



Scottish Information
Commissioner
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Decision Notice 044/2026

Introduction of 35 hour working week: notes of meetings with employees

Authority: Aberdeen City Council
Case Ref: 202500966

Summary

The Applicant asked the Authority for notes of meetings with employees that were held during the formal consultation on the introduction of a 35 hour working week. The Authority withheld the information on grounds that disclosure would be likely to prejudice substantially the effective conduct of public affairs. The Commissioner investigated and found that the information was exempt from disclosure, and the Authority was entitled to withhold it.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); 2(1)(b) (Effect of exemptions); 30(c) (Prejudice to effective conduct of public affairs); 47(1) and (2) (Application for decision by Commissioner).

Background

1. On 22 April 2025, the Applicant made a request for information to the Authority. She asked for notes of meetings from (a) briefing sessions and (b) local discussions, with employees during the formal consultation on the introduction of a 35 hour working week.
2. The Authority responded on 21 May 2025. The Authority withheld all of the information captured by the request under section 30(c) of FOISA on the grounds that disclosing the information would prejudice the effective conduct of public affairs.

3. On 21 May 2025, the Applicant wrote to the Authority requesting a review of its decision. The Applicant stated that she was dissatisfied with the decision because she did not agree that the exemption applied. She did not agree that the effective conduct of public affairs would be prejudiced by disclosure and she argued that disclosure would better help the public understand how decisions were reached.
4. The Authority notified the Applicant of the outcome of its review on 20 June 2026. The review upheld the original response with modifications. It maintained its previous reliance on section 30(c) of FOISA, but it also applied the exemptions in sections 30(b)(ii), 36(2) and 38(1)(b) of FOISA to the information. Furthermore, the Authority noted that if it had to redact all personal data under section 38(1)(b), section 12 of FOISA would also apply because of the excessive cost of carrying out that task.
5. On 20 June 2026, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. The Applicant stated she was dissatisfied with the outcome of the Authority's review because she did not agree that the exemptions applied but, even if they did, she considered that the public interest favoured disclosure.

Investigation

6. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.
7. On 22 July 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.
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 this application and to answer specific questions. These related to the searches for information carried out by the Authority and its reasons for withholding the information.

Commissioner's analysis and findings

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

Information captured by the request

10. The Authority explained that its People and Organisational Development Service (P&OD) was responsible for leading a formal statutory consultation process under section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 (the Act). This related to proposals to reduce the Authority's standard working week from 37 to 35 hours – including collective consultation with recognised trade unions and individual consultations with employees in scope of the proposals.

11. The consultation involved a structured feedback process, which included the provision of standardised templates and instructions to all Chief Officers and managers for them to hold briefing sessions, local team discussions and 1-2-1 meetings with their staff (where requested) to gather feedback on the proposals. The Applicant's request sought the notes that had been taken at these briefing sessions and meetings.
12. The Authority explained that the P&OD Service carried out searches for the information captured by the request, because it was known that this department had collected this information and held it centrally.
13. The Authority explained that the withheld information comprised 24 briefing session notes, and 243 team discussion notes.

Section 30(c) – Prejudice to the conduct of public affairs

14. The Authority is withholding all of the information captured by the Applicant's request under section 30(c) of FOISA.
15. Section 30(c) of FOISA exempts information if its disclosure "would otherwise prejudice substantially, or be likely to prejudice substantially, the effective conduct of public affairs." The use of the word "otherwise" distinguishes the harm required from that envisaged by the exemptions in sections 30(a) and (b). This is a broad exemption, and the Commissioner expects any public authority citing it to show what specific harm would (or would be likely to) be caused to the conduct of public affairs by disclosure of the information, and how that harm would be expected to follow from disclosure. This exemption is subject to the public interest test in section 2(1)(b) of FOISA.
16. In order for the exemption in section 30(c) to apply, the prejudice caused by disclosure must be substantial and therefore of real and demonstrable significance. The Commissioner expects authorities to demonstrate a real risk or likelihood of substantial prejudice at some time in the near (certainly foreseeable) future, not simply that such prejudice is a remote or hypothetical possibility. Each request should be considered on a case-by-case basis, taking into consideration the content of the information and all other relevant circumstances.

