



Scottish Information
Commissioner
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Decision Notice 293/2025

Duty to investigate corruption even if victim is outside of jurisdiction

Authority: Chief Constable of the Police Service of Scotland
Case Ref: 202500601

Summary

The Applicant asked the Authority to confirm whether it had a duty to investigate corruption involving external bodies and victims outside its jurisdiction. The Authority confirmed that it had a duty to investigate corruption. The Applicant was dissatisfied with the Authority's response for several reasons, including because it had not confirmed whether that duty extended to bodies/victims outside its jurisdiction. The Commissioner investigated and found that the Authority had complied with Part 1 of FOISA in responding to the Applicant's request.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (4) (General entitlement); 47(1) and (2) (Application for decision by Commissioner).

Background

1. On 18 February 2025, the Applicant made a request for information to the Authority (while making the same request to police forces in England and Wales at the same time). Among other things, they asked the Authority to:

"Please confirm whether your force has a duty to investigate corruption, even if the victim is outside your jurisdiction, the legal ombudsman and SRA are also within your country."

2. The Authority responded on 14 March 2025. It disclosed some information relating to the investigation of complaints against police officers, but it issued the Applicant with a notice, under section 17(1) of FOISA, that it did not hold any recorded information that “would set out the [Authority’s] position”.
3. On 23 March 2025, the Applicant wrote to the Authority requesting a review of its decision. They stated that they were dissatisfied with the decision because:
 - the Authority had failed to clarify whether it had a duty to investigate corruption beyond its internal employees, particularly concerning the Legal Ombudsman and Solicitors Regulation Authority (SRA) in Scotland
 - they did not believe that the Authority did not hold the information requested.
4. The Authority notified the Applicant of the outcome of its review on 21 April 2025, which modified its original decision. It recognised that the Applicant had requested information relating to corruption “more generally” (and not specifically in relation to its officers). It therefore withdrew its reliance on section 17(1) of FOISA and otherwise took the following steps:
 - it confirmed that corruption was a recognised crime classification in Scotland in accordance with [Scottish Government Justice Department guidance](#)¹
 - it confirmed that “yes”, it would investigate allegations of corruption in accordance with the [Scottish Crime Recording Standard](#)² (which included information on matters of jurisdiction and locus)
 - it stated that it held no guidance documents, policies or standard operating procedures (SOPs) relating to corruption specifically but it provided a link to its Fraud and Economic Crime [Standard Operating Procedures](#)³ (SOP) which related to corruption “to some extent”.
5. On 22 April 2025, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. They stated that they were dissatisfied with the outcome of the Authority’s review because it had failed to disclose documents in response to their request and that it was not entitled to respond to their request with a “yes” answer, solely.

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 27 May 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

¹ <https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2023/07/user-guide-recorded-crime-statistics-scotland-3/documents/user-guide-recorded-crime-statistics-scotland/user-guide-recorded-crime-statistics-scotland/govscot%3Adocument/user-guide-recorded-crime-statistics-scotland.pdf>

² <https://www.scotland.police.uk/spa-media/p0nfj2c/scottish-crime-recording-standard-crime-recording-and-counting-rules-april-2021.pdf?view=Standard>

³ <https://www.scotland.police.uk/spa-media/elypa35o/fraud-and-economic-crime-sop.pdf>

on this application and to answer specific questions. These related to how the Authority interpreted the Applicant's request and how it established what information it held falling within the scope of that request.

9. As part of their requirement for review and application to the Commissioner, the Applicant expressed dissatisfaction in relation to several matters. The Commissioner must make clear here, as he has already to the Applicant, that his decision notice will only consider whether the Authority complied with Part 1 of FOISA in responding to the part of the Applicant's request set out in paragraph one. His decision notice will not consider the other parts of the Applicant's request as these did not constitute valid requests for recorded information under FOISA (i.e. they failed to meet the requirements of section 8(1)).

Commissioner's analysis and findings

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

Section 1(1) – General entitlement

11. Section 1(1) of FOISA provides that a person who requests information from a Scottish public authority which holds it is entitled to be given that information by the authority, subject to qualifications which, by virtue of section 1(6) of FOISA, allow Scottish public authorities to withhold information or charge a fee for it. The qualifications in section 1(6) are not applicable in this case.
12. The information to be given is that held by the authority at the time the request is received, as defined by section 1(4).

The Applicant's submissions

13. The Applicant did not accept that their request had sought, or could be answered by, a "yes/no" response. They submitted that their request had explicitly asked the Authority to disclose records of policies, memoranda, or guidance governing how it handled corruption complaints involving external bodies (including the SRA and the Legal Ombudsman).
14. The Applicant further argued that their request had asked the Authority to confirm and explain the basis on which it claimed jurisdiction to investigate allegations relating to UK regulators (i.e. whether guidance, memoranda of understanding, or internal records set out how the Authority would act if allegations involved such regulators).
15. The Applicant submitted that their request required the Authority to disclose internal manuals, guidance notes or corporate records that explained why it claimed power to investigate corruption "even when the victim resides elsewhere" (i.e. was outside the Authority's jurisdiction). They contended that, even if a discrete policy on "cross-jurisdictional corruption" did not exist, related directives, SOPs or briefing notes would exist and be held by the Authority.
16. The Applicant argued that, by failing to disclose such documents in response to their request, the Authority had failed to comply with section 1(1) of FOISA on the basis that a request under FOISA extended to "any recorded information held" and could not, lawfully, be restricted by an authority to an "unrevealing" "yes" response.

