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Commissioner  
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# Decision Notice 035/2026

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## MPDS codes

Authority: Scottish Ambulance Service Board

Case Ref: 202500922

### Summary

The Applicant asked the Authority for all MPDS codes within its command and control system, along with information regarding colour coding and specific responders. The Authority withheld the information on the grounds that it was commercially sensitive. During the investigation, the Authority confirmed that some of the information was not held and some of the MPDS codes were already publicly available. The Commissioner investigated and found that the Authority had been entitled to withhold the information from the Applicant.

### Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); and (2)(1) (Effect of exemptions; 16(1) (Refusal of request); 17(1) (Information not held; 25(1) (Information otherwise accessible); 33(1)(b) (Commercial interests and the economy); 39(1) (Health, safety and the environment); 47(1) and (2) (Application for decision by Commissioner).

### Background

1. On 29 June 2024, the Applicant made a request for information to the Authority. He asked for:
  - (i) ALL MPDS codes within the SAS C&C system
  - (ii) The default colour coding of each MPDS code

- (iii) Whether the code is set to show as suitable for Community First Responder tasking within the Alternative Response Desk C3 configuration
  - (iv) Whether the code would flag as suitable for BASICS Responder tasking
  - (v) Whether the code would flag for SORT consideration
  - (vi) Whether the code would flag for TRAUMA desk consideration
2. The Authority responded on 19 July 2024. It gave the Applicant notice, under section 17 of FOISA, that it did not hold the information he had requested.
  3. On 19 July 2024, the Applicant wrote to the Authority requesting a review of its decision. The Applicant commented that just because the Authority did not have the intellectual property (IP) rights to share the information, did not mean that the information was not held. He suggested that it should confirm that section 17 did not apply.
  4. The Authority notified the Applicant of the outcome of its review on 28 August 2024 and upheld its original response without modification.
  5. On 4 June 2025 (and following an appeal to the Commissioner that resulted in [Decision 101/2025<sup>1</sup>](#)) the Authority issued a second review to the Applicant which confirmed that it did hold the information he had requested. It notified the Applicant that it was withholding this information under sections 33 and 39 of FOISA.
  6. On 12 June 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 as he did not agree that the Authority was entitled to withhold the information under sections 33 and 39 of FOISA. The Applicant also commented that the Authority had not specified which parts of section 33 and 39 were being applied to the withheld information.

## 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 26 June 2025, the Authority was notified in writing that the Applicant had made a valid application. The Authority was asked to send the Commissioner the information withheld from the Applicant. The Authority provided the information, and 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 about its reasons for withholding the information from the Applicant.

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<sup>1</sup> <https://www.foi.scot/decision-1012025>

### ***The Authority's change of position***

10. During the investigation, the Authority confirmed that it was still withholding information under sections 33(1)(b) and 39(1) of FOISA, but it was also seeking to rely on sections 17(1) and 25(1) of FOISA.

#### ***Request (vi)***

11. The Authority submitted that it did not hold any information falling within the scope of request (vi), and it wanted to rely on section 17 of FOISA. The Authority provided the Commissioner with submissions to support this view.

#### ***Requests (i) to (v)***

12. The Authority confirmed that it had previously disclosed some MPDS codes (also referred to as AMPDS codes) in response to FOI requests. It listed four requests it had previously responded to (FO23-505, FOI23-506, FOI24-007 and FOI24-272) and noted that there was significant duplication between the requests, but in total it had disclosed 418 unique MPDS codes, of which 374 currently retained identical definitions to those previously released. The Authority confirmed that it was applying section 25(1) to all of the codes it had previously disclosed to the Applicant in response to these four requests.
13. The Authority maintained its reliance on sections 33(1)(b) and 39(1) of FOISA to withhold the remaining 2,765 MPDS codes.

