



Scottish Information
Commissioner
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Decision Notice 305/2025

Council Income and Expenditure

Authority: Highland Council

Case Ref: 202500255

Summary

The Applicant asked the Authority for the income and expenditure for front line services for Ward's 5 and 10 for the last five years. The Authority failed to respond to the initial request and subsequently provided a response to review with some information, together with links to other information available on its website. It also informed the Applicant that certain information was not held, specifically the Ward data.

During the course of the investigation the Authority revised its position removing its application of section 17 to all parts of the request excluding those related to libraries and care homes and instead noting that it considered compliance with the rest of the request would exceed the threshold in the Fees Regulations.

The Commissioner investigated and found that information was not reasonably accessible where the Authority had applied section 25(1). The Commissioner also found that the Authority had not been entitled to notify the Applicant that some information was not held. Whilst the Commissioner does not agree that the Authority failed to respond to all parts of the Applicant's request, he did find a failure by it to discharge its duties under section 15 and required it to issue a revised review response.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); (2)(a) (Effect of exemptions); 15 (Duty to provide advice and assistance); 17 (Information not held); 25(1) (Information otherwise accessible); 47(1) and (2) (Application for decision by Commissioner)

Background

1. The Applicant wrote to the Authority on 22 July 2024 asking that it provide a clear account and budget for front line services in Ward 5.
2. The Authority sought clarification from the Applicant on 23 July 2024 as to which services he considered to be frontline services.
3. On 24 July 2024, the Applicant responded to the Authority's request for clarification explaining that he was asking for income and expenditure figures for the current year 2024-5, and also for the last five years for comparison, for the following front-line services. The Applicant also asked that the Authority provide comparative data for a ward close to Inverness, suggesting that perhaps the Black Isle would be a suitable case. The Applicant noted that he was looking for totals and also expenditure per head of population. He stated he was only interested in front line services which can be expected to form part of a normal budget and noted that figures should include both capital and revenue budgets and actuals.

The Applicant asked the Authority to not include any discretionary, limited 'philanthropic' funds that local communities must bid into. The Applicant stated that he would assume that planning and building standards are still wholly funded from specific fees paid, unless the Authority advised him otherwise.

Front line services include the following:

- i. Roads maintenance, including drainage. Please include details of the maintenance programme and any revenue that has been claimed for this from Scottish Water, who receive substantial income for this purpose from all non-domestic premises. Also, road safety, including resurfacing and filling potholes, clearing drains, speed limiting, parking issues, safe pedestrian routes and areas
- ii. Public toilets, which while not a statutory duty are a basic necessity for public and environmental health
- iii. Waste and recycling, including details for the Gairloch recycling centre, whose hours have been significantly reduced. Street cleaning and snow clearance. Grass cutting and maintenance of public spaces
- iv. Schools - the school rolls are forecast to drop significantly, and the quality of the education provided has already been severely impacted owing to lack of investment. Several primary schools have been mothballed and / or closed altogether. Figures should include staffing and buildings and grounds maintenance.
- v. Care Homes - All the care homes in Ward 5 area being closed and not replaced, causing serious problems for local people.
- vi. Public transport
- vii. Libraries - including the mobile library which is an important social and educational service.
- viii. Housing - while volume house building continues in the Inverness area, there is a severe shortage of council housing in Ward 5, leading to problems of recruitment and population retention that are severely damaging our communities and economy. Please also include

a sum for council buildings such as for example teachers' accommodation currently standing empty.

- ix. Finally, please advise the cost of providing billing services for domestic properties on behalf of Scottish Water. For non-domestic properties, these services have been made the responsibility of private companies, who appear to profit from this at public expense. It might benefit the public and the environment and save money if non-domestic billing for water also were to be transferred to local authorities."

4. The Authority failed to respond.
5. On 12 September 2024, the Applicant wrote to the Authority requesting a review of its failure to respond to his information request.
6. The Authority notified the Applicant of the outcome of its review on 15 October 2024 responding to each part of the Applicant's information request in turn.
 - i. "Section 25 of the Freedom of Information (Scotland) Act 2002 exempts information from disclosure where the requester can reasonably obtain the information without making a request for it.

