



# Decision Notice 042/2026

## Registration of property factors

Authority: Scottish Ministers

Case Ref: 202501837 and 202501903

### Summary

The Applicant asked the Authority for various information relating to property factors. The Authority refused to comply with some questions of the requests as it considered them to be vexatious and informed the Applicant that it did not hold the information requested in other questions. The Commissioner investigated and found that the Authority had generally complied with FOISA in responding to the Applicant's requests. However, he found that it misinterpreted some of the questions in response to which it had informed the Applicant that it did not hold the information requested. He required the Authority to provide the Applicant with a revised review outcome in relation to these questions.

### Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2), (4) and (6) (General entitlement); 14(1) (Vexatious and repeated requests); 17(1) (Notice that information is not held); 47(1) and (2) (Application for decision by Commissioner).

Property Factors (Scotland) Act 2011 (the 2011 Act) section 3(2)(e) (Application for registration).

### Background

1. On 2 July 2025 and 30 July 2025, the Applicant made two separate requests for information to the Authority asking various questions about property factors. The relevant text of the requests is reproduced in Appendix 1 (subject to appropriate redactions).
2. The Authority responded on 30 July 2025 and 27 August 2025, in the following terms:
  - it informed the Applicant that some of the questions in his request were not valid requests for recorded information under FOISA
  - it notified the Applicant that it was refusing to comply with some questions in his requests as it considered them to be vexatious, in line with section 14(1) of FOISA

- it issued him with a notice, in terms of section 17(1) of FOISA, that it did not hold the information requested in his other questions.
3. On 1 August 2025 and 29 August 2025, the Applicant wrote to the Authority requesting reviews of its decisions. He stated that he was dissatisfied with the decision because he did not consider that his questions were vexatious and he disagreed that the Authority did not hold the information requested in his other questions.
  4. The Authority notified the Applicant of the outcome of its reviews on 1 September 2025 and 24 September 2025, both of which fully upheld its original decisions.
  5. On 10 October 2025 and 17 October 2025, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. He stated that he was dissatisfied with the outcome of the Authority's reviews for the same reasons set out in his requirements for review.

## **Investigation**

6. The Commissioner determined that the applications complied with section 47(2) of FOISA and that he had the power to carry out an investigation.
7. On 28 October 2025 and 29 October 2025, the Authority was notified in writing that the Applicant had made valid applications. The cases were subsequently allocated to an investigating officer.
8. Section 49(3)(a) of FOISA requires the Commissioner to give public authorities an opportunity to provide comments on an application. The Authority was invited to comment on these applications and to answer specific questions, related to why it considered some of the Applicant's questions to be vexatious and why it informed him that it did not hold the information requested in the other questions.
9. The Commissioner's remit is limited to the questions of the Applicant's requests that are valid requests for recorded information under FOISA. He considers questions (v) and (vi) of the request dated 2 July 2025 and questions (vi) and (vii) of the request dated 30 July 2025 to be requests for explanation or justification rather than valid requests for recorded information. He will therefore not consider these questions further in his decision notice.
10. Given the clear nexus between the requests dated 2 July 2025 and 30 July 2025 and the similarities in the respective responses from the Authority, the Commissioner considers it appropriate to issue a single decision notice covering both applications.

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

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

### ***Whether the Authority held the information requested***

12. 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) of FOISA are not applicable in this case.

13. The information to be given is that held by the authority at the time the request is received, as defined by section 1(4) of FOISA. This is not necessarily to be equated with information an applicant believes the authority should hold. 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.
14. 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.
15. 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) actually held by the public authority.
16. The Authority issued the Applicant with a notice, under section 17(1) of FOISA, in response to the following questions in his requests:
  - Request dated 2 July 2025 – questions (i), (vii), (viii) and (ix)
  - Request dated 30 July 2020 – questions (i) to (v).
17. As stated above, the terms of each request are reproduced in Appendix 1. The Commissioner will therefore not repeat them under the following subheadings.
18. The Applicant provided detailed arguments (particularly in his requirement for reviews) in support of his view that the Authority held the information for the questions to which it issued him with notices, under section 17(1) of FOISA, that it did not hold the information requested. The Commissioner has fully considered these submissions, but he has only summarised the most salient aspects in what follows.