The Authority's comments on the exemption.

17. The Authority confirmed that it had applied section 30(c) to the withheld information in its entirety.
18. The Authority submitted that disclosure of the information could undermine the ability of its officials to explore all options in developing policy or decision-making processes, and that this was essential for the effective functioning of public services.
19. The Authority argued that it was crucial that internal discussions remained confidential to protect the integrity and effectiveness of operational decisions. The Authority contended that disclosure of this information would limit its ability to conduct future staff consultations. It argued that if the information were to be released, it would set a precedent that would detrimentally impact on the free and frank exchange of views (necessary to the staff consultation process) and, subsequently, the effective conduct of public affairs.
20. It noted that its FOI review panel comprises Service Managers who were heavily involved in supporting their teams throughout the consultation process, delivering messages and ascertaining their teams' views on the proposed changes.

The Authority commented that there was a strength of feeling, during the FOI review panel, that keeping employees trust and confidence was fundamental to maintaining good employee relations, and ultimately to deliver services to the citizens of the local authority area.

21. The Authority stated that it was concerned that disclosure of the comments from employees (captured by the withheld information) would undermine the trust and confidence of its employees to protect their information and confidentiality, and it argued that many staff would be less willing to provide their views in future consultations, for fear that their information would be released to a wider audience.

The Applicant's comments on the exemption

22. The Applicant noted that the information requested comprised meeting notes which gathered responses to a formal consultation exercise carried out by the Authority and which were considered by the Authority as part of that consultation.
23. The Applicant understood that the parties responding in this way to the consultation exercise were employees of the Authority and the information was collected during a group meeting session. She argued that information given in that context was given in the knowledge that it was being shared in the course of the meeting, and that everyone who attended the meeting would have no expectation of confidentiality.
24. The Applicant submitted that the Authority's initial response and review outcome made generic assertions, such as disclosure could "disrupt the decision-making process" or "hinder efficient execution," and did not provide any specific argument on how disclosure of the meeting notes—collated feedback from completed consultations—would cause harm. The Applicant observed that the [Commissioner's briefing on section 30](#)¹ requires a genuine link to harm, which she considered was absent in the Authority's position.
25. The Applicant commented that the consultation concluded by March 2025, the agreement was signed in May 2025 and the policy was implemented on 1 July 2025. The Applicant considered that the Authority's claim that exemptions apply "irrespective of the agreement now being signed," was contrary to the guidance given in the Commissioner's briefing that exemptions weaken once deliberations end. She argued that disclosure now could not inhibit past exchanges or prejudice resolved affairs.
26. The Applicant observed that the information requested was collated employee feedback on a cost-saving policy affecting workforce and services and that the Integrated Impact Assessment (IIA) [related to the Authority's proposed policy change which was under consultation] referenced using such feedback to update equality considerations. She noted that the authority had shared similar information on its intranet and with trade unions, and that, by doing so, this undermined the Authority's arguments on the sensitivity of the information.

The Commissioner's view about the exemption

27. The Commissioner has considered the nature and content of the withheld information and the submissions from the Applicant and the Authority.

¹ <https://www.foi.scot/sites/default/files/2022-04/BriefingSection30PrejudicetotheEffectiveConductofPublicAffairs.pdf>