### **Commissioner's analysis and findings**

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

#### ***Section 17(1) Information not held***

15. 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 public 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.
16. The information to be given is that held by the Authority at the time the request is received, as defined by section 1(4). This is not necessarily to be equated with information that an applicant believes the public authority should hold. If no such information is held by the public authority, section 17(1) of FOISA requires the authority to give the applicant notice in writing to that effect.
17. 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.
18. The Commissioner 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) held by the public authority.

*The Authority comments on section 17*

19. During the investigation the Authority submitted that it did not hold any information falling within the scope of request (vi), and it applied section 17 to this request. It stated that the “flags” were not held because the process works differently for Trauma suitable incidents. The Authority explained that incidents warranting Trauma Team attendance were not selected based on predefined codes. Instead, trained Trauma Desk dispatchers evaluated all ongoing incidents to determine which were appropriate for Trauma Team involvement.

*The Commissioner’s view on section 17*

20. During this investigation, the Applicant was notified of the Authority’s reasons for concluding that it did not hold information falling within the scope of request (vi) (see above) and he was asked for his comments. The Applicant did not provide any comments.
21. The Authority did not (in its review outcome) give the Applicant notice, under section 17, that it did not hold information falling within the scope of request (vi) but, taking into account the submissions provided by the Authority, the Commissioner considers that it would have been entitled to do so.
22. Given the explanation provided by the Authority, the Commissioner is satisfied that the Authority does not (and did not, on receipt of the request) hold any information falling within the scope of request (vi).

**Section 25(1) Information otherwise accessible**

23. Under section 25(1) of FOISA, information which an applicant can reasonably obtain other than by requesting it under section 1(1) of FOISA is exempt information. The exemption in section 25 is absolute, in that it is not subject to the public interest test set out in section 2(1)(b) of FOISA.
24. The Authority applied this exemption to withhold 374 codes out of a total of 3,139 MPDS codes.

*The Authority’s comments on section 25(1)*

25. The Authority explained that a total of 418 unique MPDS codes were released in response to FOI requests; [FOI/505/23](#)<sup>2</sup>, [FOI/506/23](#)<sup>3</sup>, [FOI/007/24](#)<sup>4</sup>, and [FOI/272/24](#)<sup>5</sup>. It reiterated that 374 of these codes retained identical definitions to those previously disclosed, and this represented a subset of the total 3,139 available MPDS codes.
26. The Authority stated that the release of these particular codes was considered appropriate given the specific context of those requests, which related to incidents attended by certain groups of volunteers.
27. The Authority confirmed that requests referenced in paragraph 27 were made by the Applicant, and that the 374 MPDS codes were disclosed to the Applicant and published on the “[What do they know?](#)”<sup>6</sup> website.

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<sup>2</sup> [https://www.whatdotheyknow.com/request/mi\\_request](https://www.whatdotheyknow.com/request/mi_request)

<sup>3</sup> [MI Request - a Freedom of Information request to Scottish Ambulance Service - WhatDoTheyKnow](#)

<sup>4</sup> [MI Request - a Freedom of Information request to Scottish Ambulance Service - WhatDoTheyKnow](#)

<sup>5</sup> [https://www.whatdotheyknow.com/request/mi\\_request\\_basics\\_2023#incoming-2704192](https://www.whatdotheyknow.com/request/mi_request_basics_2023#incoming-2704192)

<sup>6</sup> [https://www.whatdotheyknow.com/request/mpds\\_index\\_flags](https://www.whatdotheyknow.com/request/mpds_index_flags)

28. The Authority provided a breakdown of the codes that it had previously disclosed, and which fell within the scope of requests (i) to (v) and it directed the Commissioner to the “What do they know?” website, where these previously released codes could be accessed. The Authority stated that there was a significant element of duplication across the four previous FOI requests and the responses provided (i.e. some codes fell within the scope of several requests and so were disclosed several times). This is also the case with the current request (i.e. some codes fall within the scope of more than one of the requests).