#### ***Questions (viii) and (ix) of 2 July 2025 – Actions against Hacking and Paterson***

19. The Applicant argued that, given the structure of his questions, if information was not held for question (vii) it must be held for question (ix) and vice versa.
20. The Authority submitted that it had verbally consulted with the operations team to confirm that the information requested was not held. It considered that these requests were based upon the assumption that it ought to consider refusing Hacking and Paterson's entry to the property factors register. Given it had not considered this refusal, it said the information requested did not exist.
21. The Commissioner agrees that the requests are not logically exhaustive. It is clearly possible for the information to be held for neither request if, as the Authority confirmed, refusal has not been considered.
22. Had the Authority considered removing Hacking and Paterson from the property factors register, the Commissioner considers the Authority's staff would have been aware of this. Consequently, in the circumstances, he accepts that the Authority's searches were proportionate and capable of identifying any information held.

23. In all of the circumstances, the Commissioner concludes that the Authority was correct to give the Applicant notice, in terms of section 17(1) of FOISA, that it did not hold the information requested.

**Question (i) of 2 July 2025 – Notification of non-compliance**

24. The Applicant took the view that the Authority was legally required to hold this information.
25. The Authority explained that it carried out a search of its records management system using the reference that the Applicant provided. It confirmed that, at the time it received the Applicant's request, it did not hold the information requested. However, it subsequently received the notification referred to in the Applicant's request.
26. While the First-tier Tribunal is required to send this information to it, the Authority said it was unaware of any specific timeframe this must be sent in. It suggested that that any such timeframe would be the responsibility of the tribunal.
27. In all of the circumstances and given that the notification was received after the date it received the Applicant's request, the Commissioner is satisfied that the Authority did not hold the information requested at the time of his request. (As stated above, the information to be given is that held by the authority at the time the request is received, as defined by section 1(4) of FOISA.)
28. In all of the circumstances, the Commissioner concludes that the Authority was correct to give the Applicant notice, in terms of section 17(1) of FOISA, that it did not hold the information requested.

**Question (vii) of 2 July 2025 – Threshold for removal from the property factors register**

29. The Applicant considered that the Authority held the information requested.
30. The Authority said that it did not hold the information requested and explained that there is no precise threshold. It confirmed that it had not carried out searches in response to this question as it knew that no specific threshold existed – something it had previously explained to the Applicant.
31. While the Commissioner understands why the Applicant may consider a precise threshold to be desirable, his remit is limited to considering whether the information requested is held, not whether it should be held.
32. Given the nature of the information requested, the Commissioner is satisfied, in the circumstances, that staff working in the relevant business area of the Authority had sufficient knowledge to confirm whether the information requested was held or not.
33. In all of the circumstances, the Commissioner concludes that the Authority was correct to give the Applicant notice, in terms of section 17(1) of FOISA, that it did not hold the information requested.

**Questions (i), (ii) and (iv) of 30 July 2025 – Checks carried out by the Authority**

34. The Applicant said that the Property Factors (Scotland) Act 2011 requires property factors to submit details to the property factors register of all the properties and land which they claim to manage. He submitted that the Authority's own [guidance](#)<sup>1</sup> clearly indicated that the

---

<sup>1</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2016/12/property-factors-first-time-registration-guidance/documents/property-factor-register-guide-registration-pdf/property-factor-register-guide-registration->

Authority's Property Factor Team were required to check these details were carried prior to allowing them on the property factors register.