The Roads Capital Programme for Ward 5 is presented to member[s] of the Wester Ross, Strathpeffer and Lochalsh Committee each financial year.

This details the road budget for each area of the Authority. You can find copies of the reports you have requested information about at the following link:

https://www.highland.gov.uk/meetings/committee/145/wester_ross_strathpeffer_and_loch_alsh_committee

- ii. Details of the overall budget for public toilets can be found in the revenue and capital reports presented to the Communities and Place Committee in each financial quarter.

You can find copies of the reports in minutes of each meeting held at the following link:
https://www.highland.gov.uk/meetings/meeting/4943/communities_and_place_committee

The information you have requested is not recorded by Council ward, therefore under Section 17 of the Act we are unable to provide you with the breakdown requested as it is not held by the Authority.

- iii. Details of the overall budget for our waste management service can be found in the revenue and capital reports presented to the Communities and Place Committee in each financial quarter.

You can find copies of the reports in minutes of each meeting held at the following link:
https://www.highland.gov.uk/meetings/meeting/4943/communities_and_place_committee

The information you have requested is not recorded by Council ward, therefore under Section 17 of the Act we are unable to provide you with the breakdown requested as it is not held by the Authority.

- iv. Details of the overall budget for our education service can be found in the revenue and capital reports presented to the Education Committee in each financial quarter.

You can find copies of the reports in minutes of each meeting held at the following link:
https://www.highland.gov.uk/meetings/committee/141/education_committee

Details of spend relating to capital spending can be found in the Property Capital monitoring reports that are presented quarterly to the Housing and Property Committee.

You can find copies of the reports in minutes of each meeting held at the following link: https://www.highland.gov.uk/meetings/committee/144/housing_and_property_committee

The information you have requested is not recorded by Council ward, therefore under Section 17 of the Act we are unable to provide you with the breakdown requested as it is not held by the Authority.

- v. Operation of care homes in the Authority area come under the remit of NHS Highland. Under Section 17 of the Act, we are unable to provide you with this information as it is not held by the Authority.
- vi. Details of the overall budget for our Public Transport service can be found in the revenue and capital reports presented to the Economy and Infrastructure Committee in each financial quarter.

You can find copies of the reports in minutes of each meeting held at the following link: https://www.highland.gov.uk/meetings/committee/153/economy_and_infrastructure_committee

The information you have requested is not recorded by Council ward, therefore under Section 17 of the Act we are unable to provide you with the breakdown requested as it is not held by the Authority.

- vii. Operation of libraries in the Authority area come under the remit of High Life Highland. Under Section 17 of the Act, we are unable to provide you with this information as it is not held by the Authority.
- viii. Details of the overall budget for our Housing service can be found in the revenue and capital reports presented to the Housing and Property Committee in each financial quarter.

You can find copies of the reports in minutes of each meeting held at the following link:

https://www.highland.gov.uk/meetings/committee/144/housing_and_property_committee

The information you have requested is not recorded by Council ward, therefore under Section 17 of the Act we are unable to provide you with the breakdown requested as it is not held by the Authority.

- ix. The information you have requested is not recorded by Council ward, therefore under Section 17 of the Act we are unable to provide you with the breakdown requested as it is not held by the Authority.

The costs for providing billing services for domestic properties on behalf of Scottish Water is detailed in the annual accounts each year. The figures for the years requested are detailed below.

The figures for 2024/25 have not been collated yet, under Section 17 of the Act we are unable to provide you with this information as it is not held by the Authority.

During 2023/24 the Council paid over £42.084m and received £0.890m for providing this service.

2022/23 - the Council paid over £40.214m and received £0.765m.

2021/22 - the Council paid over £38.002m and received £0.765m.

2020/21 - the Council paid over £36.739m and received £0.768m.

2019/20 - the Council paid over £36.409m and received £0.755m."

7. On 13 February 2025, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. The Applicant stated he was dissatisfied with the outcome of the Authority's review for the following reasons:

- He did not agree that the information the Authority stated was otherwise accessible, was accessible by any other means than by request, therefore he did not agree with its application of section 25.
- The Applicant did not agree with the Authority's application of section 17 (information not held), specifically, he did not believe that the Authority did not hold the information requested broken down by Wards, care homes and libraries.
- The Applicant did not agree that the Authority addressed all aspects of his request.

