



Scottish Information
Commissioner
www.foi.scot

Decision Notice 257/2025

Changes to policies following a statement by the Chief Constable on institutional discrimination

Authority: Chief Constable of Police Scotland
Case Ref: 202500824

Summary

The Applicant asked the Authority for information relating to details of changes made to policies and other documents in response to particular systemic issues following a statement by the Chief Constable on institutional discrimination. The Authority refused to comply with the request as the cost of doing so would exceed £600. The Commissioner investigated and found that the Authority had failed to provide adequate submissions to justify its position.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); 12(1) (Excessive cost of compliance) 47(1) and (2) (Application for decision by Commissioner).

The Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004 (the Fees Regulations) regulations 3 (Projected costs); 4 (Fee payable); 5 (Excessive cost – prescribed amount).

Background

1. On 26 February 2025 the Applicant made a request to the Authority. He referred to a [statement made by then Chief Constable regarding institutional discrimination](#)¹ on 23 May 2023 and asked for details of changes (between the date of the statement and 31st December 2014) to policies, standard operating procedures and guidance documents that have been “changed as a direct result of addressing institutional racism, sexism, misogyny and discrimination”. The full text of the Applicant’s request is set out in Appendix 1.
2. The Authority responded on 26 March 2025 in the following terms:
 - it advised the Applicant that it had interpreted the date range for his request as from the date of the then Chief Constable’s statement to 31 December 2024, rather than December 2014
 - it informed the Applicant that no “people policies etc had been exclusively changed as a direct result of the statement”
 - it applied section 12(1) of FOISA to the request as a manual trawl by business areas of all policies, standard operating procedures and guidance would be required, which would exceed the upper cost limit of £600.
3. On 2 April 2025 the Applicant wrote to the Authority requesting a review of its decision. He stated that he was dissatisfied because did not believe section 12(1) of FOISA applied to his request as the information he sought could be readily identified from a central tracker maintained by the Force Policy Unit within the Authority.
4. The Authority notified the Applicant of the outcome of its review on 1 May 2025, which fully upheld its original decision.
5. On 24 June 2025, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. He stated that he was dissatisfied with the outcome of the Authority’s review for the same reasons set out in his requirement for review.

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 24 June 2025, the Authority was notified in writing that the Applicant had made a valid application. The case was subsequently 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 related to the application of section 12(1) of FOISA to the Applicant’s request.

¹ <https://www.scotland.police.uk/what-s-happening/news/2023/may/chief-constable-statement-on-institutional-discrimination/>

Commissioner's analysis and findings

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

Section 12(1) – Excessive cost of compliance

10. Section 12(1) of FOISA provides that a Scottish public authority is not obliged to comply with a request for information where the estimated cost of doing so would exceed the relevant amount prescribed in the Fees Regulations. This amount is currently £600 (see regulation 5). Consequently, the Commissioner has no power to require the disclosure of information should he find that the cost of responding to a request for that information would exceed this sum.
11. The projected costs a Scottish public authority can consider in relation to a request for information are, according to regulation 3 of the Fees Regulations, the total costs (whether direct or indirect) it reasonably estimates it will incur in locating, retrieving and providing the information requested, in accordance with Part 1 of FOISA.
12. The authority may not charge for the cost of determining whether it:
 - (i) actually holds the information, or
 - (ii) whether or not it should provide the information.
13. The maximum hourly rate the authority can charge for staff time is £15 per hour.

The Applicant's submissions

14. As stated above, the Applicant said that he was aware of the existence of a Force Policy Unit which maintained a tracker of all policies, standard operating procedures and guidance documents in use within the Authority. He submitted this tracker clearly detailed the dates of any revisions to these documents and a brief description of the change made.
15. Beyond that, the Applicant said that each document contained proposals for revision and that the version control applied to each document similarly detailed this information. He argued that this should allow the Authority, at the relative click of a button, to determine how many documents had been formally reviewed within the relevant date range and to understand why any changes had been made.
16. The Applicant considered it inconceivable that a subject as significant as institutional failings would not be identified in such descriptions. He also considered it inconceivable that the Authority would not have examined all the policy documents it considered it would be most "vulnerable" in and subsequently expedited examination of them through the policy support mechanisms.
17. The Applicant submitted that the Authority knew that the relevant documents referred to in his request were those that fell directly under the "policy support umbrella" and that it had simply chosen to ignore, or declined to deploy, basic IT capabilities and skills to identify the information requested (if held).