35. The Applicant also said that [The Property Factors \(Scotland\) Act 2011 FAQ document](#)<sup>2</sup> confirmed that property factors are required to check and validate each property/piece of land against every property's title deed. He argued that because it was an offence for false information to be provided, the Authority must have a process in place to detect false information to report to the police. He also considered that this information would be needed to evaluate property factors' compliance with the Code of Conduct.
36. For each of these questions the Authority explained that it did not hold the information requested. It explained that it did not, and was not required to, carry out the sort of work described by the Applicant. Considering this, it said that it did not carry out searches in response to these questions.
37. The Authority also confirmed that the checks mentioned in the guidance referred to by the Applicant related only to checks of the information provided by property factors, none of which related to their authority to act.
38. The Commissioner has considered the guidance referred to by the Applicant. Having done so, he is not satisfied that any of these sources indicate that checks on property factors' authority to act would have been carried out by the Authority. Although these sources occasionally mention checks by the Authority's Property Factor Team, the nature of these checks is not specifically articulated in the guidance. In the circumstances, the Commissioner considers the Authority's explanation that these checks only relate to the information provided to the Property Factor Team to be credible and sufficient to explain these references.
39. The Commissioner notes that the guidance cited by the Applicant stated that the Property Factor Team consisted of just four individuals, that they do not have an investigatory role and that they do not have a judicial or quasi-judicial function. He considers this description to be consistent with the Authority's position regarding checks.
40. The Commissioner also notes that the FAQ document referred to by the Applicant stated that it was the responsibility of the property factor to check that they had authority to act. In his view, nothing in this suggested that a property factor's responsibility to carry out these checks was shared with, or delegated, to the Authority.
41. The Commissioner has considered the Applicant's comments about acting without authority being an offence and contrary to the Code of Conduct. He does not agree that the existence of an offence guarantees the existence of a mechanism to specifically, narrowly and proactively seek out instances of that offence. In any event, he recognises that the guidance signposted by the Applicant clearly states that the Authority does not have an investigative role.

---

[pdf/govscot%3Adocument/Property%20Factor%20Guide%20to%20Registration%20Aug%202018.pdf](https://govscot.gov.scot/Document/Property%20Factor%20Guide%20to%20Registration%20Aug%202018.pdf) and <https://housingandpropertychamber.scot/sites/default/files/hpc/Property%20Factor%20Registration%20presentation.pdf>

<sup>2</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/factsheet/2012/08/property-factor-register-guidance-am-i-a-property-factor/documents/property-factor-guidance-am-i-a-property-factor/property-factor-guidance-am-i-a-property-factor/govscot%3Adocument/Property%2BFactor%2BRegister%2B-%2BGuidance%2B-%2BAm%2BI%2Ba%2BProperty%2BFactor%2B.pdf>

42. In all of the circumstances, the Commissioner is satisfied that checks of the sort envisaged by the Applicant are not carried out by the Authority. Consequently, he accepts, on balance, that the Authority does not hold the information requested.
43. In all of the circumstances, the Commissioner concludes that the Authority was correct to give the Applicant notice, in terms of section 17(1) of FOISA, that it did not hold the information requested.

