



Scottish Information
Commissioner
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Decision Notice 308/2025

Land and property assets sold between 1 January 2020 and 31 December 2024

Authority: East Dunbartonshire Council
Case Ref: 202500746

Summary

The Applicant asked the Authority for information about land and property assets sold by the Authority between a specified time period. The Authority disclosed some information and directed the Applicant to Registers of Scotland for the remaining information because it was publicly available and easily accessible.

The Commissioner investigated and found that the remaining information was not easily accessible from the Registers of Scotland. He required the Authority to provide the information requested under the EIRs.

Relevant statutory provisions

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

The Environmental Information (Scotland) Regulations 2004 (the EIRs) regulations 2(1) (definition of “the Act”, “applicant” and “the Commissioner”) (Interpretation); 5(1) (Duty to make environmental information available on request); 6(1)(b) (Form and format of information); 17(1), (2)(a) and (b) (Enforcement and appeal provisions).

Background

1. On 6 January 2025, the Applicant made a request for information to the Authority. He asked for:
 - (i) A list of all land and property that the Authority sold between 1 January 2020 and 31 December 2024.

For each sold asset, he asked the Authority to provide:

 - The address and coordinates of the land/property
 - A description of the asset, including what your local authority used it for
 - The size of the asset (e.g. hectares, sq km)
 - The sale price
 - The buyer (please state the name of any company, organisation, etc. or otherwise state whether it was a private individual)
 - The date of sale.
 - (ii) A list of all the land and property currently owned by the Authority.

For each asset, he asked the Authority to provide:

 - The address and coordinates of the land/property
 - A description of the asset, including what your local authority uses it for
 - The size of the asset (e.g. hectares, sq km)
 - The date of purchase.
2. The Authority responded on 29 January 2025. The Authority applied regulation 6(1)(b) of the EIRs to information captured by part (i) of the request and advised the Applicant that the information was already accessible from the online registers at <https://www.ros.gov.uk/>. In order to assist the Applicant in searching the registers, the Authority provided a spreadsheet containing address information for each sold property and the date of sale.
3. In response to part (ii) of the request, the Authority provided the Applicant with a copy of its non-housing asset register. However, it stated that it was unable to provide the date of purchase of these assets because the information was not held in a collated form and would require manual searches of each record. The Authority considered this part of the request to be manifestly unreasonable and it withheld the information under regulation 10(4)(b) of the EIRs, arguing that the cost of compliance would exceed £2,690.
4. On 3 March 2025, the Applicant wrote to the Authority requesting a review of its position in relation to part (i) of his request. Specifically, he challenged the Authority's decision to withhold the sale price and buyer of each sold asset. He argued that the Authority, and others, had provided similar information in the past. He also commented that the information could not be easily obtained via private services, and that it would prove prohibitively expensive to locate via a search of the online registers.
5. The Authority notified the Applicant of the outcome of its review on 3 April 2025. The Authority upheld its original response.
6. On 12 May 2025, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA.

By virtue of regulation 17 of the EIRs, Part 4 of FOISA applies to the enforcement of the EIRs as it applies to the enforcement of FOISA, subject to specified modifications. The Applicant stated he was dissatisfied with the outcome of the Authority's review because it had not provided the buyer and sale price of each sold asset.

Investigation

7. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.
8. On 9 June 2025, the Authority was notified in writing that the Applicant had made a valid application. The case was allocated to an investigating officer.
9. 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. These related to the searches it had carried out for the information and its reasons for considering that the information was otherwise publicly available and easily accessible.

Commissioner's analysis and findings

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

Application of the EIRs

11. "Environmental information" is defined in regulation 2(1) of the EIRs. Where information falls within the scope of this definition, a person has a right to access the information under the EIRs, subject to qualifications and exceptions in the EIRs.
12. The request sought information regarding land and property that had been sold by the Authority. The Authority handled the Applicant's request under the EIRs and submitted that the information sought was environmental.
13. The Applicant has not challenged the Authority's decision to handle his request under the EIRs and the Commissioner is satisfied, in the circumstances, that the information requested by the Applicant falls within the definition of environmental information set out in regulation 2(1), in particular, paragraphs (a) and (c) of that definition.
14. In what follows, the Commissioner will consider this case solely in terms of the EIRs.

Regulation 5(1) - Duty to make available environmental information on request

15. Regulation 5(1) of the EIRs requires a Scottish public authority which holds environmental information to make it available when requested to do so by any applicant. This obligation relates to the information held by an authority when it receives a request.
16. On receipt of a request for environmental information, therefore, the authority must ascertain what information it holds falling within the scope of the request. Having done so, regulation 5(1) requires the authority to make that information available, unless a qualification in regulations 6 to 12 applies (regulation 5(2)(b)).

