



Scottish Information
Commissioner
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Decision Notice 132/2025

Whether request was manifestly unreasonable

Authority: Scottish Forestry

Case Ref: 202401665

Summary

The Applicant asked the Authority for information about the Stobo Hope Woodland Creation Scheme. The Authority responded to most of the request, but refused to respond to part (ix) because it considered this request was manifestly unreasonable.

The Commissioner investigated and found that although responding to request (ix) was burdensome for the Authority, the public interest in considering the information for disclosure outweighed the need to protect the Authority's resources by refusing to respond.

He required the Authority to consider all of the information falling within scope of request (ix) and to issue a revised review outcome.

Relevant statutory provisions

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

The Environmental Information (Scotland) Regulations 2004 (the EIRs) regulations 2(1) (definition of "the Act", "applicant" and "the Commissioner") and paragraphs (a) and (c) of the definition of "environmental information" (Interpretation); 5(1) and (2) (Duty to make environmental information available on request); 10(1), (2) and (4)(b) (Exceptions from duty to make environmental information available); 16(4) (Review by Scottish public authority); 17(1), (2)(a) and (b) (Enforcement and appeal provisions)

Background

1. On 27 August 2024, the Applicant made a request for information to the Authority. With reference to the Stobo Hope Woodland Creation Scheme and contract reference 23FGS74574 he asked:
 - (i) Has [the Authority] visited the site of the woodland creation scheme since its last visit on 15 March 2024? If so, on what days and what was the purpose of each visit?
 - (ii) Has [the Authority] paid out any claims out of the £2million grant. If so, when was this paid and how much was paid? Please provide a full breakdown of all the items that were paid for.
 - (iii) How many claims to date have been made, and what has been paid from these claims?
 - (iv) Has there been any breaches of contract 23FGS74574? If so, what were these contract breaches for and have penalties been applied to the grant funding awarded (or requests for funds to be returned made?)
 - (v) In order for any of this £2million grant to be paid must an inspection take place first?
 - (vi) Please provide all information relating to the inspection(s) if such inspection(s) have yet taken place. Please provide all reports and all details.
 - (vii) How many [the Authority] inspectors visited the site, over how many days did they inspect the site and when was the site visited?
 - (viii) If an inspection has not yet taken place, will an inspection be scheduled soon?
 - (ix) Please provide all documents, maps, forms and all correspondence between [the Authority] and all other parties, internal and external correspondence between Scottish Government staff and all correspondence between Scottish Ministers and other parties since June 1st 2024.
2. On 1 October 2024, the Authority provided information in response to parts (i) to (viii) of the Applicant's request. The Authority refused to provide any information for part (ix) of the request because it said this request was manifestly unreasonable under regulation 10(4)(b) of the EIRs.
3. The Applicant wrote to the Authority, on 3 October 2024, requesting a review of its decision. The Applicant disagreed that part (ix) of his request was manifestly unreasonable. He argued that the Authority had responded to similar requests previously which had resulted in the disclosure of hundreds of documents. The Applicant also offered to modify his request to seek all information from 1 July 2024, rather than 1 June 2024.
4. The Authority notified the Applicant of the outcome of its review on 16 December 2024. The Authority upheld its decision that the request was manifestly unreasonable and maintained its reliance on regulation 10(4)(b) of the EIRs. The Authority did not comment on the Applicant's offer to narrow the date range of the request.
5. On 19 December 2024, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. By virtue of regulation 17 of the EIRs, Part 4 of FOISA applies to the enforcement of the EIRs as it applies to the enforcement of FOISA, subject to specified modifications.

The Applicant stated that he was dissatisfied with the outcome of the Authority's review for a number of reasons, summarised as:

- the response and review were not issued within the statutory timescales,
- the Authority had failed to justify why his request (ix) was manifestly unreasonable; he disagreed that it was,
- there was a public interest in disclosure, and
- the information was not pro-actively published (unlike other similar information held by planning authorities or national park authorities).

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 21 January 2025, the Authority was notified in writing that the Applicant had made a valid application. 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 the matters raised by the Applicant in his application.