**Questions (iii) and (v) of 30 July 2025 – Areas property factors claim to factor**

44. The Applicant explained that a search of the property factors register showed that specific factors claimed to manage specific addresses. He therefore considered it clear that the Authority held information on what addresses factors claim to manage. He also provided a [guidance document](#)<sup>3</sup> which explained that property factors must upload details of the lands and properties they maintain.
45. The Authority noted that, in his application to the Commissioner, the Applicant had grouped questions (i) to (v) together. It said that it therefore considered it reasonable to interpret questions (iii) and (v) as following on from questions (i), (ii) and (iv) in the context of “a multi-part request with a clear central line of questioning”. It explained that these questions related to the Applicant’s belief that the Authority should only be entering property factors on to the property factors register if they have the authority to act; and that the information requested was required to determine/verify if the property factor had this authority.
46. The Authority considered that it had therefore reasonably interpreted the phrase “claim to manage” in questions (iii) and (v) as being related to whether or not a property factor had “legal authority” to act for an “area” they “claim” to manage and whether it held “documents or maps” which would substantiate (in terms of legal authority) that “claim” in relation to two specific addresses.
47. The Authority said that the Property Factors (Scotland) Act 2011 did not require the Authority to request, hold or verify information on whether a property factor had legal authority to act for individual properties/land. As such, it did not hold documentation or maps (e.g. in the form of deeds) which would form any kind of legal substantiation for a property factor’s “claim” that they manage a property or an area.
48. Given the absence of any statutory basis or business requirement for the Authority to hold such material, it submitted that there was no reasonable expectation that it would exist within the Authority’s records. Accordingly, it did not carry out searches of its internal files.
49. However, the Authority confirmed that it held lists of the addresses and land parcels that property factors regularly submitted to it. It explained that these were details of “any dwelling houses, flats or land in relation to which the person acts, or expects to act, as a property factor” or, in the case of the annual update, these same details relating to the previous financial year.
50. The Authority said that it therefore held snapshots of property factors’ actual or intended portfolios on the basis of the property factors’ self-declaration. It explained that this information was used to populate the property factors register, to show users which

---

<sup>3</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2016/12/property-factors-first-time-registration-guidance/documents/property-factor-register-guide-registration-pdf/property-factor-register-guide-registration-pdf/govscot%3Adocument/Property%20Factor%20Guide%20to%20Registration%20Aug%202018.pdf>

properties and what land was associated with which factor(s) (if any). However, this information was not, and could not reasonably be interpreted as constituting, legal authority for any “claims” of “authority to act” or “acting having been in fact carried out”.

51. The Commissioner agrees that the questions about where a factor claims to manage and where a factor is actually entitled to manage are connected. However, he does not consider these questions to be identical:
- The information requested is logically distinct. While it can be anticipated that the areas a factor claims to factor and the areas a factor has the authority to act for are identical, it is conceivable that (inadvertently or otherwise) these may differ in particular instances.
  - The structure of the Applicant’s questions strongly suggests that the information requested is different. He specifically made separate requests that vary largely in whether he was requesting information on the areas that the property factor claims to act, and the areas where the property factor has the authority to act.
  - Section 3(2)(e) of the Property Factors (Scotland) Act 2011 requires the Authority to collect, information on “any dwelling houses, flats or land” that a property factor acts, or expects to act, as a property factor for. The Commissioner is aware of no similar requirement for the Authority to collect or hold information on a property factor’s authority to act. As such, expectations of what information the Authority is likely to hold could reasonably differ between these questions.
52. For the reasons set out above, the Commissioner is satisfied that these questions are distinct and the fact that the Authority does not hold the information on property factors’ authority to act does not necessarily have a bearing on whether it holds information on the areas in which property factors claim to act. He therefore cannot accept that the Authority correctly interpreted these questions.
53. The Commissioner requires the Authority to fully reconsider these questions, carry out fresh, adequate, proportionate searches for information falling within scope, reach a decision on the basis of these searches and notify the Applicant of the outcome by way of a revised review outcome (all in terms of section 21 of FOISA).

#### ***Section 14(1) – Vexatious or repeated requests***

54. Under section 14(1) of FOISA, a Scottish public authority is not obliged to comply with a request for information if the request is vexatious.
55. The Authority considered questions (ii), (iii) and (iv) of the Applicant’s request of 2 July 2025 to be vexatious.
56. The Commissioner’s [guidance](#)<sup>4</sup> on the application of section 14(1) of FOISA states:
- “There is no definition of ‘vexatious’ in FOISA. The Scottish Parliament considered that the term ‘vexatious’ was well-established in law and chose to give the Commissioner latitude to interpret the term in that context, so that the interpretation might evolve over time in light of experience and precedent.”
57. In the Commissioner's view, there is no single formula or definitive set of criteria that allow a formulaic approach to be taken to determining whether a request is vexatious. Each request must be considered on the merits of the case, supported by evidence, clear evaluation and