The Authority's submissions

18. The Authority explained that operational documents were managed by Policy Support, but owned, developed and reviewed by individual business areas. As such, operational documents could be changed without Policy Support explicitly being informed of the reason

for the change. Accordingly, the only way the information requested could be identified and provided would be by means of a physical examination by business areas of all policies, standard operating procedures and guidance documents to establish changes against previous versions, why each part of a document had been changed and if it met the criteria set out in the Applicant's request.

19. The Authority said that Policy Support had confirmed that it did not have a centralised "tracker" in relation to policies, standard operating procedures and guidance documents (as suggested by the Applicant). It explained that Policy Support did not write these documents but acted as "gatekeepers" who managed the formatting, accessibility standards, mandatory consultation and publishing of these documents. As such, it said that Policy Support could not speak to the provenance of why changes had been made to a document, the rationale behind changes or who had made the decision to change it – this was for the owning departments to undertake.
20. The Authority explained that the management of these documents was conducted between a SharePoint site and various folders. It noted that Policy Support only stored all documents belonging to the "National Record Set" – with each document having a unique folder assigned to it, containing correspondence, draft versions, compliance checks, Executive approval and other information. It also noted that other policy teams existed within the Authority (and that several business areas have their own units), but that it had focused on Policy Support as the owners of the National Record Set for the purposes of its response to the Commissioner.
21. The Authority explained that there were approximately 350 documents within the National Record Set and that it had identified around 56 new documents still being worked on by owning departments. It said that every document that had been updated in any way over the 19-month period covered by the Applicant's request would have to be identified, with the owning department then contacted to ask for any recorded information regarding the rationale behind the changes.
22. The Authority explained that this recorded information could take various forms (such as minutes, emails and reports) that would need inspected to identify any specific reference to addressing institutional racism, sexism, misogyny and discrimination. It considered that there was no straightforward means of determining whether a specific update to a document fell within the scope of the Applicant's request, as it was highly unlikely that a formal draft would be sent to Policy Support with an explicit comment that an amendment had been made in order to address institutional racism, sexism, misogyny and discrimination. It also noted that a revision may appear, on the face of it, to have nothing to do with the matters specified in the Applicant's request but the change may have been prompted by a desire to address those issues.
23. The Authority explained that colleagues in its Policing Together division had carried out a sampling exercise in response to the Applicant's request, searching for reference to standard operating procedure and policy changes referenced in meeting minutes from their Strategic Oversight Board meeting (which it assessed to be the most likely place for such changes to be discussed and agreed).
24. The Authority said that one set of minutes took over 23 minutes to review, leading it to estimate that it would take around 18 hours to review minutes for 2023 along – before even considering minutes for 2024. It also noted that this exercise related to just one business area and said that the same exercise would have to be repeated across all business areas

who had revised documents during the date range specified by the Applicant. It also noted that other records (like emails and reports) could contain relevant information.

25. The Authority therefore considered that the work involved in complying with the Applicant's request would be extensive – as well as involving some element of subjectivity in the absence of a specific reference to racism, sexism, misogyny or discrimination being the reason behind the changes.