*Requests (i) and (ii)*

29. The Authority submitted that these two requests encompassed a total of 3,139 distinct MPDS codes currently in operation within its system. As stated previously, 418 codes were previously disclosed, but only 374 of the 418 codes retained identical definitions to those previously released. The Authority argued that as 374 codes were in the public domain, and were otherwise accessible to the Applicant, they were exempt under section 25(1) of FOISA.

*Request (iii)*

30. The Authority submitted that there were 207 MPDS codes flagged as suitable for Community First Responders, and of these 133 codes had previously been released, but only 125 had the same definition as when they were previously released. The Authority submitted that these 125 codes were exempt from disclosure under section 25(1) of FOISA, as they were already in the public domain.

*Request (iv)*

31. The Authority confirmed that there were 1,258 MPDS codes flagged as suitable for BASICS responders. It explained that 343 codes had previously been released; however, only 305 of these had the same definition as when they were previously released. The Authority argued that these 305 codes and descriptors were exempt from disclosure under section 25(1) of FOISA.

*Request (v)*

32. The Authority stated that there were 362 MPDS codes flagged as suitable for SORT responders. Of these, 36 codes had previously been disclosed; however, only 33 of the codes had the same definitions as when they were previously released. The Authority confirmed that it considered these 33 codes to be exempt from disclosure under section 25(1) of FOISA.

33. It stated that only 374 of the MPDS codes retained identical definitions to those previously released. It maintained its position that the 374 codes and their accompanying descriptors were exempt from further disclosure under section 25(1), as they had already been provided to the requester in response to FOI23-505, FOI23-506, FOI24-007, and FOI24-272 were also freely accessible to the public via the “What Do They Know?” website.

*The Commissioner’s view on section 25(1)*

34. In his application to the Commissioner, the Applicant stated that the Authority had previously disclosed some MPDS codes in response to previous requests he had made, and he referenced the same four FOI requests that the Authority has detailed above. The Applicant has not disputed that these MPDS codes were disclosed to him, and in fact he confirmed this in his application. During the investigation, the Commissioner notified the Applicant that the Authority was now applying section 25(1) of FOISA to these previously disclosed MPDS codes, and he was asked for his comments. The Applicant did not provide comments.

35. As both the Applicant and the Authority agree that these codes were provided to him in response to previous FOI requests, and as the codes are also available via the “What do they know?” website, the Commissioner is satisfied that the information was otherwise available to the Applicant, other than by requesting it under FOISA. He therefore accepts that the Authority was entitled to withhold 374 MPDS codes under section 25(1) of FOISA.
36. However, it is clear that the Authority did not inform the Applicant in writing (and in response to this part of his information request) that the information was otherwise accessible in terms of section 25 of FOISA.
37. Section 16(1) of FOISA requires an Authority to give the requester notice in writing (a “Refusal notice”) when it applies any exemption covered by Part 2 of FOISA. The Commissioner finds, by not providing the Applicant with a Refusal Notice, explaining it was withholding the previously disclosed MPDS codes under section 25(1) of FOISA, the Authority has not complied with section 16(1) of FOISA.

### ***Section 33(1)(b) Commercial interests and the economy***

38. The Authority withheld all of the MPDS codes which were not exempted under section 25(1) of FOISA, and that fell within the scope of requests (i) to (v), under section 33(1)(b) of FOISA – a total of 2,765 MPDS codes.
39. Section 33(1)(b) of FOISA provides that information is exempt information if its disclosure would, or would be likely to, prejudice substantially the commercial interests of any person (including, without prejudice to that generality, a Scottish public authority). This exemption is subject to the public interest test in section 2(1)(b) of FOISA.
40. There are several elements a Scottish public authority needs to demonstrate are present when relying on this exemption. It needs to establish:
  - (i) whose commercial interests would (or would be likely to) be harmed by disclosure the nature of those commercial interests, and
  - (ii) how those interests would (or would be likely to) be prejudiced substantially by disclosure.
41. The prejudice must be substantial, in other words of real and demonstrable significance. Where the authority considers that the commercial interests of a third party would (or would be likely to) be harmed, it must make this clear. Generally, while the final decision on disclosure will always be one for the authority, it will assist matters if the third party has been consulted on the elements referred to above.

