released under freedom of information law.
78. Moreover, the Applicant stated that Mr Robertson's position was that he had used the meeting to make the Israeli government aware of the need for an immediate ceasefire in the war in Gaza. This had been the Scottish Government's publicly stated position, and the Applicant argued that if Mr Robertson used the meeting to express this, and the withheld information reflected this, it was unclear how this could in any way prejudice the conduct of public affairs any more than the Scottish Government's public pronouncements.
79. The Applicant further noted that the Welsh Government had released details of its correspondence with the Israeli Government and argued that there appeared to be a double standard being applied across the UK.

The Commissioner's view on section 30(c)

80. The Commissioner has taken into account all the submissions made by the Applicant and the Authority. While he accepts that in some circumstances the withholding of sensitive information would be necessary to maintain the effective conduct of public affairs, he does not believe that is the case here. As described above, he does not believe that the withheld information is sensitive nor that there is a risk of significant prejudice (if indeed prejudice exists at all).
81. The Commissioner also notes the very similar (albeit not identical) arguments employed by the Authority in relation to this exemption as to section 32(1)(a) and, as he stated above in relation to the previous exemption, considers that there is a significant difference between taking account of the particular sensitivities of other countries and accepting objections presented without sufficient reasoning to back them up.
82. The Commissioner does not consider that the brief agenda, drawn up by the Authority's officials, is either an exchange, as referenced by the Authority given the Authority's own submissions as to how it was drawn up and not shared with the Israeli government, and does not consider that its contents are sensitive.
83. Moreover, he accepts the Applicant's argument that if the agenda merely reflects what has already been said openly, any prejudice which would result (and the Commissioner does not believe that is the case) would be no greater than that already caused by the Authority's public pronouncements.
84. Given the above, the Commissioner finds that the exemption is not engaged and that the Authority was not entitled to apply section 30(c) to the withheld information.
85. As the Commissioner is not satisfied that the exemption in section 30(c) is applicable to the information, he is not required to go on to consider the application of the public interest test in section 2(1)(b) of FOISA.
86. The Commissioner requires the Authority to disclose the agenda to the Applicant.

Decision

The Commissioner finds that the Authority failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by the Applicant.

He finds that by failing to give the Applicant notice, in terms of section 17(1) of FOISA, that the minutes were not held, and by wrongly applying sections 30(c) and 32(1)(a) to the agenda, the Authority failed to comply with section 1(1) of FOISA.

The Commissioner requires the Authority to disclose the wrongly withheld information (i.e. the agenda), by **7 July 2025**.

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.

Enforcement

If the Authority fails to comply with this decision, the Commissioner has the right to certify to the Court of Session that the Authority has failed to comply. The Court has the right to inquire into the matter and may deal with the Authority as if it had committed a contempt of court.

David Hamilton
Scottish Information Commissioner

21 May 2025