



Scottish Information
Commissioner
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Decision Notice 056/2026

Whether request was manifestly unreasonable

Authority: Scottish Ministers

Case Ref: 202501626

Summary

The Applicant asked the Authority for various documents and correspondence held by the Rural Payments and Inspections Division (RPID) in connection with a cattle inspection at a named farm. The Authority considered that responding to the request would be manifestly unreasonable. The Commissioner investigated and agreed that the request was manifestly unreasonable and so the Authority was not obliged to respond.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); 2(1)(b) (Effect of exemptions); 39(2) (Health, safety and the environment); 47(1) and (2) (Application for decision by Commissioner).

The Environmental Information (Scotland) Regulations 2004 (the EIRs) regulations 2(1) (definition of “the Act”, “the applicant” and “the Commissioner” and the definition of “environmental information”) (Interpretation); 5(1) and (2)(b) (Duty to make environmental information available on request); 10(1), (2) and (4)(b) (Exceptions from duty to make environmental information available); 17(1), (2)(a), (b) and (f) (Enforcement and appeal provisions).

Background

1. On 14 July 2025 the Applicant made a request for information to the Authority. She asked 13 separate questions relating to various information held by RPID in connection with a cattle

inspection at a named farm. (The text of the request is reproduced in Appendix 1, subject to certain redactions.)

2. The Authority responded on 12 August 2025 in terms of the EIRs. It refused to comply with the request on the basis that to comply with it would be manifestly unreasonable in terms of regulation 10(4)(b) of the EIRs.
3. On 13 August 2025, the Applicant wrote to the Authority requesting a review of its decision. She stated that she was dissatisfied with the decision because she considered it important that the Authority answer her questions to show that RPID officers had followed their own guidance and said that she was just trying to understand everything that had happened with the inspection.
4. The Authority notified the Applicant of the outcome of its review on 10 September 2025, which fully upheld its original decision.
5. On 11 September 2025 the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. By virtue of regulation 17 of the EIRs, Part 4 of FOISA applies to the enforcement of the EIRs as it applies to the enforcement of FOISA, subject to specified modifications. The Applicant stated that she was dissatisfied with the outcome of the Authority's review because she did not agree that her request was manifestly unreasonable.

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 7 October 2025, the Authority was notified in writing that the Applicant had made a valid application. The case was 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 this application and to answer specific questions relating to why it considered the Applicant's request to be manifestly unreasonable.

Commissioner's analysis and findings

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

Handling in terms of the EIRs

10. Having considered the subject matter and the terms of the request, the Commissioner accepts the decision of the Authority to deal with the request under the EIRs rather than under FOISA.
11. The Commissioner is satisfied that the information covered by the request is environmental information, as defined in regulation 2(1) of the EIRs. He would also note that he can see no detriment to the Applicant by considering his request under the EIRs rather than FOISA, nor has the Applicant disputed the Authority's decision to handle his request under the EIRs.

Section 39(2) of FOISA – Environmental information

12. The exemption in section 39(2) of FOISA provides, in effect, that environmental information (as defined by regulation 2(1) of the EIRs) is exempt from disclosure under FOISA, thereby allowing any such information to be considered solely in terms of the EIRs.
13. In this case, the Commissioner accepts that the Authority was entitled to apply this exemption to the information requested, given his conclusion that it is properly classified as environmental information.
14. As there is a statutory right of access to environmental information available to the Applicant in this case, the Commissioner accepts, in all the circumstances, that the public interest in maintaining this exemption (and responding to the requests under the EIRs) outweighs any public interest in disclosing the information under FOISA.
15. The Commissioner therefore concludes that the Authority was correct to apply section 39(2) of FOISA and consider the Applicant's information request under the EIRs. He will therefore consider this case, in what follows, solely in terms of the EIRs.

Regulation 5(1) of the EIRs – Duty to make environmental information available

16. Regulation 5(1) of the EIRs (subject to the various qualifications contained in regulations 6 to 12) requires a Scottish public authority which holds environmental information to make it available when requested to do so.
17. Under the EIRs, a public authority may refuse to make environmental information available if one or more of the exceptions in regulation 10 applies.