### ***The Applicant’s comments on section 33(1)(b)***

42. In his application, the Applicant disputed the Authority’s application of section 33(1)(b) and its claim that the information was withheld on the basis of intellectual property rights. He referred to the Information Tribunal decision in [Ofcom and T-Mobile v the UK Information Commissioner](#)<sup>7</sup>, which had been addressed in the Commissioner’s [decision 101/2025](#)<sup>8</sup>. In particular, the Applicant referred to paragraph 51 of the Tribunal decision, which stated;

“It is accepted by all parties that the release of information under either EIR or FOIA does not involve an implied licence to exploit it commercially or to do any act which would constitute

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<sup>7</sup> <https://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i104/Ofcom.pdf>

<sup>8</sup> <https://www.foi.scot/decision-1012025>

an infringement if not authorised. Any person to whom the information is released will therefore still be bound by an obligation to respect any intellectual property rights that already subsist in it.”

43. The Applicant argued that the Authority was a public health authority and did not undertake commercial trading for reward, or revenue generation. He added that the Authority was a sole provider of 999 services in Scotland and therefore it was not operating in a competitive environment.
44. The Applicant claimed that the Authority had not considered the passage of time, noting that the MPDS System had been in use since 2016.
45. The Applicant noted that the Authority had responded to numerous other FOI requests where a substantial amount of information relating to MPDS codes had been provided. He argued that even if this was done erroneously, the Authority could not continue to rely on this exemption. He referred to the four specific FOI requests listed above in paragraph 27. The Applicant claimed that across these four previous FOI requests, the Authority had already released more than 1,500 specific lines of data

*The Authority's comments on section 33(1)(b)*

46. The Authority submitted that the parties whose interests would (or would be likely to) be prejudiced substantially by disclosure of the information were itself and the Priority Dispatch Corporation (PDC).
47. The Authority submitted that PDC was the provider and owner of the MPDS dispatch codes and descriptors. It explained that the software provided (including the dispatch codes and descriptors) was unique to this supplier and was a licensed product provided to organisations worldwide.
48. The Authority argued that disclosure of the dispatch codes into the public domain would be likely to prejudice substantially the commercial interests and business of PDC. It explained that releasing the MPDS would make a key part of the product visible to current or future competitors, giving them the ability to develop similar protocols. If this occurred, it would likely damage the viability of their product, impacting on revenue and the future of the company.
49. The Authority explained that the MPDS system was a commercial product used by emergency services worldwide. It argued that any risk to this product would have an impact beyond that of the Authority and had the potential to risk services across the globe.
50. In relation to its own commercial interests, the Authority stated that the MPDS codes and descriptors belonged to PDC, and it commented that this was noted in the End User Agreement between the Authority and PDC. The Authority provided the Commissioner with a copy of the User Agreement.
51. The Authority claimed that breaking this agreement would damage the ongoing relationship with its current supplier, PDC. Additionally, it argued that disclosure of the information was likely to damage the reputation of the Authority in a commercial setting with other current and future suppliers, making it challenging to operate in a competitive procurement environment and source the best products for the Authority's needs.
52. The Authority reiterated its view that the total number of MPDS codes it had disclosed previously, in response to the four requests listed in paragraph 27 was 374 unique codes (from a total of 3,139 available codes). It commented that its decision to disclose some

codes previously (in response to FOI requests) was considered appropriate in relation to the specific requests it had received, which had sought information about incidents attended by specific groups of volunteers. It argued that this differed from the current request, which was seeking all of the MPDS codes and descriptors in their entirety and whether they were flagged as suitable for specific responders.