The Authority's submissions

17. The Authority explained that it had initially interpreted the Applicant's request as seeking information regarding corruption allegations made against its officers. This was on the basis that requests using corruption terminology typically sought such information. However, it recognised that, in this case, it had initially misinterpreted the Applicant's request.
18. The Authority explained that, at review stage, it considered that the Applicant was instead seeking a "yes/no" response to the question of whether the Authority had a duty to investigate corruption, particularly including (though not limited to) the Legal Ombudsman and the SRA, even where the victim was outside the Authority's jurisdiction.
19. The Authority said that it had consequently identified four documents via searches which contained reference to "corruption". Three of these documents related to officer/staff corruption, with the fourth being Fraud and Economic Crime SOP (which it had disclosed to the Applicant).
20. The Authority confirmed that it had been unable to identify any guidance documents, relevant to the Applicant's request, which related to the Legal Ombudsman or SRA or any authority-specific SOP or guidance document relating to corruption.
21. In the absence of any specific document, the Authority explained that the only document which would set out when crimes were to be recorded/investigated was the Crime Recording Standard (CRS). On that basis, it had advised the Applicant that corruption was a crime classification in its own right in the Scottish Government Justice Department crime classification and that the CRS listed "corruption" as a crime.
22. The Authority noted that the CRS did not provide any further explanation or detail of "corruption" and submitted that there was no information, within that document, which dealt with the Legal Ombudsman or SRA specifically. It also noted that the CRS set out jurisdictional matters (in section F) and referred, in that section, to the home address of a victim. However, it explained that a home address would not, alone, dictate whether an investigation took place – the deciding factor being the location of the crime itself.
23. Taking all of the above into account, the Authority said that it was confident "on the basis of the facts" in answering "yes" regarding its duty to investigate corruption and by providing the Applicant with a link regarding jurisdictional matters.
24. However, the Authority recognised that it might have been better to have responded to the Applicant's request, in terms of section 17(1) of FOISA, on the basis that it held no information which dealt with the exact scenario described by the Applicant. It submitted that, ultimately, it would require more information to determine whether an allegation of corruption was a matter for the Authority or not.

The Commissioner's view

25. As stated above, the Applicant has argued that their request sought copies of documents rather than a "yes/no" response. Having considered the terms of the Applicant's request, the Commissioner does not accept this: it clearly and unambiguously asks the Authority to simply confirm whether it had a duty to investigate corruption even if the victim is outside of its jurisdiction. While the Applicant may have intended for their request to cover documents, the Commissioner does not consider it would be appropriate to read into their request something that is not there.

26. The Commissioner's [briefing on section 17 of FOISA](#)⁴ provides (at paragraph 53) that an authority may respond to a request for information with a "yes or no" answer, provided its response is based on recorded information held by that authority at the time of the request.
27. The question for the Commissioner in this case, therefore, is whether the Authority correctly interpreted the Applicant's request (and carried out appropriate searches encompassing information falling within the scope of that request) at the time of providing its "yes" response (which he accepts it was entitled, in principle, to provide).
28. As stated above, the Authority explained that, on the basis that corruption is a crime in Scotland and that certain conditions might arise which required it to investigate an allegation of corruption involving a body (or victim) outside its jurisdiction, it confirmed to the Applicant that it had a duty to investigate corruption.
29. However, the Commissioner also notes that the Authority considered that it might have applied section 17(1) of FOISA in response to the Applicant's request, given that it held no information confirming that it had a duty to investigate allegations of corruption involving bodies or victims outside its jurisdiction.
30. Taking all of the above into account, the Commissioner considers that there are two reasonable interpretations of the Applicant's request:
 - (i) it asked the Authority whether it had a duty in certain circumstances to investigate corruption outside of its jurisdiction
 - (ii) it asked the Authority whether it had a general duty (i.e. not conditional on particular facts and circumstances) to investigate corruption outside of its jurisdiction.
31. Regarding the first interpretation, the Commissioner accepts that the Authority was entitled to respond "yes". This is based both on the terms of the Applicant's request (which simply requested confirmation) and the partial, limited information it held at the time of their request. He is satisfied that the searches undertaken by the Authority were adequate and proportionate, in the circumstances.
32. However, the Commissioner would note that it would have been useful for the Authority to have provided the Applicant with more specific information on matters of jurisdiction and locus, rather than simply directing them the Scottish Crime Recording Standard (which included information on matters of jurisdiction and locus).
33. Regarding the second interpretation, the Commissioner considers that the Authority would have been entitled to issue the Applicant with a notice, in terms of section 17(1) of FOISA, that it did not hold recorded information that would satisfy their request. Again, he is satisfied that the searches undertaken by the Authority were adequate and proportionate, in the circumstances.
34. Given that he considers it self-evident that the Authority cannot have a general duty to investigate a matter that is, by definition, outside of its jurisdiction, the Commissioner accepts that the Authority's interpretation of the Applicant's request was reasonable. In other words, it would not make sense for the Applicant to have asked the Authority to confirm whether it had a general duty to investigate something that, by definition, it cannot have a general duty to investigate.

⁴ <https://www.foi.scot/sites/default/files/2022-03/BriefingSection17Informationnoheld.pdf>

35. In summary, the Commissioner is satisfied that the Authority's interpretation of the Applicant's request was reasonable and that its response complied with Part 1 of FOISA.
36. In view of the specific terms of the Applicant's request, no response from the Authority – regardless of reasonable differences of interpretation – would have resulted in disclosure of copies of documents. To ensure they receive the information they are interested in, requesters should spend some time thinking about their request to get it right – including by adapting requests, as appropriate, where they are sent to more than one body (particularly when the bodies concerned are subject to different legislative and regulatory regimes).
37. In view of the above, the Commissioner would urge requesters to consider the guidance set out in his [Tips for Requesters](#)⁵.

Decision

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

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.

Euan McCulloch
Head of Enforcement

10 December 2025

⁵ https://www.foi.scot/sites/default/files/2022-03/Tips_for_Requesters.pdf