---

<sup>4</sup> [BriefingSection14VexatiousorRepeatedRequests.pdf](#)

reasoning. Although this is not an exhaustive list, the following factors will be relevant to a finding that a request (which may be the latest in a series of requests or other related correspondence) is vexatious:

- (i) it would impose a significant burden on the public authority;
- (ii) it does not have a serious purpose or value;
- (iii) it is designed to cause disruption or annoyance to the public authority;
- (iv) it has the effect of harassing the public authority; or
- (v) it would otherwise, in the opinion of a reasonable person, be considered to be manifestly unreasonable or disproportionate.

58. Depending on the circumstances, other factors may be relevant, provided that the authority can support them with evidence. The Commissioner recognises that each case must be considered on its own merits, taking all the circumstances into account.
59. While the Commissioner's view is that "vexatious" must be applied to the request and not the requester, he acknowledges that the applicant's identity, and the history of their dealings with the authority, may be relevant in considering the nature and effect of a request and its surrounding circumstances. It may be reasonable, for example, for an authority to conclude that a request represents a continuation of a pattern of behaviour it has deemed vexatious in another context.
60. The guidance also says that requesters must not be denied the opportunity to make a genuine information request. Requests may be inconvenient and meeting them may at times stretch an authority's resources, but these factors are not, on their own, sufficient grounds for an authority to deem a request vexatious.

#### *The Applicant's comments*

61. The Applicant said that the Authority had failed to specify and provide evidence to explain why his questions were vexatious. He argued that this was because his questions were simply not vexatious in the first place and noted that there was "no limit" to the number of FOI requests anyone can make. He disagreed that the Authority had fully answered his previous questions, which is why he had asked the questions in the present request.
62. In his requirement for review, the Applicant set out his position as follows:
- "The [Authority] have failed to follow the law and failed to remove offending property factors from the property factors register and I will not stop communicating with you until you start taking accountability for your failures and removed all property factors who fail to meet the requirements set out in the Property Factors Act."
63. The Applicant submitted that this was a matter of great public interest and that he, and MSPs he was working with on the issue, would not stop until the Authority complied with the Property Factors (Scotland) Act 2011. He suggested that the Authority had refused to answer his questions as it was trying to cover up its failures, the exposure of which he said would be deeply embarrassing and damaging for the Authority.
64. The Applicant also noted that bribery was a serious issue. He was therefore concerned that his allegations of bribery were being used against him by the Authority as evidence he was harassing it.

### *The Authority's comments*

65. The Authority provided detailed submissions in support of its application of section 14(1) of FOISA to the relevant questions of the Applicant's requests. The Commissioner has fully considered these submissions, but he has only summarised below what he considers to be the most salient points.
66. By way of background, the Authority explained that these requests formed part of a large body of correspondence from the Applicant relating to the registration of property factors. It said that the Applicant believed that the Authority was not carrying out property factor registration in line with the relevant legislation.
67. Due the nature and persistence of the Applicant's correspondence on this matter, the Authority said that it had applied its Unacceptable Actions Policy to him – meaning that it will not enter into correspondence on this matter unless it is legally required to respond (e.g. in response to a request made under FOI law).
68. The Authority stated that the Applicant had made numerous accusations of staff dishonesty, incompetence, criminality and maladministration, as well as accusing officials of taking action which breached his human rights. It said that he had also stated explicitly that he would not stop making such allegations until his allegations were proved.
69. More specifically, the Authority considered the relevant questions of the Applicant's request to be vexatious because:
  - (i) complying would impose a significant burden on it
  - (ii) they did not have a serious purpose or value
  - (iii) they were designed to cause disruption or annoyance, and
  - (iv) they had the effect of harassing it.
70. In terms of the significant burden, the Authority said that it would take significant time to ingather and consider the significant amount of material requested. This burden became more acute when the relevant questions were considered in the context of the long series of previous requests and correspondence on matters relating to the registration of property factors. It submitted that the cumulative burden of responding to this pattern of requests was significant and argued that even assessing the burden that would be imposed by responding to this particular request would add to the cumulative burden already imposed.
71. In terms of the serious purpose or value, the Authority explained that it was unclear what information the Applicant actually hoped to obtain through his continued requests. It submitted that it had provided all relevant information in response to the Applicant's previous requests and, as such, considered it unclear what purpose or value the relevant questions under consideration had, beyond that of continuing his existing grievance with the Authority.
72. In terms of the intention to cause disruption or annoyance, the Authority noted that the Applicant's requests were "continually abrasive at best, and abusive at worst". It reiterated that the Applicant had stated that he would keep making requests until it admitted that his allegations were accurate, which it argued was evidence that his requests were designed to cause disruption or annoyance.
73. In terms of the effect of harassing it, the Authority explained that the overall effect of the Applicant's "multiple, persistent, abrasive and unreasonable requests" amounted to a form of

