



Scottish Information
Commissioner
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Decision Notice 011/2026

Establishment and performance of Short Life Working Group – failure to respond

Authority: Scottish Ministers
Case Ref: 202501451

Summary

The Applicant asked the Authority for information about the establishment and performance of the Short Life Working Group established in response to the Supreme Court judgement in *For Women Scotland vs the Authority*. This decision finds that the Authority failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

1. The Applicant made an information request to the Authority on 25 June 2025.
2. The Authority did not respond to the information request.
3. On 24 July 2025, the Applicant wrote to the Authority requiring a review in respect of its failure to respond.
4. The Authority provided a response to the Applicant's requirement for review on 25 July 2025, issued as a response to his original request, and apologised for the delay in responding.
5. On 28 July 2025, the Applicant wrote to the Authority requesting a review of its decision.
6. The Applicant did not receive a response to this second requirement for review.
7. On 28 August 2025 the Applicant wrote to the Commissioner, 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.

8. 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

9. 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 23 September 2025.
10. The Commissioner received submissions from the Authority on 7 October 2025.
11. On 9 October 2025 the Authority informed the Commissioner that it had issued the Applicant with a further update of its position on 8 October 2025 (it referred to this as its review response, although it had already provided what was effectively the review response in its email of 25 July 2025).
12. In its submissions, the Authority explained that the review outcome was late due to resourcing constraints and difficulties in compiling data from a live tracker. It apologised for the delay in issuing the response.
13. 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.
14. 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.
15. 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.
16. The Commissioner notes that the email provided to the Applicant by the Authority on 25 July 2025, following the Applicant's request for review on 24 July 2025, was issued as a response to the Applicant's original request for information, rather than a response to the Applicant's requirement for review.
17. The Commissioner considers that the Authority's response, issued on 25 July 2025, was a review outcome as set out in section 21 of FOISA. Given this, the Applicant should have been advised that his next step, should he remain dissatisfied with the review response, was to appeal to the Commissioner.
18. The Commissioner finds that the Authority failed to comply with section 21(10) of FOISA, which requires the Authority, in its review notice, to include information about the right to appeal to the Commissioner and to the Court of Session.
19. The Commissioner would note that there is no provision under FOISA to provide a second review outcome, unless the Commissioner requires an authority to carry out a new review and issue a revised review outcome in a decision notice.
20. As the Authority has provided the Applicant with a review outcome, he does not require it to take any further action in relation to the Applicant's application.

Decision

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

In particular, the Authority failed to respond to the Applicant's request for information within the timescales laid down by sections 10(1). It also failed to provide the Applicant with information about his right of appeal as required by section 21(10) of FOISA. The Commissioner does not require the Authority to take any action in relation to these failings.

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

27 January 2026