



Scottish Information
Commissioner
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Decision Notice 009/2026

Organisation of the records from the investigation into the murder of Shamsuddin Mahmood – failure to respond

Authority: Chief Constable of the Police Service of Scotland

Case Ref: 202501940

Summary

The Applicant asked the Authority for information regarding the ongoing effort to organise the records from the Northern Constabulary investigation into the murder of Shamsuddin Mahmood in Orkney on 2 June 1994. 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).

Background

1. The Applicant made an information request to the Authority on 24 July 2025.
2. The Authority did not respond to the information request.
3. On 25 August 2025, the Applicant wrote to the Authority requiring a review in respect of its failure to respond.
4. Although the Authority acknowledged the requirement for review on 26 August 2025, the Applicant did not receive a response to his requirement for review.
5. The Applicant wrote to the Commissioner on 23 October 2025, stating that he was dissatisfied with the Authority's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
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.

Investigation

7. 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 28 October 2025.
8. The Commissioner received submissions from the Authority on 6 November 2025. These submissions are considered below.
9. The Authority accepted that it had failed to respond to the Applicant's request and requirement for review within the timescales allowed by FOISA. It explained that it had experienced an exceptionally busy year and that this increased demand had affected both the core FOI team and the business areas it relied on for information. It apologised to the Applicant for its failure to comply.
10. 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. This is subject to qualifications which are not relevant in this case.
11. 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.
12. 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.
13. 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.
14. The remainder of section 21 sets out the requirements to be followed by a Scottish public authority in carrying out a review. As no review has been carried out in this case, the Commissioner finds that the Authority failed to discharge these requirements: he now requires a review to be carried out in accordance with section 21.
15. The Commissioner would remind Scottish public authorities that the Scottish Ministers' Code of Practice on the discharge of functions by Scottish public authorities under FOISA and the Environmental Information (Scotland) Regulations 2004 ([the Section 60 Code](#)¹) expects them to be adequately resourced to support and deliver their FOI duties (paragraph 1.1.4 in Part 2).

Decision

The Commissioner finds that the Authority failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) and in dealing with the information request made by the Applicant. In particular, the Authority failed to respond to the Applicant's request for information

¹ <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2016/12/foi-eir-section-60-code-of-practice/documents/foi-section-60-code-practice-pdf/foi-section-60-code-practice-pdf/govscot%3Adocument/FOI%2B-%2Bsection%2B60%2Bcode%2Bof%2Bpractice.pdf>

and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA. The Commissioner requires the Authority to issue a response, by **2 March 2026**.

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.

Cal Richardson
Deputy Head of Enforcement

16 January 2026