53. The Authority disagreed with the Applicant's argument in paragraph 47, that it had responded to numerous other FOI requests where a substantial amount of information relating to MPDS codes had been provided. The Authority contended that the disclosure of MPDS codes in its responses to the previous four FOI requests, did not present a risk to the commercial interests of its supplier as not all of the codes and determinants had been provided. This meant that the possibility of using the 374 previously disclosed codes to develop a competing product was significantly reduced.
54. The Authority emphasised that release of "all" MPDS dispatch codes into the public domain would be likely to prejudice substantially the commercial interests and business of PDC. It explained that disclosure of this information would contain a large amount of software information that could be used and replicated and would be visible to others, including current and future competitors. It argued that if the information was disclosed, PDC's current product would become valueless and potentially unviable in a commercial and operational setting.
55. The Authority stressed that the MPDS software was provided to the Authority in confidence and releasing the MPDS codes and determinants would be a direct breach of agreement between the Authority and PDC regarding usage of their software. It indicated that disclosure of the 3,139 codes would substantially prejudice its ongoing relationship with PDC, and might result in PDC raising contractual legalities against the Authority for a breach of agreement.
56. The Authority submitted that it did not know when the MPDS codes and descriptors were first created, but it noted that the software was reviewed and updated by PDC regularly, with the last release being in November 2024.
57. The Authority gave consideration to the passage of time. It confirmed that the MPDS codes and their descriptors were live and in use within the Authority and other ambulance services worldwide. Additionally, it stated that the agreement between itself and PDC was current, and this agreement, and the provision of the software provided, was integral to the 999 emergency service the Authority and other organisations provided. Given this, it determined that the passage of time was not a relevant factor and was not sufficient to mitigate the likelihood of substantial prejudice to both the Authority and PDC's commercial interests.
58. The Authority referred to the Applicant's quotation of the Tribunal decision (*Ofcom and T-Mobile v the UK Information Commissioner*) in paragraph number 44 above. It argued that the Applicant had quoted a small part of one paragraph from a 33-page tribunal paper which does not give the entire context of the factors considered at the tribunal.
59. The Authority noted that the Tribunal decision considered the position in relation to the (UK) Environmental Information Regulations (EIR) rather than Freedom of Information legislation although it acknowledged that some of its findings may also be relevant to FOISA. The Authority commented that the Tribunal had ruled that the intellectual property exception under the EIR did apply to that particular case, and the Tribunal went on to weigh up the public interest in maintaining the exception vs releasing the information.

60. The Authority submitted that it had engaged in informal discussions with PDC when the original information request was received. It noted that this was done verbally so no record of these discussions existed but, on receipt of this application, it contacted PDC again and obtained a written submission from them. A copy of the letter from PDC's legal department outlining their position was provided to the Commissioner.
61. The Authority commented that it would continue to consider any future requests received for MPDS codes on a case-by-case basis. However, in the light of the submissions from PDC's legal department, it would give additional consideration to the application of section 33(1)(b) to requests for any or all MPDS codes and/or their descriptors in future.