harassment. It explained that the nature of the requests made them “impossible to respond to” as the Applicant was requesting evidence of the Authority acting improperly or illegally (which the Authority denied). It provided examples of the effect the Applicant’s correspondence had on staff members.

#### *The Commissioner’s view*

74. The Commissioner has taken account of all of the relevant submissions provided by both the Applicant and the Authority.
75. The Commissioner is satisfied, having reviewed the submissions provided by the Authority, that it was reasonable for the Authority to consider previous correspondence with the Applicant when deciding whether the relevant questions of his requests should be treated as vexatious.
76. Given the history, nature and volume of the Applicant’s correspondence (as set out in the Authority’s submissions), the Commissioner is also satisfied that the Authority was entitled to conclude that the relevant questions of these requests were vexatious.
77. While FOISA does not require requesters to share their motives for seeking information, it is clear from the submissions of both the Authority and the Applicant that his request was intended to obtain information to support his belief that the Authority has failed to follow the law and failed to remove offending property factors from the property factors register.
78. Freedom of information law is not intended to serve as a mechanism for pursuing individual disputes with public authorities. While it may, depending on the circumstances, be an appropriate means of obtaining related information, it is unlikely in itself to be a viable means of taking forward the resolution of irreconcilable positions. In this case, however, the Applicant does appear to be using it as part of his campaign to wear the Authority down into accepting his point of view, an approach which appears unlikely to succeed
79. Having reviewed the Authority’s submissions on the nature and tone (i.e. the frequent hectoring and personally critical nature) of some of the Applicant’s communication, the Commissioner also accepts that, when assessed cumulatively and in light of the overall volume of his correspondence, it has had the effect of harassing the Authority and particular members of staff.
80. The Commissioner also notes the Applicant’s express statement that he would “not stop communicating with [the Authority] until you start taking accountability for your failures and removed all property factors who fail to meet the requirements set out in the Property Factors Act”.
81. In light of this statement, and in the context of the overall nature and pattern of the Applicant’s correspondence, the Commissioner considers it was reasonable for the Authority to view the relevant questions of these requests as being intended to cause disruption or annoyance.
82. The Commissioner would not view behaviour as unacceptable simply because an individual is determined, forceful or persistent. However, he is satisfied, in the circumstances, that the Applicant’s behaviour went beyond that – particularly when his various references to alleged acts of civil and criminal wrongdoing are considered.
83. The Commissioner recognises the Applicant’s concern that his allegations of bribery are being used as evidence of him harassing the Authority. The Commissioner agrees that it will

rarely (indeed almost never) be appropriate to consider allegations of corruption raised through appropriate channels in good faith as evidence of harassment.