Commissioner's analysis and findings

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

Handling in terms of the EIRs

10. The Authority considered that as the Applicant's request was for environmental information, it was required to deal with it under the EIRs.
11. Where information falls within the scope of regulation 2(1) of the EIRs, a person has a right to access it (and the public authority has a corresponding obligation to respond) under the EIRs, subject to the various restrictions and exceptions contained in the EIRs.
12. The Applicant has not challenged the Authority's decision to handle his request under the EIRs and the Commissioner is satisfied, in the circumstances, that the information requested by the Applicant falls within the definition of environmental information set out in regulation 2(1), in particular, paragraphs (a) and (c) of that definition.

Section 39(2) of FOISA – Environmental information

13. The exemption in section 39(2) of FOISA provides, in effect, that environmental information (as defined by regulation 2(1) of the EIRs) is exempt from disclosure under FOISA, thereby allowing any such information to be considered solely in terms of the EIRs. In this case, the Commissioner accepts that the Authority was entitled to apply this exemption to the information withheld under FOISA, given his conclusion that it is properly classified as environmental information.

14. As there is a statutory right of access to environmental information available to the Applicant in this case, the Commissioner accepts, in all the circumstances, that the public interest in maintaining this exemption (and responding to the request under the EIRs) outweighs any public interest in disclosing the information under FOISA. Both regimes are intended to promote public access to information and there would appear to be no reason why (in this particular case) disclosure of the information should be more likely under FOISA than under the EIRs.
15. The Commissioner therefore concludes that the Authority was correct to apply section 39(2) of FOISA and to consider the Applicant's information request under the EIRs.

Regulation 5(1) of the EIRs – Duty to make environmental information available

16. Regulation 5(1) of the EIRs requires a Scottish public authority which holds environmental information to make it available when requested to do so by any applicant.
17. On receipt of a request for environmental information, the authority must ascertain what information it holds falling within the scope of the request. Having done so, regulation 5(1) requires the authority to provide that information to the requester, unless a qualification in regulations 6 to 12 applies (regulation 5(2)(b)).
18. Under the EIRs, a public authority may refuse to make environmental information available if one or more of the exceptions in regulation 10 applies.

Regulation 10(4)(b) of the EIRs – Manifestly unreasonable

19. Regulation 10(4)(b) of the EIRs provides that a Scottish public authority may refuse to make environmental information available to the extent that the request for information is manifestly unreasonable. In considering whether the exception applies, the authority must interpret it in a restrictive way and apply a presumption in favour of disclosure. Even if it finds that the request is manifestly unreasonable, it is still required to make the information available unless, in all the circumstances, the public interest in doing so is outweighed by that in maintaining the exception.
20. The Commissioner's general approach is that the following factors are relevant when considering whether a request is manifestly unreasonable. These are that the request:
 - (i) would impose a significant burden on the public body;
 - (ii) does not have a serious purpose or value;
 - (iii) is designed to cause disruption or annoyance to the public authority;
 - (iv) has the effect of harassing the public authority; or
 - (v) would otherwise, in the opinion of a reasonable person, be considered manifestly unreasonable or disproportionate.
21. This is not an exhaustive list. Depending on the circumstances, other factors may be relevant, provided the impact on the authority can be supported by evidence. The Commissioner recognises that each case must be considered on its merits, taking all the circumstances into account.

The Applicant's comments

22. The Applicant submitted that the information caught by his request was only available through making a request for it, because the Authority does not publish this type of information on its website, unlike other public authorities involved in the development of land.
23. The Applicant submitted that he had successfully obtained information from the Authority using FOI previously, covering the entire application process relating to Stobo Hope. He argued that the information previously disclosed comprised thousands of pages and hundreds of pdfs, many with redactions to remove personal information. He had received similar information from the Authority up to (roughly) the end June 2024, and he had sought (through request (ix)), the next tranche of information.
24. The Applicant noted that he had a lot of experience in collating FOI requests from a number of bodies, and he commented that the response from the Authority on this occasion was unusual. He acknowledged that the Authority had been fairly reasonable in responding to his requests and very rarely has the manifestly unreasonable claim been made. The Applicant expressed his concern that the Authority were trying to withhold the information to prevent damaging or embarrassing information being disclosed, specifically in relation to the Judicial Review which he considered was very damaging to the Authority's reputation.
25. The Applicant commented that it was not possible for him to narrow down his request to be more specific in terms of the information being asked for. He had concerns about malpractice in relation to the Scheme and argued that it was not possible for him to specify one or a few specific areas of interest. He noted that members of the public do not know how the Authority's holds information, which areas of the Authority hold it and which staff roles administer which tasks or which external parties had been consulted. He submitted, therefore, that his request was necessarily wide ranging and was not a "fishing expedition". He wanted to establish how and if the Authority would remedy the shortcomings in its operation, reduce the loss of large amounts of taxpayer funds and potential criminality.
26. The Applicant submitted that, even if the cost in time of responding to his request (ix) did exceed 80 hours, the information should be disclosed. He submitted that the Authority was a large organisation with a net operating expenditure exceeding £81 million, had an average of 220 full time equivalent staff and, alongside predecessor organisations, had spent nearly £400 million of taxpayer funds in Scotland over a ten year period (end March 2024).
27. The Applicant submitted that an estimated cost of around £1500 for responding to his request did not seem significant when compared to the £2 million grant given by the Authority to the developer of the Scheme and all the additional office and staff costs associated with the Scheme.
28. The Applicant argued that his request did not meet any of the legal tests required for the exception under regulations 10(4)(b) to be applied.

