



Scottish Information
Commissioner
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Decision Notice 135/2025

Whether request was responded to promptly

Applicant: Anonymous

Authority: Renfrewshire Council

Case Ref: 202500311

Summary

The Applicant asked the Authority for information relating to the lease of land. The Authority disclosed the information requested, but the Applicant considered it had failed to respond promptly to their request. The Commissioner investigated and found that the Authority complied with FOISA in responding to the request.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); 10(1) (Time for compliance); 47(1) and (2) (Application for decision by Commissioner).

Background

1. On 29 November 2024, the Applicant made the following request for information to the Authority:
 - The amount paid for lease of land leased to Arkleston Newmains Community Council for the past ten years
 - The amount paid for lease of land leased to Lowlands ACF for land behind Arkleston and Newmains Community Hall for the past ten years.
2. The Applicant stated that the information should be provided split into years and “where a property is leased but the amount leased has not been requested, this should be stated”. They also said:

“Whilst you have 20 working days to comply, you are required by law to provide the information promptly. In this case, information should be provided within 5 working days.”

3. The Authority responded on 24 December 2024. It disclosed the information requested.
4. On 30 January 2025, the Applicant wrote to the Authority requesting a review of its decision. They stated that they considered the Authority had failed to respond to their request “promptly”, as required by section 10(1) of FOISA.
5. The Authority notified the Applicant of the outcome of its review on 21 February 2025. It informed the Applicant that it considered it had complied with section 10(1) of FOISA in responding to their request as it had responded within the statutory timescale. It explained that it endeavoured to respond to requests as promptly as practicable, but that it was not always possible to do so more quickly than the statutory timescale due to the constraints of processing a large number of requests with varying degrees of complexity.
6. On 26 February 2025, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. They stated that they were dissatisfied with the outcome of the Authority’s review for the same reason set out in their requirement for review.

Investigation

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.
8. On 14 March 2025, the Commissioner gave the Authority notice in writing of the application and the case was subsequently allocated to an investigating officer.
9. 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 the application and to answer specific questions relating to its handling of the Applicant’s request.

Commissioner’s analysis and findings

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

FOISA or EIRs?

11. Having considered the terms of the request and submissions on this point from the Authority, the Commissioner accepts the decision of the Authority to deal with the request under FOISA rather than under the Environmental Information (Scotland) Regulations 2004 (the EIRs).
12. The Commissioner would also note that he can see no detriment to the Applicant by considering their request under FOISA rather than the EIRs, nor has the Applicant made mention of any reason why they considered their request should be dealt with under the EIRs.

Section 10(1) of FOISA – Time for compliance

13. Section 10(1) of FOISA requires Scottish public authorities to comply “promptly” with a request for information and gives a maximum of 20 working days following the date of receipt of the request to comply. This is subject to qualifications which are not relevant in this case.

The Applicant’s submissions

14. The Applicant explained that they considered the amount of time taken by the Authority to respond was “excessive and unjustified” given the “very simple nature” of their request.
15. The Applicant noted that their request was made on 29 November 2024, meaning the deadline for the Authority to respond was 3 January 2025. However, the Authority was closed from 2.30pm on 24 December 2024 and reopened on 6 January 2025 – meaning the date the Authority responded was the last date it could have responded without breaching the statutory timescale in section 10(1) of FOISA.
16. The Applicant considered that the Authority had ignored the requirement in section 10(1) of FOISA to respond promptly.

The Authority’s submissions

17. The Authority explained that the request was received on Friday 29 November 2024 and was allocated to a service representative on Monday 2 December 2024. They immediately forwarded the request to the relevant colleague within their service area, with the relevant information being collated by 10 December 2024. The service area wished to obtain internal legal advice on disclosure of a certain aspect of the located information. Due to several factors, including employee absence and further information being sought from the relevant service, the process of obtaining this advice took “slightly longer than usual”.
18. The proposed response was subsequently sent to the Head of Policy and Partnerships who took responsibility in the absence of the Head of Economy and Development Services for approval of the response. As the request related to information held by a different service area, the Head of Policy and Partnerships took some time to familiarise themselves with the issue and to discuss it with the relevant officer. The response was subsequently issued on 24 December 2024, prior to the Authority closing for Christmas until January and on the seventeenth working day – before the statutory deadline under section 10(1) of FOISA.
19. The Authority stated that it did not deliberately delay responses to FOI requests. It considered taking seventeen working days to respond to the Applicant’s request was not excessive or unjustified, particularly when viewed in light of its other statutory duties and functions. These included responding to other requests for information made under FOISA and the EIRs. It explained that between 29 November 2024 (the date of the Applicant’s request) and 6 January 2025 (the date it re-opened after Christmas), 174 requests required to be processed and responded to.
20. The Authority referred to [Decision 120/2016](https://www.foi.scot/decision-1202016)¹ of the Commissioner, which considered whether a public authority had responded to a request under the EIRs “as soon as possible”. It noted that the Commissioner found that the public authority, which had responded on the twentieth working day, had complied with the EIRs.
21. The Authority noted the Commissioner’s finding that public authorities have various and competing demands on their time and that they need to balance compliance with responding to FOI requests with meeting these other demands, all within available (finite) resources. It

¹ <https://www.foi.scot/decision-1202016>

submitted it had similar competing demands across a while range of services and limited resources with which to fulfil them.