Regulation 6(1)(b) – Form and format of information

17. As noted above, in responding to part (i) of the Applicant's request, the Authority relied upon the provisions of regulation 6(1)(b) of the EIRs, on the basis that it was accessible from the online registers made available by Registers of Scotland (RoS).
18. Regulation 6(1)(b) of the EIRs provides that a Scottish public authority shall comply with a request that environmental information be made available in a particular form or format, unless the information is already publicly available and easily accessible to the applicant in another form or format. This is a two-part test, which must (for the regulation to apply) conclude that the information is both publicly available and easily accessible.
19. In order to determine whether the Authority dealt with the Applicant's request correctly, the Commissioner must be satisfied as to whether, at the time it received the request, all the information held by the Authority (and which fell within the scope of the request) was both publicly available and easily accessible.

The Applicant's comments

20. In his requirement for review, the Applicant specifically challenged the Authority's refusal to provide him with details of the buyer and the sale price for the land and properties it had sold.
21. The Applicant argued that authorities should be able to locate this information with relative ease, in the interests of transparency. Furthermore, he did not believe that citizens should have to pay to access the details of publicly owned property that had been sold.

The Authority's comments

22. The Authority submitted that it had interpreted the request as relating to commercial properties only and not Council Housing. It noted that the Applicant had not challenged its interpretation of his request.
23. The Authority explained that the information captured by part (i) of the request would be found in title deeds either in the Land Register or the Sasines Register. It noted that both registers are maintained by the RoS, and given the request covered transactions from 1 January 2020, these transactions would be recorded in the Land Register. Specifically, in relation to the buyer and sale price, it said this would be held in the title deed, available on the Land Register.
24. The Authority also explained that it did hold a list of commercial properties that it had sold, which it added to, manually, each time there was a sale. The Authority submitted that it had provided the Applicant with a partial copy of this list, containing the name or address of the asset and the date of sale, when it responded to his request. The Authority commented that it held a full (unredacted) copy of this list, which also included the purchase price and name of the buyer.
25. Notwithstanding, the Authority maintained its position that the information was easily accessible. It argued that title deeds on the Land Register were publicly available.
26. The Authority argued that, given it had provided the Applicant with a partial list of properties sold, the relevant sale price and buyer details could be easily obtained from the Land Register.

27. The Authority commented that, in its experience, obtaining a copy of a title deed from the Land Register cost £3 plus VAT. Given that there were 21 properties on the partial list provided to the Applicant, it estimated that the cost to him of obtaining the title deeds of each property listed would be £63 plus VAT. The Authority noted that the Applicant had another option of employing a search company to carry out these searches for a fee. It expected that this approach might cost a few hundred pounds.
28. The Land Register service described by the Authority is [Scotland's Land Information Service \(ScotLIS¹\)](#) which is a public portal published by RoS. The Commissioner's investigating officer accessed the ScotLIS website and noted that it required a user to provide either the post code, or the title number of each property in order to search the online registers. The Commissioner notes that these details were not provided on the partial list disclosed by the Authority in its initial response.
29. The Authority was questioned further on the exact steps to be taken by the Applicant, or any member of the public, when searching the online registers for the sale price and buyer details of the properties captured by the request using the partial information the Authority had provided in its initial response.
30. The Authority argued that if members of the public had difficulties accessing information held in the online registers then they should take that up with those organisations. The Authority stated that "it was not appropriate" for it (or any other public authority) to give out information of this nature instead of RoS. It said, in its experience, RoS provided good support and assistance if there were difficulties accessing the online registers.
31. The Authority suggested other services offered by RoS, such as
- the [Property Help Service²](#), and
 - [Land title investigation service - RoS³](#), and
 - [Search by map - ScotLIS - RoS⁴](#)
32. The Authority provided an example of the steps that a member of public would need to take in order to obtain the information requested for Garscadden Depot (one of the properties on the partial list). It acknowledged that it may require some effort and/or cost to obtain all of the information captured by the request, but that did not mean it was appropriate for the Authority to go through its records to gather information when that information was already publicly available from another, helpful, organisation.

The Commissioner's view

33. In order to determine whether the Authority responded to the Applicant's request correctly, the Commissioner must be satisfied as to whether, at the time it responded to the Applicant's requirement for review, the sale price and buyer details captured by part (i) of the request was both publicly available *and* easily accessible to the Applicant in another form or format.

