



Scottish Information
Commissioner
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Decision Notice 246/2025

Aberdour Road, vehicle speed surveys and road safety – failure to respond

Applicant: The Applicant
Authority: Fife Council
Case Ref: 202500962

Summary

The Applicant asked the Authority for information about vehicle speed surveys and road safety relating to Aberdour Road. This decision finds that the Authority failed to respond to the Applicant's request and requirement for review within the timescales allowed by the Freedom of Information (Scotland) Act 2002 (FOISA) and the Environmental Information (Scotland) Regulations 2004 (the EIRs).

Background

1. The Applicant made an information request to the Authority on 25 March 2025.
2. The Authority did not respond to the information request.
3. On 26 April 2025, the Applicant wrote to the Authority in respect of its failure to respond.
4. On 28 April 2025, the Authority notified the Applicant that it was relying on Regulation 7(2) of the EIRs to extend the time allowed for complying with the request of up to 20 additional working days.
5. The Applicant did not receive a response to their requirement for review.
6. On 20 June 2025, the Applicant wrote to the Commissioner, stating they were dissatisfied with the Authority's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA. The enforcement provisions of FOISA apply to the enforcement of the EIRs, subject to specified modifications – see regulation 17.

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 10 July 2025.
9. The Commissioner received submissions from the Authority. These submissions are considered below.
10. The Authority stated that an extension notice was sent to the Applicant by email on 23 April 2025 but, due to a technical error, did not transmit successfully. The transmission issue was not identified until 28 April 2025 when the extension notice email was re-sent to the Applicant.
11. The Authority did not respond to the Applicant's email of 26 April 2025, as, at that time, it did not consider the response to be late.
12. The Authority acknowledged that it should have treated the Applicant's email of 26 April 2025 as a formal requirement for review, accepting that it had failed to respond to the Applicant's request and requirement for review within the timescales allowed by FOISA and the EIRs.
13. It is apparent from the terms of the request that at least some of the information caught by it will be environmental information as defined by regulation 2(1) of the EIRs. In [Decision 218/2007 Transport Scotland](#)¹, the Commissioner confirmed at paragraph 51 that where environmental information is concerned, there are two separate statutory frameworks for access to that information and, in terms of the legislation, an authority is required to consider the request under both FOISA and EIRs.
14. Regulation 7(1) of the EIRs states that the period of 20 working days to respond to a request for environmental information as set out under the EIRs may be extended by another 20 working days if the "volume and complexity of the information requested makes it impracticable for the authority" to comply with the request.
15. Regulation 7(2) of the EIRs states that where an authority is relying on the provisions in regulation 7(1), it must notify the applicant of this "as soon as possible" and at any rate no longer than 20 working days after the request was received.
16. In this case, the Authority did not notify the Applicant that it was relying on Regulation (7)(2) of the EIRs within the timescale allowed i.e. by 23 April 2025 and it did not respond to the information request by that date.
17. The Commissioner finds that the Authority failed to comply with the EIRs when it applied regulation 7(2) to extend the deadline for response, after the date the response was due, and that it failed to comply with regulation 7(2) by not notifying the Applicant as soon as possible that it was applying regulation 7(1).
18. Section 10(1) of FOISA gives Scottish public authorities a maximum of 20 working days following the date of receipt of the request to comply with a request for information.

¹ <https://www.foi.scot/decision-2182007>

This is subject to qualifications which are not relevant in this case. The same timescale is laid down by regulation 5(2)(a) of the EIRs.

19. It is a matter of fact that the Authority did not provide a response to the Applicant's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA and regulation 5(2)(a) of the EIRs.
20. 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. Again, this is subject to qualifications which are not relevant in this case. The same timescale is laid down by regulation 16(4) of the EIRs.
21. 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 and regulation 16(4) of the EIRs.
22. The remainder of section 21 and regulation 16 set out the requirements to be followed by a Scottish public authority in carrying out a review.
23. The Authority responded to the Applicant's requirement for review on 4 September 2025, so the Commissioner does not require it to take any further action in relation to the Applicant's application.
24. The Commissioner notes that the Authority apologised to the Applicant for its handling of the request.

Decision

The Commissioner finds that the Authority failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) and with the Environmental Information (Scotland) Regulations 2004 (the EIRs) in dealing with the information request made by the Applicant. In particular, the Authority failed to respond to the Applicant's request for information and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA and regulations 5(2) and 16(4) of the EIRs.

The Commissioner also finds that the Authority failed to comply with the EIRs when it applied regulation 7(1) to extend the deadline for response and that it failed to comply with regulation 7(2) by not notifying the Applicant as soon as possible that it was applying regulation 7(1).

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.

Jennifer Ross
Deputy Head of Enforcement

07 October 2025