Regulation 10(4)(b) of the EIRs – Manifestly unreasonable

18. Regulation 10(4)(b) of the EIRs provides that a Scottish public authority may refuse to make environmental information available to the extent that the request for information is manifestly unreasonable. In considering whether the exception applies, the authority must interpret it in a restrictive way and apply a presumption in favour of disclosure. Even if it finds that the request is manifestly unreasonable, it is still required to make the information available unless, in all the circumstances, the public interest in doing so is outweighed by that in maintaining the exception.
19. The Commissioner's general approach is that the following factors are relevant when considering whether a request is manifestly unreasonable. These are that the request:
 - (i) would impose a significant burden on the public body;
 - (ii) does not have a serious purpose or value;
 - (iii) is designed to cause disruption or annoyance to the public authority;
 - (iv) has the effect of harassing the public authority; or
 - (v) would otherwise, in the opinion of a reasonable person, be considered manifestly unreasonable or disproportionate.
20. This is not an exhaustive list. Depending on the circumstances, other factors may be relevant, provided the impact on the authority can be supported by evidence. The Commissioner recognises that each case must be considered on its merits, taking all the circumstances into account.

The Authority's submissions

21. To assist the Commissioner, the Authority provided him with some information regarding the background to the request. It explained that a Cattle Identification Inspection, carried out under the Cattle Identification (Scotland) Regulations 2007, was started at the named farm on 23 November 2022, with the “on farm” part of the inspection completed on 5 June 2023. The inspection outcome, which resulted in penalties being applied, was notified to the customer on 14 December 2023.
22. The Authority said that the inspection outcome had subsequently been through proceedings in the Scottish Land Court. These proceedings concluded when the Applicant agreed to abandon her appeal against the Authority and she did not pursue her right of appeal through the Court of Session.
23. The Authority explained that the inspection process had been subject to stage 1 and 2 of the Scottish Government’s complaints procedures and that the Applicant had appealed to the Scottish Public Service Ombudsman (SPSO) at the conclusion of the stage 2 complaint procedure, but the SPSO declined to investigate on the basis that the Scottish Land Court was the most suitable route for remedy.
24. Given that the Applicant had exhausted all appeal routes, the Authority considered that that the Applicant was now using the EIRs to continue to challenge the RPID’s actions and decision-making relating to the inspection, when these aspects had been properly challenged through the various routes described above.
25. Due to the frequency and persistent nature of correspondence from the Applicant in relation to the cattle inspection, the Authority explained that it had applied its Unacceptable Actions Policy and that it had categorised her as a “Fixated Correspondent”. Consequently, it will only correspond with the Applicant in relation to the cattle inspection when it is legally required to do so.
26. In terms of the factors set out at paragraph 19, the Authority submitted that the Applicant’s request was manifestly unreasonable because it:
 - (i) would impose a significant burden on the public body;
 - (ii) did not have a serious purpose or value;
 - (iii) was designed to cause disruption or annoyance to the public authority; and
 - (iv) had the effect of harassing the public authority
27. In terms of factor (i), the Authority referred to the Applicant’s previous dealings with it and considered that the burden had been significant over time. In total, the Applicant had made 20 EIR requests and 17 requirements for review (details of which it provided to the Commissioner) on the topic of the cattle inspection. It said that it had expended considerable resource in responding to the Applicant about the cattle inspection.
28. In coming to its conclusion on the burden the Applicant had placed on it, the Authority noted [Decision 067/2025](#)¹ of the Commissioner in which he found that responding to the thirteen separate requests in that case (which were related to the request in this case) would have

¹ <https://www.foi.scot/sites/default/files/2025-04/Decision067-2025.pdf>

imposed a significant burden on the Authority, which would, in the circumstances, have been manifestly unreasonable.

29. In terms of factor (ii), the Authority accepted that, from a subjective and reasonable point of view, the Applicant may have a genuine desire for the information requested. However, it considered there to be a high degree of similarity between many of the questions asked in the request in this case and those previously asked.
30. In all of the circumstances, the Authority found it difficult to identify a serious value in continuing to revisit this topic and thought it unlikely that disclosure of the additional information requested in this case would alter the Applicant's situation.
31. In terms of factor (iii), the Authority considered the Applicant's history of dealings with it to be relevant. It submitted that there was a pattern of behaviour from the Applicant which appeared vexatious, in pursuance of a matter which had already been extensively addressed and based on which it concluded that her purpose was to pursue a grievance rather than to obtain information. It acknowledged that the Applicant clearly believed that the cattle inspection had been carried out incorrectly but said that this had been thoroughly investigated through the routes described above.
32. Finally, in terms of factor (iv), the Authority reiterated that the questions in this request were largely repetitive and submitted that repeatedly asking for very similar information about the same matter, which had been thoroughly addressed, had the effect of harassment.