*The Commissioner view on section 33(1)(b)*

62. The Commissioner has carefully considered all the arguments put forward, along with the withheld information.
63. The Commissioner is not convinced that the Authority itself has commercial interests in relation to the withheld information. The Authority has entered into contract with PDC to use their product but is not using it to compete against other service providers in Scotland (or elsewhere). Furthermore, disclosure is unlikely to result in a third party setting up a rival ambulance service to challenge the Authority's key function. The Authority has confirmed that the MPDS codes are not "owned" by the Authority, rather they are used under contract from PDC. In the circumstances, the Commissioner does not accept that the Authority has relevant commercial interests.
64. However, the Commissioner is satisfied that the withheld information is commercial in nature and that PDC does have commercial interests for the purposes of the exemption in section 33(1)(b) of FOISA. PDC is a commercial company that operates worldwide and competes against other companies selling a similar product. PDC is therefore a commercial entity that operates in a competitive marketplace. Taking all of this into account he is satisfied that PDC has relevant commercial interests.
65. Having identified these commercial interests, the Commissioner must consider whether they would, or would be likely to, be prejudiced substantially by disclosure of the withheld information.
66. The Commissioner accepts the submissions from the Authority that disclosure of the withheld information would be likely to negatively impact PDC's commercial interests by revealing the intellectual property of MPDS codes, which, if placed in the public domain, could be used or copied by competitors and cause significant commercial detriment to PDC.
67. The Commissioner considers that disclosure would reveal commercial information that would not otherwise be accessible and that would allow competing companies to develop significant insight into commercially sensitive information about PDC's product. In other words, the information contained in the codes is commercially sensitive and is not information that any commercial entity would choose to make public.
68. In reaching this conclusion, the Commissioner has taken into account the letter from PDC which provided background information on the use of its product, and which explained why it considered that disclosure of the withheld information would, or would be likely to, prejudice substantially PDC's commercial interests.
69. In this letter, PDC submitted that MPDS was the original and most advanced emergency call-taking system in the world, resulting from decades of intellectual property development. It

noted that it was currently in use in 60 countries and in 30 languages and dialects, and there were 130 issued foreign patents and 30 pending foreign patent applications protecting PDC's intellectual property around the world.

70. PDC also explained that MPDS and its features, including the determinant codes and descriptors, were the result of decades of research and development, and constituted a key differentiation from its competitors. It stated that public disclosure of its valuable assets would deprive PDC of its competitive advantage, which would result in reducing its market position by handing over key features of the MPDS to competitors who could then create or enhance their products by adopting or incorporating the intellectual property and proprietary information of PDC.
71. In the circumstances, the Commissioner is satisfied that disclosure of the information requested by the Applicant would, or would be likely to, prejudice substantially the commercial interests of PDC, by revealing proprietary information that could be used to improve rival products or develop new products, which would undermine the market share of PDC's product and result in financial harm.
72. Accordingly, in this case, the Commissioner is satisfied that the exemption in section 33(1)(b) of FOISA is engaged in relation to all of the information that is being withheld.

***The public interest test - section 33(1)(b)***

73. Section 33(1)(b) is subject to the public interest test in section 2(1)(b) of FOISA. As the Commissioner has found that the exemption in section 33(1)(b) was relevant to the withheld information, he is now therefore required to consider whether, in all the circumstances of the case, the public interest in disclosing the information is outweighed by the public interest in maintaining the exemption.
74. The Applicant did not provide any public interest arguments.

***The Authority's comments on the public interest***

75. The Authority recognised the requirement for transparency in the way services were delivered, to ensure quality for patients and accountancy for the effective use of public funds. Moreover, it acknowledged that the service provided by its volunteers and specialist teams was vital to many patients across the country and the understanding and assurance of the provision of those services was important.
76. However, the Authority also argued that as a result of the End User Agreement and the confirmation letter provided by PDC of their expectations of the user agreement, release of dispatch codes and descriptors would be considered a breach of agreement with the supplier, who may decide to exit from the contract and withdraw their service.
77. It stated that the software supplied by PDC was integral to the prioritisation and handling of 999 calls in Scotland and across the world. It explained that the prioritisation system enabled the Authority to identify which patients were in need of an immediate response (e.g. cardiac arrest, choking etc). In the case of these incidents, crews might be stood down enroute from lower priority calls to ensure the highest priority patients received the quickest response.
78. Additionally, the Authority noted that it did not attend every emergency call, as around 25% of these calls were managed without the need to provide an ambulance response. It explained that these might be passed to other services e.g. (NHS24, GP etc) or they could receive further triage from a trained clinician in our control rooms.

It submitted that the identification of calls which were suitable for these pathways was determined by the dispatch code provided by the software provided by PDC.