22. In meeting these other demands, particularly in the lead up to the only two-week shutdown of the year, the Authority explained that it also needed to strike this balance and that it considered it had done so by responding to the Applicant's request on the seventeenth working day.

The Commissioner's view

23. In reaching a finding in this case, the Commissioner has taken into account the Upper Tribunal's findings in [John v Information Commissioner and Ofsted \(Information rights: Freedom of information - right of access\) \[2014\] UKUT 444 \(AAC\) \(6 October 2014\)](#)².
24. The Commissioner is not bound by the Upper Tribunal's findings but is of the view that its interpretation of the equivalent Freedom of Information Act (2002) (FOIA) phrasing can be taken as a reasonable guide in this case.
25. Section 10(1) of FOIA (in line with section 10(1) of FOISA) requires that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt of a request.
26. Paragraph 37 of the Tribunal's decision states, with reference to section 10(1) of FOIA:
- "Dictionaries show that 'promptly' has a range of meanings. Some relate to attitude, such as willingly or unhesitatingly. Others relate to time, ranging from immediate to without delay. It would be wrong to substitute an expression for the language of the statute. It is, though, necessary to interpret that language. The context of section 10(1) is concerned with time rather than attitude, although the latter can have an impact on the former. It is too demanding to expect a public authority to respond immediately. That would be unattainable. In the context, promptly is more akin to 'without delay'.

There are three factors that control the time that a public authority needs to respond.

- First, there are the resources available to deal with requests. This requires a balance between FOIA applications and the core business of the authority.
- Second, it may take time to discover whether the authority holds the information requested and, if it does, to extract it and present it in the appropriate form.
- Third, it may take time to be sure that the information gathered is complete. Time spent doing so, is not time wasted.

FOIA is important legislation that imposes obligations on public authorities; they are entitled to take time not only to find the information requested but to ensure as best they can that there is nothing more to be found. It is then necessary to complete the administrative and bureaucratic tasks of presenting the information and obtaining approval for release."

27. The word "promptly" is used in section 10(1) of both FOISA and FOIA (the provision of FOIA, on which the Upper Tribunal's decision is based). Section 10(1) of FOISA therefore requires public authorities to respond to requests for information within a reasonable time and certainly within the statutory maximum time.

² <https://www.bailii.org/uk/cases/UKUT/AAC/2014/444.html>

28. The Upper Tribunal referred to three factors. The Commissioner considers that the first of these is particularly relevant to this decision.
29. The Commissioner acknowledges that authorities have many demands on their time and must prioritise resources to meet a range of deadlines and other statutory requirements. While he expects authorities to respond to information requests promptly, he accepts that it is reasonable to do so in the context of other duties.
30. In this case, the Authority explained that its everyday work is subject to its own demanding timescales and that it must balance compliance with FOISA timescales with meeting its other demands, all within available (finite) resources. The Commissioner accepts this, particularly in the context of the two-week shutdown over Christmas.
31. The other two factors taken into account by the Upper Tribunal concern different aspects of searching for, locating and retrieving all the information held. The Commissioner accepts that what is reasonable for one information request, in terms of time taken, may not be reasonable for another as it can depend on a range of factors such as the complexity of the information, its sensitivity, how and where it is held, how easy it is to retrieve and so on. As with other considerations in FOISA this should be considered on a case-by-case basis. There will be information which may be located readily and therefore provided more quickly than information less readily available, taking other priorities into consideration.
32. The Authority provided the Commissioner with detailed submissions on the various factors and competing priorities that impacted on how quickly it could respond to the Applicant's request. It acknowledged that it was not "particularly problematic" to locate the information requested, which it collated by 10 December 2024. However, it explained that it wished to obtain internal legal advice on disclosure of a certain aspect of the located information. Due to several factors, the process of obtaining this advice and the subsequent approval of the response to the request took longer than usual.
33. The Commissioner has fully considered the Authority's submissions, together with those made by the Applicant. In the circumstances, he is satisfied that the Authority responded to the request promptly. He sees no basis for concluding otherwise.
34. While the Commissioner acknowledges the Applicant's belief that their request was simple and was capable of being responded to by the Authority more quickly, he considers the Authority appropriately balanced the resources it had available to allow it to fully consider the request and to ensure it responded to it without unnecessary delay (and within statutory timescales), against a range of other tasks and deadlines.
35. The Commissioner therefore finds that the Authority complied with section 10(1) of FOISA in responding to the Applicant's request.

Decision

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

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.

Cal Richardson
Deputy Head of Enforcement

4 June 2025