Investigation

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.
9. On 14 February 2025, the Authority was notified in writing that the Applicant had made a valid application. The case was subsequently allocated to an investigating officer.
10. 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 the application and to answer specific questions. These related to the nature of the searches carried out by the Authority to establish what recorded information it held falling within scope of the Applicant's request, together with an explanation as to why the Authority considered certain information covered by the Applicant's request to be otherwise accessible to him. The Authority was also invited to comment on the Applicant's view that he had not been provided with all information held by it which would fulfil certain parts of his request.
11. The Authority was also asked, during the course of the investigation, to clarify if the application of section 25(1) was intended for all instances where it had provided a link to its website, rather than just the first question, as it appeared in its response. The Authority confirmed that it was.

Commissioner's analysis and findings

12. In coming to a decision on this matter, the Commissioner considered all of the relevant submissions, or parts of submissions, made to him by both the Applicant and the Authority. He is satisfied that no matter of relevance has been overlooked.

Section 17(1) - Notice that information is not held

13. 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 contained in section 1(6) are not applicable in this case.

14. The information to be given is that held by the authority at the time the request is received, as defined in section 1(4). This is not necessarily to be equated with information an applicant believes the authority should hold, although an applicant's reasons may be relevant to the investigation of what is actually held. If no such information is held by the authority, section 17(1) of FOISA requires it to give the applicant notice in writing to that effect.
15. The standard of proof to determine whether a Scottish public authority holds information is the civil standard of the balance of probabilities. In determining where the balance of probabilities lies, the Commissioner considers the scope, quality, thoroughness and results of the searches carried out by the public authority. He also considers, where appropriate, any reason offered by the public authority to explain why it does not hold the information. While it may be relevant as part of this exercise to explore expectations about what information the authority should hold, ultimately the Commissioner's role is to determine what relevant recorded information is (or was, at the time the request was received) actually held by the public authority.

Applicant's submissions

16. The Applicant did not believe that the Authority did not hold front line service income and expenditure information broken down by Ward. The Commissioner noted that the Authority's website showed that some financial information was presented to sub committees, the subcommittee(s) for this Authority are broken down by Ward. As such quarterly figures were available on their website in subcommittee reports.
17. The Applicant also did not agree that the Authority's application of section 17 to information relating to care homes and libraries was accurate, given these areas are the responsibility of the Authority.

Authority's submissions

18. In submissions to the Commissioner, the Authority changed its position in relation to the section 17 notice accepting that the requested information was held but not in a way that would be easy to allocate to individual wards or without requiring significant staff time. The Authority therefore stated that the whole request should have been refused under section 12(1), as compliance would exceed the £600 cost cap set out in the Fees Regulations.
19. The Authority provided additional submissions regarding parts v. and vii. of the request on 2 December 2025.
20. The Authority explained that since 2012, operation of care homes in the area has been through NHS Highland following the transfer of them to NHS Highland by the Authority. As a consequence, NHS Highland which is designated under FOISA itself manages all FOI requests.
21. Similarly, the Authority explained that since 2011 operation of the libraries was through High Life Highland (HLH), an Arm's-length external organisation (ALEO), which was also designated as a Scottish public authority under FOISA.
22. The Authority submitted that in both cases, the Applicant was directed to the appropriate public authority as it would not hold the detailed breakdown he requested.
23. The Authority did, however, concede that it would have been more helpful to have included links to the pages on the NHS Highland and HLH websites where their FOI information is held.

The Commissioner's view

24. The Commissioner acknowledges that the Authority recognised that section 17 could not be upheld, given the information requested (with the exception of parts v. and vii.) appears to have been held at the time of the request being received. The Commissioner must therefore conclude that the Authority failed to comply with Part 1 of FOISA by notifying the Applicant in line with section 17 that financial information broken down by ward was not held by it for parts i., ii., iii., iv., vi., viii., and ix of the request.
25. The Commissioner is satisfied, based on the submissions and explanations provided by the Authority, that on the balance of probabilities, it does not (and did not, at the time of the request) hold any recorded information which would fulfil parts v. and vii. of the Applicant's request. As such, he finds that the Authority was correct in issuing a notice under section 17(1), of FOISA, stating that it did not hold this information.