The Authority's comments

29. The Authority explained that the Stobo Hope Woodland Creation Scheme was a very large landscape scale scheme which meant that, ordinarily, it had a lot of associated documentation. It commented that as the Scheme was also the subject of two Judicial Reviews and has had regulatory approval revoked; this further added to the volume and complexity of information caught by the request. Consequently, the Authority argued that responding to request (ix) would place a significant burden on it and it therefore considered the request to be manifestly unreasonable, in terms of regulation 10(4)(b) of the EIRs.

30. The Authority argued that the nature and complexity of the Scheme and the information captured by the request meant that a large number of different individuals across various teams within the Authority would need to be involved in the response. It commented that some of the information was technical and specialist in nature and some was legal, being related to one of the live Judicial Reviews in the timeframe of the request.
31. The Authority provided details of the searches it had carried out to the Commissioner. The Authority confirmed that the timeframe applied to the searches was 1 June 2024 to 18 September 2024, to ensure that emails sent or received on 27 August 2024, but not saved to the corporate record (eRDM) until after that date, were captured. It had not considered the Applicant's offer, in his requirement for review, to reduce the beginning of the time frame to 1 July 2024.
32. The Authority provided details of the timeline of the Judicial Review process and regulatory revocation that was captured by the request. It explained that the petition for Judicial Review was lodged on 18 April 2024, answers were lodged on 9 May 2024, and permission for the petition to proceed was granted on 27 June 2024 with procedural hearings fixed for 8 August 2024 and 19 September 2024. The regulatory revocation was applied on 9 September 2024, ten days before the date of the final substantive hearing. The Authority argued that, during this time period, which included the time period captured by request (ix), there was a significant amount of information generated in investigating, preparing for and defending the Judicial Review. The Authority provided the Commissioner with details of the nature and type of correspondence and material that was generated during this timeframe.
33. Furthermore, the Authority explained that it was not only required to prepare, review and finalise its own documentation, but had to review and comment on documentations provided as part of the Judicial Review process by the petitioner.
34. The Authority submitted that a number of key staff were asked to carry out searches to enable it to estimate the time it would take overall to provide the information requested and it noted that additional staff would need to be asked to carry out searches were it to fully respond to the request.
35. The Authority explained that the information requested was held across individual email accounts (inbox, sent, archived), personal and corporate Microsoft file explorer folders and two separate eRDM systems. By way of example, the Authority submitted that the main Stobo file had 23 principal folders, some with one or more subfolders, and the information captured by request (ix) was scattered through these folders and sub folders.
36. In carrying out initial searches, the Authority submitted that eight members of staff were involved and they identified around 1300 documents, many which were emails with attachments (meaning that total volume of documents, in reality, was higher than 1300). Based on a sample of returns from one member of staff, the Authority estimated that around 75-80% of those 1300 documents were documents which fell within the scope of request (ix).
37. The Authority provided the Commissioner with screenshots of its searches.
38. The Authority acknowledged that a number of the documents returned in the searches might be, or contain, duplicated material and that meant each document would need to be reviewed individually – which, in itself, was a significant piece of work.