84. The Commissioner has no remit to consider the merits of these allegations but, regardless of their merits, has seen no evidence that these were raised by the Applicant in bad faith. Notwithstanding his conclusion that it was reasonable for the Authority to view the relevant questions of these requests as being intended to cause disruption or annoyance, the Commissioner accepts that the Applicant appears to genuinely believe that the Authority is acting unlawfully. However, he considers that the Applicant's comments go substantially beyond raising good faith allegations through appropriate channels.
85. In terms of the purpose and value of these questions, the Commissioner agrees that there is a serious purpose and value in scrutinising the Property Factors Register and the underlying legislation.
86. Question (iv) of the Applicant's request of 2 July 2025 directly relates to this scrutiny. However, the Commissioner notes the Authority's explanation that it had already provided extensive information and explanation on this topic. Having reviewed the Authority's correspondence with the Applicant, the Commissioner agrees that it has already provided the Applicant with relevant material on how it exercises its discretion to remove property factors.
87. Questions (ii) and (iii) of the Applicant's request of 2 July 2025 narrowly relate to the Authority's handling of a specific FOI request. The Commissioner considers that responding to these questions would provide, at most, very limited additional insight into the wider issues about property factors. However, he, of course, considers there generally to be a serious purpose and value in scrutinising FOI responses.
88. In all of the circumstances, the Commissioner considers that the relevant questions of the request have a serious purpose and value (albeit relatively limited, in the circumstances). However, he is not persuaded that the limited value that would be brought to bear by the Authority responding to these questions is sufficient to overcome the significant burden imposed by the history, nature and volume of the Applicant's correspondence, the harassing effect it has had on the Authority and, in some respects, the Applicant's apparent intention to disrupt or annoy the Authority through his correspondence.
89. Having carefully considered all relevant submissions, the Commissioner is therefore satisfied that the Authority was entitled to refuse to comply with the relevant questions of these requests, in line with section 14(1) of FOISA.

### ***Future requests***

90. The Commissioner would like to make clear that his finding in this decision does not mean that any request from the Applicant to the Authority would necessarily be vexatious. The right to request information is an important legal right. It should not be abused, but the provisions within section 14(1) of FOISA must still be used carefully, which means authorities must always consider requests on their own merits and consider all the relevant circumstances, in order to reach a balanced conclusion as to whether a request is vexatious.
91. In the spirit of helping the Applicant to avoid making vexatious requests in future, the Commissioner offers the following advice. Before making further requests, the Applicant should consider the following points:

- any future request should be focused clearly on the recorded information he wishes to receive and should not involve extended commentary or attempts to dispute previous responses he has received
- he should carefully review the responses he has received to previous requests, to ensure he is not requesting information on issues on which he has already received responses
- any future requests should not include allegations against the Authority's staff, nor be expressed in impolite or abusive tone or language, nor single out junior staff or unreasonably seek the personal attention of senior decision makers
- future requests are more likely to be considered vexatious if they depart from the advice provided above.

## 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 requests made by the Applicant.

The Commissioner finds that the Authority complied with Part 1 of FOISA by:

- refusing to comply with the relevant questions of the Applicant's information requests, in line with section 14(1) of FOISA
- issuing the Applicant with a notice, in terms of section 17(1) of FOISA, that it did not hold the information requested for some of the questions in his information requests.

However, by failing to correctly interpret questions (iii) and (v) of the Applicant's request of 30 July 2025, the Authority failed to comply with Part 1 of FOISA (in particular, section 1(1)).

The Commissioner therefore requires the Authority to consider questions (iii) and (v) of the Applicant's request of 30 July 2025, carry out fresh, adequate, proportionate searches for information falling within scope of these questions, reach a decision on the basis of these searches and notify the Applicant of the outcome by way of a revised review outcome (all in terms of section 21 of FOISA), by **27 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.