Section 25(1) – Information otherwise accessible

26. Under section 25(1) of FOISA, information which an applicant can reasonably obtain other than by requesting it under section 1(1) is exempt information. The exemption in section 25 is absolute, in that it is not subject to the public interest set out in section 2(1)(b) of FOISA.
27. As mentioned above, during the course of the investigation the Authority confirmed that it intended to rely on the exemption in section 25(1) for each occasion it had provided the Applicant with links to resources available on its website in response to his request. This relates to information which would partially fulfil parts i to iv, vi and viii of the Applicant's request.

Applicant's submissions

28. The Applicant stated that the information requested was not accessible by any other means than by request. The Applicant also observed that he did not ask for committee reports, he asked for income and expenditure figures for the current financial year and past five years for the front-line services he specified.

Authority's submissions

29. In its submissions, the Authority explained that it considered the website links given in the response were reasonable and some advice and assistance was provided.
30. Despite asking substantive questions about the accessibility of the information requested, the Authority's submissions were limited.

The Commissioner's view

31. In order to determine whether the Authority was entitled to rely on section 25(1) for any of this information covered by parts i. to iv, vi and viii of the request, the Commissioner must be satisfied as to whether the information held by the Authority (and which fell within the scope of the request) was reasonably obtainable by the Applicant, otherwise than requesting it under section 1(1) of FOISA.
32. Using the website links provided by the Authority, the Commissioner assessed whether the information requested was reasonably obtainable. Given the volume of some of the referenced materials and the lack of specific detail provided by the Authority (for example, the corresponding section numbers within these online publications), this proved to be a challenging and time-consuming task.

33. In respect of the information claimed, by the Authority, to be publicly available (and therefore exempt from disclosure under section 25(1) of FOISA), the Commissioner found:

- Part i. - Roads maintenance: the link provided did not take him directly to information held and the reports he found provided budgetary information rather than income and expenditure.
- Part ii - Public Toilets: the link provided did not give all the information asked for in one report. Multiple papers would need to be scrutinised to collate the information.
- Part iii - Waste/Recycling; the report cited provided some income and expenditure information but did not include all services requested and did not cover the time frame requested.
- Part iv - Schools: the link provided some information but only quarterly figures.
- Part vi – Public transport: some income and expenditure information was found but not for the timescale requested. Multiple papers would need to be scrutinised to collate the information.
- Part viii - Housing: the income and expenditure figures were there but not for the timescale requested. Multiple papers would need to be scrutinised to collate the information.

34. The Authority made no further submissions to support its reliance on section 25(1).

35. In this case, the Commissioner would consider the size and number of reports to be a relevant factor. In the absence of more specific information as to where the relevant information could be found, where it was indeed accessible in these reports, finding the information proved to be a cumbersome and time-consuming task. The task was compounded where the information proved to be accessible elsewhere than via the links provided.

36. The Commissioner must question whether providing links to a bank of committee papers which contain some reports, without specifying which committee meetings and then which reports and where in those reports the relevant information is to be found, is consistent with the spirit, or even the letter, of FOISA. In the Commissioner's view, section 25(1)¹ is not intended to prevent or inhibit access to information, but rather to relieve public authorities of the burden of providing information the applicant can access readily without asking for it. None of the information to which the Authority continues to apply section 25(1) can be said to fall into this category, given the challenges described above.

37. In all the circumstances, on the basis of the submissions received and the further searches carried out by way of verification, the Commissioner is not satisfied that the Authority was entitled to apply section 25(1) of FOISA to the information it continues to withhold under this exemption.

38. The Commissioner accepts that whilst in some cases it is possible that some or all of the information which may fulfil the Applicant's request may have been accessible from the reports to which the Authority provided links, the lack of advice and assistance on the part of the Authority in signposting the Applicant to the specific reports and relevant parts of the same means that it would be difficult to accept that the information is reasonably accessible

¹ https://www.foi.scot/sites/default/files/2023-05/BriefingSection25InformationOtherwiseAccessible_25.5.23.pdf

to them. The Commissioner therefore requires the Authority to provide a revised review response in relation to this information otherwise than by relying on section 25(1).

39. The Commissioner must also question whether the Council has complied with its duty under section 15(1) of FOISA (Duty to provide advice and assistance) in relation to this information.