39. Given the Judicial Review, the Authority argued that there was additional complexity to reviewing the documents, but for the purposes of calculating the resource burden it had limited the activities to those that might be included when applying the cost limit under the Freedom of Information (Scotland) Act (FOISA). The Authority calculated
- Eight staff each took 12 minutes to carry out searches = 96 minutes (a)
- Sifting of 1300 results for scope at one minute per result = 1300 minutes (b)
- 75-80% of returns are in scope = 1000 documents in scope
- Average of 5 minutes to redact each document = 5000 minutes (c)
- Total resource time = (a) + (b) + (c) = 6396 minutes = 106 hours.
- Total (allowable) resource cost = £15 per hours (staff rate) * 106 hours = £1590
40. The Authority argued that its estimate was conservative and that, in reality, it would be necessary to ask additional staff to carry out searches to ensure that all of the information asked for in request (ix) was properly identified. For this reason, the Authority submitted that the extension of a further 20 days under regulation 7 of the EIRs, in those circumstances where requests are voluminous and complex, would still not allow it to respond to the request.
41. The Authority submitted that it had been able to respond to previous requests from the Applicant (across different time periods) because those earlier requests did not capture the same volume or complexity of information that was captured by request (ix).

The Commissioner's view on the exception

42. In the [Commissioner's briefing on regulation 10\(4\)\(b\) of the EIRs](#)¹, he states that a request will impose a significant burden on a public authority where complying with it would require a disproportionate amount of time, and the diversion of an unreasonable proportion of its resources, including financial and human, away from other statutory functions.
43. The EIRs do not define the term "manifestly unreasonable", and neither does the Directive. However, the [Aarhus Convention Implementation Guide](#)², named after the Convention on which the Directive was based, makes it clear that volume and complexity alone do not make a request "manifestly unreasonable" and, indeed, regulation 7 of the EIRs provides additional time for authorities to respond to voluminous and/or complex requests.
44. There is no cost limit for determining what is deemed to be an excessive cost of compliance under the EIRs, as there is in FOISA. Under FOISA, public authorities do not have to comply with a request if the cost of compliance exceeds £600. The Commissioner notes that the Authority referred to the cost ceiling in FOISA, when arguing that compliance would be manifestly unreasonable. Despite the EIRs themselves lacking a cost ceiling, the Commissioner recognises that there may be cases where the time and expense involved in complying with a request for environmental information means that any reasonable person would regard it as excessive.
45. The Commissioner has carefully considered the submissions from the Applicant and the Authority.

¹ <https://www.foi.scot/sites/default/files/2023-07/BriefingRegulation104bManifestlyUnreasonableRequests.pdf>

² https://unece.org/fileadmin/DAM/env/pp/Publications/Aarhus_Implementation_Guide_interactive_eng.pdf

46. During the investigation, the Applicant was asked to provide the Commissioner with a rough count of the number of documents disclosed by the Authority as a result of his previous requests. The Commissioner notes that although these previous disclosures are substantial (in that each document contains many pages) significantly fewer documents were captured by these previous requests compared to the volume of documents captured by request (ix).
47. The Commissioner is satisfied, for the reasons given by the Authority, that there were complex legal processes ongoing within the timeframe of request (ix), that there is a substantial amount of information within scope of the request and that there will be complex and confidential legal information within those documents.
48. On balance, given the circumstances and the activities that the Authority was involved in during the time period that covers request (ix), the Commissioner accepts the Authority's arguments that responding to the request would require significant resource and, therefore, the exception in regulation s10(4)(b) applies.

The public interest test – Regulation 10(4)(b)

49. The exception in regulation 10(4)(b) is subject to the public interest test in regulation 10(1)(b) of the EIRs. This means that, although the Commissioner is satisfied that the Applicant's request is manifestly unreasonable, he must still require the Authority to respond to that request if the public interest in making the information available outweighs that in maintaining the exception.

The Authority's comments on the public interest

50. The Authority recognised the public interest in disclosing relevant information as part of open and transparent government, and it further recognised the particular public interest in woodland creation schemes and the impact these have on communities. The Authority argued that it made such information available on request wherever possible and it had done so in relation to this scheme in the past.
51. The Authority submitted that the public interest in disclosure was outweighed by the public interest in ensuring the effective and efficient use of public resources by not incurring excessive costs when complying with information requests.
52. The Authority submitted that, in all the circumstances of the case, it considered that the public interest lay in ensuring that public funds are used effectively and that effort of public officials is focused appropriately. It argued that the time take to respond to request (ix) did not represent an appropriate use of public resources and would result in excessive costs being incurred.