The Commissioner's view

26. Regardless of how the Authority's centrally tracks changes to policies, standard operating procedures or guidance documents, the Commissioner accepts that it is unlikely that these changes – in whatever form they are centrally tracked – would be accompanied in each case by a specific record that the change was made to address the specific concerns raised by the Applicant in his request.
27. For at least some amendments (if made), the Commissioner therefore considers that an inspection of other records (such as the minutes, emails and reports referred to by the Authority) would be required to determine whether they fell within the scope of the Applicant's request.
28. In all cases, it falls to the public authority to persuade the Commissioner, with reference to adequate, relevant descriptions and evidence, that the cost of complying with the request would exceed the £600 cost limit. In this case, the Commissioner is not satisfied that the Authority has provided him with an adequate indication or calculation of the time and cost that complying with the Applicant's request would involve.
29. The Authority said that there were 350 documents in the National Records set and noted that the Applicant's request was not limited to those documents. However, the Authority did not provide the Commissioner with any indication of how many of these documents (or other relevant documents) were changed within the date range specified by the Applicant (i.e. the number of documents that, if changed as a direct result of the reasons specified by the Applicant, would fall within the scope of his request).
30. Given the Authority's description of how these documents are managed (i.e. through SharePoint and various folders), the Commissioner cannot accept, based on the submissions received from the Authority, that it would exceed the upper cost limit to identify the number of documents changed over the date range specified in the Applicant's request.
31. The Commissioner acknowledges the Authority's position that there was no "straightforward means" to determine whether documents had been changed as a direct result of the reasons specified by the Applicant. However, the Applicant's request is clear that he is seeking policies, standard operating procedures or guidance documents "changed as a direct result of addressing institutional racism, sexism, misogyny and discrimination" (emphasis added).
32. In the circumstances, the Commissioner does not consider the expectation that that an announcement of the significance of the Chief Constable's statement would have been followed by some form of auditable action to be unreasonable. It would be reasonable to expect that some form of recorded corporate process, initiating a review of relevant key documents, would have followed a statement of this nature and significance.
33. Taking the above into consideration, the Commissioner considers that whether policies, standard operating procedures or guidance documents have been changed as a direct result of addressing institutional racism, sexism, misogyny and discrimination (in the context of this

request) is something that it is likely can be established through adequate and proportionate searches (using relevant key words and consulting appropriate staff members).

34. In all the circumstances, the Commissioner cannot uphold the Authority's claim that it would be too costly to comply with the request. He therefore requires the Authority to carry out a revised review and to respond to the request other than in line with section 12(1) of FOISA.

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.

The Commissioner is not satisfied that the Authority was entitled to inform the Applicant that it would incur excessive costs in line with section 12(1) of FOISA to respond to his request.

The Commissioner requires the Authority to:

- carry out new searches for the information requested by the Applicant, either disclosing the information or notifying the Applicant why the information cannot be provided under a provision in Part 1 or 2 of FOISA, and
- provide the Applicant with a new review response (other than in line with section 12(1) of FOISA).

The Authority must carry out these steps and notify the Applicant of the outcome of its review by **8 December 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

24 October 2025

Appendix 1: Information request

"On the 23 May 2023 the then Chief Constable, speaking to the Scottish Police Authority stated;

"it is right for me, the right thing for me to do as Chief Constable, to clearly state that institutional racism, sexism, misogyny and discrimination exist. Police Scotland is institutionally racist and discriminatory."

And

"When an organisation doesn't have all the necessary policies, processes, practices and systems in place to ensure that doesn't happen, it's an institutional matter."

And

"We are committed to regularly and actively challenging and changing our own policies and procedures to eradicate unwitting bias."

<https://www.scotland.police.uk/what-s-happening/news/2023/may/chief-constable-statement-on-institutional-discrimination/>

In accordance with FOI legislation I hereby request the following. From the date of the Chief Constable's announcement to the 31st December 2014 Details of all policies, standard operating procedures, and guidance documents that have been changed as a direct result of addressing institutional racism, sexism, misogyny and discrimination. For the avoidance of all doubt I simply seek the name or title of the afore mentioned policies, standard operating procedures, and guidance documents, and the date on which the change took effect.

Of the policies, standard operating procedures, and guidance documents identified in response to question A (above), details of the precise amendment, addition or deletion to each of these documents as a direct result of addressing institutional racism, sexism, misogyny and discrimination.

For the avoidance of all doubt I simply seek details of the relevant sentence(s) (if any) that existed in each policy, standard operating procedure, and guidance document prior to the introduction of any amendment, addition or deletion as a direct result of addressing institutional racism, sexism, misogyny and discrimination.

AND

details of all the relevant sentences that now exist in any amended policy, standard operating procedure, and guidance document as a direct result of addressing institutional racism, sexism, misogyny and discrimination.

For the further avoidance of doubt - I do not seek full details of the contents of any policy, standard operating procedure, and guidance document beyond the very narrow and precise terms laid out above."