Section 15(1) of FOISA - duty to provide advice and assistance

40. It is essential to any requester pursuing their right to information that (where the public authority is not simply providing the information but rather is directing the requester to a place where it may be obtained) the requester knows enough about where to look for it to be able to pursue that right effectively. To this end, the authority's duty to provide advice and assistance can be vital.
41. Section 15(1) of FOISA requires a Scottish public authority, so far as is reasonable to expect it to do so, to provide advice and assistance to a person who proposes to make, or has made, a request for information to it. Section 15(2) states that a Scottish public authority shall be taken to have complied with this duty where (in relation to the provision of advice and assistance in a particular case) it conforms with 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).
42. Paragraph 9.5.2 of [the Section 60 Code of Practice](#)², which relates to circumstances where information is otherwise accessible, states:

“The authority should not assume that the applicant will know where and how the information can otherwise be obtained. If the information is already publicly available (e.g. on the authority's website) the authority should tell the applicant how to access it and provide adequate signposting, for example, providing direct links to online information. In all cases the authority should bear in mind its general duty to provide advice and assistance to applicants.”

43. Accessing the information claimed by the Authority to be publicly available proved to be a challenging and time-consuming task, given the number of publications involved. This research also identified that some of the information was only accessible at different weblinks to those provided by the Authority or could not be located at all. For these reasons, the Commissioner has not upheld the Council's application of section 25(1). The duty to provide advice and assistance, however, stands alone and must be considered separately.
44. In the absence of any further information identifying where, in the relevant reports, particular information could be located or explaining that it would need to be collated from different reports, the Commissioner takes the view that simply providing a link to a bank of reports was inadequate and unhelpful. If it wished to, and could, claim section 25(1) rather than simply providing the information, it needed to provide locational details which enabled the Applicant to exercise his access rights effectively. In the circumstances, the Commissioner is not satisfied that the Authority did this.
45. The Commissioner cannot accept, therefore, that the Authority provided, or was willing to provide, the Applicant with reasonable advice and assistance to enable him to locate the

² <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>

information it held and which it considered exempt under section 25(1) of FOISA. In other words, it failed to comply with section 15(1) of FOISA in this regard.

46. Finally, the Commissioner notes the Authority advised that information was not held for care homes and libraries. While he acknowledges that the Authority did inform the Applicant of which Authority's would be likely to hold relevant information, he considers, as the Authority conceded itself, that it would have been helpful for it to have included links to the relevant pages on the NHS Highland and HLH websites where their FOI information was held. As this specific advice and assistance on how the Applicant could apply to those organisations for the information requested was not provided, the Commissioner finds that it failed to comply with section 15(1) of FOISA in relation to parts v. and vii.

Did the Council respond to all parts of the Applicants request

47. The Applicant believed that the Authority did not provide a response to all aspects of his request.
48. The Authority advised that it believed that it did its best to provide a reasonable response to a very broad request.
49. The Commissioner observed that perhaps the numbering of each of point of the request and ensuring the exemptions were correctly cited at each instance they were intended to be applied, would have made the response clearer in terms of what was answered.
50. The Commissioner numbered the sections of the request retrospectively in order to clarify this point and using this approach confirmed the Authority had indeed responded to all parts of the request.

Decision

The Commissioner finds that the Authority partially 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 finds that the Authority was entitled to inform the Applicant, in line with section 17, that it did not hold any information which would fulfil parts v. and vii. of his request.

However, the Commissioner also finds that by notifying the Applicant, in line with section 17, that financial information broken down by Ward was not held by it, the Authority failed to comply with Part 1 of FOISA in relation to all questions apart from v. and vii.

The Commissioner was also not satisfied that information covering parts i to iv, vi and viii of the request were otherwise accessible to the Applicant. Therefore, the Commissioner finds that the Authority was not entitled to rely on the exemption in section 25(1) of FOISA for withholding this information.

The Commissioner also concluded that the Authority did not comply with its duty to provide advice and assistance in responding to the request, as required by section 15(1) of FOISA.

The Commissioner therefore requires the Authority to issue a new review response to the Applicant, by 29 January 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.

Jill Walker
Deputy Head of Enforcement

15 December 2025