The Applicant's comments on the public interest

53. The Applicant submitted web links to publicly available information relating to the Stobo Hope area, ownership of it and the award of over £2 million in grant funding to develop forestry on the land. The Applicant also submitted web links to a number of media articles on the subject, particularly in relation to the outcome of the Judicial Review and the activities which had taken place on the site.
54. The Applicant submitted that the cost to the taxpayer of the Authority responding to the request was outweighed by the savings arising from the successful Judicial Review action, which was taken by members of the community and which stopped the award of the £2 million grant by the Authority.

He argued that it was inappropriate that the Authority should refuse to provide the information captured by request (ix), given the comparatively small cost of around £1500 when considered against the Authority's annual expenditure over £80 million and the £2 million grant funding.

55. The Applicant argued that the Scheme was of significant public interest and there had already been significant controversy over the Authority's handling of its public consultation in relation to the approval of the Scheme, which, the Applicant argued, went against the advice of a number of consultees including NatureScot, the RSPB and members of the public.
56. The Applicant submitted that the Scheme was of interest, not only to the local community, but to the wider public in other areas affected by similar schemes relating to conifer plantations.
57. He submitted that there was a widespread and well-founded perception that communities are ignored and public consultations are shams, except where benevolent landowners or charities are involved. In the Applicant's view, withholding information contributed to lack of transparency.
58. The Applicant submitted that disclosure of the information was necessary to reduce malpractice and potential criminal activity. He commented that herbicide was applied to large areas at Stobo Hope, which breached forestry regulations; a matter reported on the Authority's website³ and which was brought to light through the Judicial Review action taken by the community. The Applicant provided additional submissions in relation to potential criminal activity at the site for the Commissioner's consideration, which it is not necessary to repeat here.

The Commissioner's view on the public interest

59. The Commissioner considers the Authority has taken a cursory and casual approach to the public interest in its review and in its submissions to him. It is clear that responding to requests for environmental requires public resource and, whilst the Applicant's request does cover a substantial amount of information and is burdensome for the Authority, the use of the Authority's resource in responding must be weighed up against the benefit to the public of environmental information potentially being placed in the public domain. The very existence of the public interest test in relation to this exception suggests that a real demand on public resources will not necessarily be the sole, or even the primary, determining consideration.
60. Here, while the Authority has acknowledged the particular public interest in woodland creation schemes and their impact, it does not appear to have gone beyond that to address the particular facts and circumstances of the scheme to which the request under consideration here relates: it is important that any analysis of the public interest, whatever the exception, is specific to the circumstances and not unduly generic.
61. Conversely, the Commissioner finds the Applicant's public interest submissions to be well researched, thorough and detailed. He finds the arguments compelling.

³ <https://www.forestry.gov.scot/news-releases/scottish-forestry-halts-forestry-work-at-stobo-over-new-information>

He is persuaded of the value of the environmental information related to Stobo Hope being in the public domain particularly given the success of the community in the Judicial Review (and the Authority's related decision to halt work on this particular scheme and reconsider its environmental impact, in the light of additional relevant information), where the community has used environmental information to try and ensure the protection of valuable habitat. The Commissioner agrees with the Applicant that there is a very strong public interest in disclosure of the information.

62. The objective of the [Aarhus Convention](#)⁴, in Article 1 states:

"In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention."

The EIRs confer those rights in Scotland. The Commissioner notes that there is also a public interest in protecting the integrity of the EIRs and in safeguarding the rights of persons to obtain environmental information, in those circumstances where the public interest merits it, even where complying with those rights incurs significant costs to public authorities.