28. The information in question was collected as part of a formal consultation process with employees about changes to their standard working week. The information contains the opinions, views, concerns and questions raised by employees as part of process.
29. The Commissioner acknowledges the Applicant's view that those opinions, views, concerns and questions were raised by those employees in the course of open meetings and therefore not within a wholly private space. However, the Commissioner is persuaded by the Authority's arguments that the consultation process is best practiced within a space which has a level of confidentiality built in to some significant degree, to ensure that those participating in the consultation process are able to contribute freely and without fear of their opinions, views, concerns and questions being read and discussed more widely in a wholly public forum.
30. The Commissioner has taken account of the Applicant's view that the consultation was completed and the agreement to the proposal signed in May 2025, around the time of the Applicant's requirement for review and that, therefore, the passage of time should be considered as a relevant factor when applying the exemption.
31. While the Commissioner agrees that the passage of time is a factor which must be considered, he is not satisfied that the passage of time is particularly relevant in the circumstances of this case. The significant prejudice, or likelihood of significant prejudice, in these circumstances is, as the Authority has argued, to the process of formal consultation (any future consultation) and the trust of participants in that process, which in turn enables the Authority to take considered and effective operational decisions.
32. The Commissioner notes that the withheld information relates to a formal consultation process carried out under section 188 of the Act. He considers that if the withheld information is disclosed in this case, with the result that staff were unwilling to engage fully in future consultations held under section 188 of the Act, it would significantly impact on the Authority's ability to meet its statutory duties and, if this occurred, it would, or would be likely to, prejudice substantially the effective conduct of public affairs.
33. The Commissioner considers the ability of the Authority to fulfil its duties under section 188 of the Act to be a matter of significant importance, and, in the circumstances of this case, the Commissioner is persuaded that the exemption is engaged.
34. The exemption in section 30(c) is subject to the public interest test in section 2(1)(b) of FOISA. The Commissioner must therefore go on to consider whether, in all the circumstances of the case, the public interest in disclosing the information is outweighed by that in maintaining the exemption.

The public interest test – section 30(c)

35. The public interest is not defined in FOISA but has been described in previous decisions as "something which is of serious concern and benefit to the public", not merely something of individual interest. It has also been held that the public interest does not mean "of interest to the public" but "in the interests of the public", i.e. disclosure must serve the interests of the public.

The Authority's comments on the public interest

36. While the Authority recognised the importance of transparency and accountability, it argued that withholding the information was necessary to protect the public interest, by ensuring that the Authority's deliberative and statutory consultation processes in relation to the obligations it had to its employees were not compromised.
37. The Authority acknowledged that there might have been a general public interest in relation to the discussions and the consultation regarding the proposal to reduce the working week, but it considered that this interest would likely have been about how the level of service delivery could be maintained if the standard working week was reduced. The Authority argued that this view was supported by the fact that requests from members of the public had been minimal, and that apart from the requests it had received from the Applicant, it had only received a single request from any other party.
38. The Authority also recognised that the requested information would be of interest to its employees and to those trade unions involved in the process. To address this interest, the Authority explained that it had published a significant amount of information related to the consultation process on its internal intranet, including a "Frequently Asked Questions" section which was maintained and updated throughout the process. The Authority noted that it had also provided trade unions and other stakeholders with access, to information to allow effective and thorough discussion throughout the process, and it offered to provide the Commissioner with examples of this communication.
39. The Authority commented that the public needed assurances that the delivery of its services would continue (despite the reduction in the working week). It argued that this relied on having a workforce that were able to effectively deliver a range of services to the best of their professional ability and often have to go above and beyond what is contractually asked of them. It stated that any breakdown of employee relations will have a consequential impact on service delivery, which is not in the interest of the public.
40. The Authority argued that it was in the public interest to allow these strategic organisational change discussions to take place in a free and frank manner, so that the decision-making process can be followed effectively. It submitted that disclosure of the requested information could disrupt the decision-making process, by stifling the free and frank provision of advice and inhibiting the exchange of views necessary for thorough deliberation. It argued that the ability of officials to explore all policy options could be undermined and that this would ultimately harm the efficiency and effectiveness of public services.
41. The Authority considered that if staff believed that the feedback they provided in response to an employee terms and conditions consultation would be disclosed to the public, it might deter their involvement and the frank exchange of feedback and thoughts in future. It was the Authority's view that this would ultimately make the feedback and consultation process redundant, in that its aim was to gather the honest and unedited views of employees about changes to their contractual terms. The Authority considered that there was no public interest in disclosing confidential information.
42. The Authority restated its view that the information captured by the request was exempt from disclosure, because such a public disclosure at this time raised significant concerns regarding the potential impact on any future staff consultations. The Authority argued that releasing these details now could discourage staff from being open and transparent during future consultations, which was critical to informed decision-making, particularly in matters relating to budgets and staff or contractual processes.