**Euan McCulloch**  
**Head of Enforcement**

**11 March 2026**

## Appendix 1: Information requests

### *Request of 2 July 2025*

- (i) “I request a Freedom of Information request to publish all correspondence sent and received (including all responses and communications from Hacking and Paterson) in relation to their failure to comply with the PFEO for FTS/HPC/PF/22/2528. This should include the Notification of their Failure to Comply to Scottish Ministers from the First Tier Tribunal.”
- (ii) “I request a Freedom of Information request to publish who wrote, who checked and who signed off the inaccurate responses contained in FOI request (Reference 202200310915) from 2022 on “Non compliance of a Property Factor Enforcement Order (PFEO)” which incorrectly states that the action Scottish Ministers can take after being notified of a property factor’s failure to comply with a PFEO can include “keeping the property factor on the register but continuing to monitor their compliance and encouraging them to comply with the code of conduct (the Code)”. The Property Factors Act does not permit this action! The last two sentences in that FOI response were the ONLY actions Scottish Ministers can take in that instance – “removing the property factor from the register; or refusing the property factor from the register.””
- (iii) “I request a FOI to publish the legal guidance sought before publishing the FOI response 202200310915.”
- (iv) “I request a FOI to explain why the Scottish Government thought it was acceptable to keep a property factor on the register who had, by their own admission in their response, committed a criminal offence and the reasons why any Scottish Minister would allow any property factor to commit a criminal offence and still remain on the Register?”
- (v) “I request another FOI to publish the reasons why the Scottish Government tell Scottish homeowners to report property factors who break the Code of Conduct to the First Tier Tribunal when it’s clear that the Scottish Government don’t take any action regardless of how many times the property factor breaks the Code of Conduct?”
- (vi) “I request a FOI to publish the reasons why the Scottish Government created the Property Factors Act and its associated Code of Conduct when they allow property factors to ignore the Act and flout every single Code of Conduct without any meaningful punishment?”
- (vii) “I request a FOI to confirm how many times will the Scottish Government allow a property factor to break the Code of Conduct before they are removed from the Property Factors Register?”
- (viii) “I request a further FOI to publish all correspondence relating to the notice informing Hacking and Paterson’s “responsible persons” that refusal is under consideration (including the written statement of the Scottish Minister’s reasons for proposing to refuse to enter the person in the register) and to publish all correspondence from Hacking and Paterson in response to that – including their representations.”
- (ix) “If Scottish Ministers have not yet notified Hacking and Paterson of their intention to refuse entry to the Register then a further FOI to explain why they have not done this which should include all correspondence from all Scottish Government staff and also include the legal guidance sought.”

### ***Request of 30 July 2025***

- (i) “What checks have the Scottish Government done to ensure the property factors on the register actually have a legal authority to act for each of the properties they claim to manage on the Property Factors Register? It is a criminal offence for a property factor to provide false information when registering so the Scottish Government must do checks to ensure the property factors aren’t providing false information.”
- (ii) “For the property factor SG Property Management publish the evidence of their legal authority to act as the property factor for my address at [redacted]?”
- (iii) “For the property factor SG Property Management publish the documents and maps showing the areas the property factor claim they manage for the [redacted] Glasgow (of which my property [redacted] resides)?”
- (iv) “For the property factor Hacking and Paterson Management Services publish the evidence of their legal authority to act as the property factor for my address at [redacted] during the years 2015-2023 that I lived there”
- (v) “For the property factor Hacking and Paterson Management Services publish the documents and maps showing the areas the property factor claim they manage for [redacted] during the years 2015-2023 that I lived there.”
- (vi) “What has failed in the Scottish Government processes that has allowed property factors to operate for so long without any legal authority to act? And what is the Scottish Government doing to correct this and ensure it doesn’t happen again?”
- (vii) “What has failed in the Scottish Government processes that has allowed a property factor to operate without registration and not be detected by the Property Factors Register team or Scottish Minister or any other Scottish Government employee? And what is the Scottish Government doing to correct this and ensure it doesn’t happen again?”