79. The Authority contended that if this agreement was broken (as a result of disclosure of the MPDS codes in this case) and the supplier were to withdraw their services, it would no longer have the ability to prioritise calls, and this would result in:
- (i) Incidents where patients in immediate need of emergency care would wait longer due to the inability to identify the patients with the most urgent need, which in turn, would likely be life threatening to these patients.
  - (ii) The potential for its emergency service to become overwhelmed due to the inability to identify patients who were suitable for referral to alternative health care or support providers, as approximately 25% of patients contacting SAS were managed at the point of call (i.e. not attended by an ambulance).  
It claimed that as emergency ambulance provision was a finite resource, the addition of this 25% of patients would inevitably overwhelm the available resources and crews.
80. The Authority submitted that any established breach of contract or agreement could significantly damage its reputation within both the commercial sector and the public sphere. Moreover, it claimed that such breaches might also undermine the integrity of current and future contracts, potentially hindering fair competition in procurement and the ability to secure optimal products to meet the Authority's requirements.
81. The Authority argued that the public interest lay in maintaining the ability to provide a service to all users, prioritising those in immediate need of care. It asserted that disclosure into the public domain risks breaking an agreement with a supplier, which could result in the software it uses being withdrawn.

If this occurred, the Authority submitted it would result in unfair and dangerous outcomes for users and would negatively impact on the ability of the Authority to provide this service fairly across all users.

***The Commissioner's view on the public interest - section 33(1)(b)***

82. The Commissioner has considered all of the arguments and facts in this case. The Commissioner acknowledges the general public interest in transparency, particularly in relation to the efficacy of software used for emergency call handling, which is likely to impact on the general public in a considerable way. However, it is not clear to the Commissioner that the detailed technical information sought in this request would contribute materially to public understanding or debate in this area – and the Applicant has offered no arguments to suggest that it would.
83. In any case, the Commissioner also recognises the importance of prioritising high-urgency incidents over lower-priority calls. He acknowledges that emergency services currently use the software to make split-second decisions to direct the most appropriate care and, ultimately, to save lives.
84. The Commissioner considers that the prioritisation system directly influences response times, which is crucial for emergency medical services. He also recognises that by optimising resource allocation, the system ensures that resources are used where they are needed most, which is essential for effective patient care, especially in high-stakes situations.

85. As noted above, the Commissioner has already concluded that, in this case, disclosure of the withheld information would, or would be likely to, prejudice the commercial interests of PDC. Given the importance of PDC's product to the effectiveness of the Authority's 999 service, the Commissioner also considers that there is no public interest in placing PDC at a commercial disadvantage, simply as a result of it having entered into a commercial relationship with a public body to provide a service. Furthermore, he does not consider that it would be in the public interest for PDC to find the Authority in breach of contract, as a result of the disclosure of all of its MPDS codes under FOISA – or, even if this did not follow from a disclosure required by the Commissioner, for there to be a (perhaps more likely) diminution in trust and confidence between the two parties in that event.
86. Having balanced the public interest for and against disclosure, the Commissioner concludes that, in all the circumstances of the case, the public interest in maintaining the exemption in section 33(1)(b) of FOISA outweighs that in disclosure of the withheld information under consideration here.
87. The Commissioner therefore finds that the Authority was entitled to apply section 33(1)(b) of FOISA to the withheld information.
88. As the Commissioner is satisfied that the Authority was entitled to rely on the exemption in section 33(1) (b) of FOISA, he is not required to go on to consider the application of the exemption in section 39(1) that the Authority also relied upon.

## **Decision**

The Commissioner finds that the Authority partially complied 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 by correctly withholding some of the requested information under section 25(1) and 33(1)(b) of FOISA, the Authority complied with Part 1.

However, by failing to provide the Applicant with a refusal notice relating to its application of section 25, it breached section 16(1) of FOISA and so failed to comply with Part 1.

## **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**

**3 March 2026**