63. The Commissioner considers that this is one such case. He is satisfied that the public interest in the Authority responding to request (ix) outweighs that in upholding the exception. The Commissioner acknowledges that redaction (perhaps extensive) may be required, reducing the amount of information actually made available, but he does not accept the possibility of a reduced amount of information being available at the end of this exercise (and the amount can only be speculative until the exercise has actually been carried out) as weighing to a significant extent against the strong public interest he has identified in the applicant's favour.
64. The Authority has a duty to respond to the request (regulation 5(1)), it must apply a presumption in favour of disclosure (regulation 10(2)(1)) and, if the information is voluminous and complex, it can (ordinarily) issue a notice advising of an extension of time (regulation 7).
65. Responding to requests for information is a core part of the duties of public authorities, alongside other statutory functions, and public authority resourcing must be capable of ensuring that these functions are carried out in accordance with the requirements of the EIRs.
66. On balance, therefore, the Commissioner accepts that, in all the circumstances of this case, the public interest arguments in favour of maintaining the exception in regulation 10(4)(b) of the EIRs are outweighed by the public interest in responding to request (ix) and making the requested information available. The Commissioner finds that the Authority was not entitled to withhold the requested information under this exception, and he requires the Authority to respond to request (ix).

⁴ <https://unece.org/DAM/env/pp/documents/cep43e.pdf>

Pro-active publishing of information

67. In his application, the Applicant expressed dissatisfaction that the Authority does not pro-actively publish information about forestry development on its website, unlike other authorities who make decisions about development on land, such as local authorities, national park authorities, or other agencies of the Scottish Government who have online planning portals, which are accessible to the public.
68. The Commissioner asked the Authority for its comments on this. The Authority recognised the strong public interest in woodland creation proposals and felling permissions that affect communities and their environment. The Authority acknowledged that it had a statutory duty to promote sustainable forest management and stated that proactive publication of environmental information was a priority for it.
69. The Authority submitted that work was underway to address this issue and to provide better access to case material, including the building of a Public Register, which would house and publish case work and was due for testing this year. This work is alongside a major redevelopment of its website, also due for launch later this year.
70. The Commissioner notes that the Authority publishes an online "[Guide to information](#)"⁵ that lists the information that is available on its website, and this includes certain registers of activities.
71. The Commissioner acknowledges the work that the Authority is undertaking to improve public access to environmental information, and he will welcome the new Public Register and website in due course. It is clear that the pro-active publication of environmental information, particularly in relation to permitting, planning, approvals and other such regulatory processes is preferable. Pro-active publication reduces the need for people to request information under the EIRs or FOISA, which frees up valuable resource that authorities can use to attend to their other statutory functions.

Handling of the request – failure to comply with timescales

72. Regulation 5(2) of the EIRs states that Scottish public authorities must comply with a request for information as soon as possible and in any event no later than 20 working days after the date of receipt of the request.
73. Regulation 16(4) of the EIRs requires Scottish public authorities to notify the requester of the outcome of its review as soon as possible and in any event no later than 20 working days after the date of any relevant representations made to it by the requester.
74. The Authority recognised that both of these statutory deadlines were not met. The Authority explained that this was because of the complexity and timing of the request, which was at a time when experienced staff had moved on, and existing staff were under pressure as a result. The Authority argued that this was further complicated by the fact that the Scheme was under Judicial Review, as previously discussed.
75. The Authority noted that the Applicant was updated twice with apologies for the delay, but it recognised that these delays were unacceptable and submitted that it had worked to improve its response times.

⁵ <https://www.forestry.gov.scot/about/guide-to-information>

76. It is a matter of fact that these statutory timescales were not met by the Authority in responding to the Applicant's request.
77. The Commissioner finds that the Authority failed to comply with the timescales required by regulations 5(2) and 16(2) of the EIRs.
78. The Commissioner has recorded these procedural failures in his case management database, which is used to inform and monitor FOI practice by authorities.

Decision

The Commissioner finds that the Authority failed to comply with the Environmental Information (Scotland) Regulations 2004 (the EIRs) in responding to the information request made by the Applicant.

He finds that the Authority

- failed to respond to the request within the time required by regulation 5(2) of the EIRs
- failed to carry out a review within the time required by regulation 16(4) of the EIRs,
- was not entitled to rely on the exception in regulation 10(4)(b) of the EIRs for information which would fulfil the Applicant's request (ix) and therefore failed to comply with regulation 5(1) of the EIRs in refusing to respond to request (ix).

The Commissioner therefore requires the Authority to respond to the Applicant's requirement for review in accordance with the requirements of the EIRs (otherwise than in terms of regulation 10(4)(b)) by **14 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.

Euan McCulloch
Head of Enforcement

28 May 2025