It stated that, given that local authorities continued to face substantial budgetary pressures, effective staff consultation was essential to ensure that future decisions were both robust and considerate of the views and circumstances of all affected parties, and undermining this openness could detrimentally affect the quality and integrity of decisions made in these challenging financial contexts.

The Applicant's submissions about the public interest

43. The Applicant submitted that disclosure of the information requested would ensure accountability and obligations under the public sector equality duty had been met.
44. It was her view that release of the information would enable scrutiny of the consultation process and, in particular, scrutiny of how employee views (including on protected characteristics) influenced decisions amid controversial debates on 'fire and rehire' threats and strikes.
45. The Applicant argued that such scrutiny would foster trust and that redaction of sensitive information should be possible to meet this aim.
46. The Applicant submitted that FOISA favoured disclosure of information. She referred to a previous decision ([Decision 182/2007](https://www.foi.scot/decision-1822007)²) which had considered section 30(b)(i) of FOISA, and where the balance of the public interest lay in disclosure for information which allowed scrutiny of spending decisions and, in relation to the matters discussed herein, the impact of the reduction in the working week on the workforce demanded transparency.

The Commissioner's view on the public interest

47. The Commissioner recognises the general public interest in transparency and accountability, particularly where this might contribute to understanding how the Authority organises its workforce and delivers public services. He also recognises that scrutiny of the consultation process is a key factor in transparency and accountability.
48. The Commissioner accepts that there is a public interest in ensuring that the Authority continues to deliver its services in an efficient and effective way. He acknowledges the Applicant's specific concerns in relation to those opinions and views arising from the formal consultation which particularly influenced the Authority's direction of travel. He is not, however, persuaded that these interests are sufficient to outweigh the strong public interest in ensuring that those processes of decision-making remain robust, nor do they outweigh the public interest in ensuring the Authority can conduct employee consultations (as required by section 188 of the Act) fully and effectively.
49. The Commissioner has reviewed Decision 182/2007, referred to by the Applicant in her public interest arguments. He would note that every case is considered on its own merits, and he does not consider that the arguments put forward in that case, which considered section 30(b)(i) and not section 30(c) of FOISA, are relevant here.
50. The withheld information in this case comprises the views and opinions of individual staff members that took part in a consultation. In Decision 182/2007, the withheld information was an email to the then First Minister on proposed "lines" to take in advance of First Ministers Questions regarding Scottish Enterprise.

² <https://www.foi.scot/decision-1822007>

At that time, there was considerable media coverage about an overspend by Scottish Enterprise; furthermore, the Authority in that case, conceded that the withheld information was “neutral”. The arguments in favour of disclosure in Decision 182/2007 are vastly different from the issues under consideration here.

51. The Commissioner would suggest that when Applicants refer him to a previous decision to support their public interest arguments, that they take care to ensure that the decision is relevant. In this instance, the Commissioner cannot not see how the public interest arguments that favoured disclosure in Decision 182/2007 are remotely relevant to the disclosure of the personal views and opinions of staff members withheld in this case.
52. The Commissioner has already accepted that disclosure of the withheld information in question would or would be likely to cause substantial prejudice to the effective conduct of public affairs in this case. He does not accept that disclosure of the withheld information in question, which he considers would compromise the ability of the Authority to carry out future formal consultation exercises with its employees and other stakeholders, would be in the public interest.
53. In all the circumstances, the Commissioner is satisfied that the public interest in disclosure is outweighed in this case by that in maintaining the exemption and allowing the information to be withheld under section 30(c) of FOISA. The Commissioner therefore finds that the Authority was entitled to withhold the information under this exemption.
54. Given that the Commissioner is satisfied that the Authority was entitled to withhold all of the information under section 30(c) of FOISA, he is not required to consider the remaining exemptions applied by the Authority.

Decision

The Commissioner finds that the Authority complied with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by the Applicant.

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

11 March 2026