¹ <https://scotlis.ros.gov.uk/search>

² <https://www.ros.gov.uk/services/search-property-information/property-help-service>

³ <https://www.ros.gov.uk/services/search-property-information/land-title-investigation-service>

⁴ <https://scotlis.ros.gov.uk/map-search>

34. The [Aarhus Implementation Guide](#)⁵ states, on page 82, that “Clearly, accessibility of the publicly available version of the information should be taken into account... In addition, “publicly” available assumes that the same reasonable cost standards are in place for that information as required under the [Convention](#)⁶.”
35. As the Applicant was not provided with the postcodes or title number for each of the properties contained in the partial list, the Commissioner has established that he would be unable to use the ScotLIS database to find the information he had requested. This means that he would not be able to get the data for £3 per property (plus VAT) and so he would either have to contract a third party to carry out searches (as suggested by the Authority) or he would need to ask RoS to carry out a bespoke or bulk search for the information he required.
36. As part of his investigation into a similar case, the Commissioner consulted with RoS regarding the costs of using its services to carry out specific searches. RoS confirmed that ScotLIS can be used to locate property prices by postcode or title number, but if an individual does not have a postcode or a title number they will need to use its land title investigation form. It explained that making one enquiry to its land title investigation service (for properties or land without a postal address) is charged at £60 plus VAT per area outlined. RoS noted that if the property is addressable, then the public can send an enquiry to its property help service, which is charged at £30 plus VAT (this is a minimum cost).
37. The Commissioner is satisfied that RoS will hold the requested information, and he agrees they do offer help and assistance to users, but given there are 21 properties on the partial list, many of which do not appear to be addressable, he considers that the likely costs incurred by the Applicant in paying RoS for bespoke searches would far exceed the costs that would be incurred by the Authority in providing the information under the EIRs.
38. Moreover, he notes that the Authority holds the information requested by the Applicant on a single spreadsheet, a spreadsheet that it has already disclosed in redacted form. It is clear to the Commissioner that if the Authority provided this information under the EIRs it would cost considerably less than obtaining the information from RoS. On balance, the Commissioner is not satisfied that the Authority has considered whether the same reasonable cost standards were in place, as required under the Aarhus Convention.
39. For the same reasons, (the absence of post codes or title numbers), the Commissioner also has difficulty in finding that the information is easily accessible. If not paying RoS for a bespoke search, the Applicant, or any other person seeking to view the information, would have to take a number of steps in order to be able to use any of the other search tools suggested by the Authority. Specifically, the Applicant would need to obtain additional knowledge about each property location. For example, many of the partial property addresses on the partially disclosed list begin “Land at...”. It is not easy for the lay person to discern which parcel of land this refers to if using the mapping tools suggested by the Authority. The Applicant would have to carry out research for each property to get enough information to then be able to use the map tool, and there is no guarantee that the information would be available for each sold asset.
40. The Commissioner notes the Authority’s view (in paragraph 32) that “it is not appropriate for the Council to go through its records to gather information”.

⁵ https://unece.org/fileadmin/DAM/env/pp/Publications/Aarhus_Implementation_Guide_interactive_eng.pdf

⁶ <https://unece.org/DAM/env/pp/documents/cep43e.pdf>

However, those arguments are not relevant here as the Authority has confirmed that all of the information is held on the single spreadsheet which it has already disclosed to the Applicant in redacted form. Arguably, it may have taken the Authority more effort to redact the information from the spreadsheet initially, rather than simply disclosing it.

41. In all the circumstances of the case, the Commissioner cannot be satisfied that the information requested is both publicly available **and** easily accessible to the Applicant in another form or format. While regulation 6(1(b)) has a clear role to play where it is genuinely as straightforward (or, indeed, more so) for the Applicant to obtain the information from a public source as it would be for the Authority to make it available, the Commissioner cannot accept (given the fundamental role to be played by the EIRs in promoting general access to environmental information and participation in environmental decision-making) that it should be used where the impact of applying it (whether intended or not) is to make the information in question substantially **less** accessible.
42. Consequently, the Commissioner concludes that the Authority was not entitled to apply regulation 6(1) of the EIRs in responding to the Applicant's request.
43. The Commissioner finds that in failing to provide the Applicant with the property sale price and buyer details (subject to appropriate personal data redactions), the Authority failed to comply with regulation 5(1) of the EIRs. He requires the Authority to provide this information to the Applicant.

Decision

The Commissioner finds that the Authority failed to comply with the Environmental Information (Scotland) Regulations 2004 (the EIRs) in responding to the information request made by the Applicant.

He finds that the Authority wrongly applied regulation 6(1)(b) to the information requested by the Applicant and, by doing so, it failed to comply with regulation 5(1) of the EIRs.

The Commissioner therefore requires the Authority to provide the Applicant with the sale price and buyer of each sold asset, having given consideration to the obligation conferred by regulation 11(2) of the EIRs in relation to personal data, by **30 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.

Euan McCulloch
Head of Enforcement

16 December 2025