



Scottish Information
Commissioner
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Decision Notice 021/2026

Complaints about racism and actions taken in this regard – failure to respond

Authority: Chief Constable of the Police Service of Scotland
Case Ref: 202502097

Summary

The Applicant asked the Authority for information about statistics on complaints about racism and actions taken in this regard. This decision finds that the Authority failed to respond to the request and requirement for review 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 2 July 2025.
2. The Authority did not respond to the information request.
3. On 13 August 2025, the Applicant wrote to the Authority requiring a review in respect of its failure to respond.
4. On 13 August 2025, the Authority apologised for the delay in responding to the Applicant and suggested submitting a request for review.
5. The Applicant did not receive a response to his requirement for review.
6. On 21 November 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.
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.

Investigation

8. 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 21 November 2025.
9. The Commissioner received submissions from the Authority on 17 December 2025. These submissions are considered below.
10. The Authority acknowledged that it had failed to respond to the Applicant's request and requirement for review. The Authority explained that it was experiencing an exceptionally busy year with requests for information and requirements for review, which affected their core FOI team and other business areas.
11. The Authority said that whilst it did try to respond to requests as quickly as possible, it had unfortunately been unable to meet the statutory deadlines for some requests. The Authority apologised for any inconvenience caused to the Applicant.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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.
17. The Commissioner notes the Authority's advice to the Applicant on making a request for review after the Applicant submitted it on 13 August 2025. The Commissioner would remind authorities that under paragraph 10.3.1 of 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), if an applicant writes to the authority expressing dissatisfaction with the way in which the authority has dealt with their request following a response, the authority should treat this as a formal request for review, provided it meets the requirements of section 20(3) of FOISA. The applicant does not need to specifically ask for a review.

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>

18. The Commissioner finds that the Applicant, in his email to the Authority dated 13 August 2025, clearly expressed his dissatisfaction with the Authority's failure to respond to his request for information. Therefore, the Authority should have considered this a valid request for review.
19. The Commissioner also notes the Authority's submissions on the pressures it was experiencing at the time it received the request. He would remind authorities that under paragraph 1.1.1 of the Section 60 Code, FOI should be recognised as a specific statutory corporate function within an authority. As such, it should receive the necessary levels of organisational support at both strategic and operational levels, as well as sufficient resource, to ensure compliance with Scotland's access to information regimes.

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 and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA. The Commissioner requires the Authority to respond to the Applicant's requirement for review, by **6 April 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

18 February 2026