The Applicant's submissions

33. To assist the Commissioner, the Applicant also provided him with some information regarding the background to her request. He has fully considered all of the submissions made by the Applicant, but he has only summarised below what he considers to be the key elements.
34. The Applicant disagreed that her request was manifestly unreasonable in any way. She said that her answers to her questions were important for the public and those part of RPID schemes, to understand what RPID officers "are able to do, with and without knowledge or consent", whether RPID properly followed its own guidance and how RPID managed the data of third parties.
35. The Applicant acknowledged that she had asked some of the questions in her request since February 2023. However, she said that RPID had avoided or refused to answer these questions at every stage. She considered that RPID would have spent considerably less time on answering her questions than it had spent in avoiding answering them.
36. The Applicant said that if RPID had done nothing wrong during the inspection and followed all necessary guidance, regulations and legislation, then it should have been able to answer her questions openly and honestly.

The Commissioner's view

37. The Commissioner has taken account of all the relevant submissions and supporting evidence from the Applicant and the Authority, as well as the terms of the request.
38. Taken in isolation, the Applicant's request, though elements of it may seem complex, might not appear to be manifestly unreasonable. However, the manifestly unreasonable nature of a request may only emerge after considering it in the context created by previous correspondence

39. 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 this request should be treated as manifestly unreasonable.
40. Given the history and nature 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 this request was manifestly unreasonable.
41. Whilst the Authority has not provided an estimated cost of complying with this request (as it did in [Decision 067/2025](#), which found that thirteen separate requests the Applicant had made in relation to the same cattle inspection were manifestly unreasonable), the Commissioner accepts that complying with it would add to the significant burden already imposed by the Authority's previous dealings with the Applicant. This is particularly so given that elements of the request in this case would seem to be complex, with the Authority submitting that only a limited number of RPID staff possessed the required knowledge of the topic and cattle inspection to respond.
42. The Commissioner's guidance on the regulation 10(4)(b) of the EIRs states that a request may be manifestly unreasonable if it is unlikely that the additional information would shed light on, or alter, the requester's situation (because the subject in question has already been thoroughly addressed through the relevant complaints or appeal procedure).
43. Freedom of information law is not intended to serve as a mechanism for pursuing individual or commercial 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.
44. The Authority has explained that the Applicant has now exhausted all appeal routes in relation to the outcome of the inspection concerned. The Commissioner has no reason to doubt this. In his view, it is clear that the respective positions of the Applicant and the Authority regarding the process and the outcome of the inspection cannot be reconciled. Given that all appeal routes have now been exhausted, he does not consider that disclosure of the information requested in this case would alter the Applicant's situation.
45. The Commissioner also accepts that the Applicant's request in this case represents a continuation of a pattern of behaviour that the Authority has deemed manifestly unreasonable in another context. That is, the Applicant has been made subject to the Authority's Unacceptable Actions Policy and categorised as a Fixated Correspondent in relation to correspondence on the matter of the inspection, with the Authority no longer responding to correspondence on this matter unless it has a legal obligation to do so.
46. The Commissioner recognises the Applicant's strength of feeling on the matter and that she may not have designed her request, which she clearly believes to have a serious purpose, to cause disruption or annoyance to the Authority. However, in all of the circumstances, he is satisfied that the Authority was entitled to conclude that her request was manifestly unreasonable. As such, he finds that the Authority correctly applied the exception in regulation 10(4)(b) of the EIRs in this case.

The public interest test

47. The exception in regulation 10(4)(b) is subject to the public interest test in regulation 10(1)(b) of the EIRs. This means that, although the Commissioner is satisfied that the Applicant's request is manifestly unreasonable, he must still require the Authority to respond to that

request if the public interest in making the information available outweighs that in maintaining the exception.

The Authority's submissions on the public interest

48. The Authority recognised that there is a public interest in cattle inspections and how these are conducted. It also acknowledged there is a public interest for general transparency and accountability.
49. However, the Authority noted that the request in this case related almost entirely to a single inspection in which the Applicant had a personal interest. It considered that the actions of the inspectors in this case and the outcome of the inspection had been properly addressed through the correct routes (as described earlier), thereby lessening the public interest in complying with the request.
50. Ultimately, the Authority considered that the public interest factors in favour of disclosure were outweighed by the need to protect scarce and limited public resources and to ensure that such resources were used effectively and efficiently (particularly in light of the significant effort already expended in responding to the outcome of this inspection).
51. In all the circumstances, the Authority concluded that the balance of the public interest favoured upholding the exception in regulation 10(4)(b) of the EIRs.

The Applicant's submissions on the public interest

52. As stated above, the Applicant considered that it was in the public interest that answers to her questions were provided as it was important for the public and those part of RPID schemes to understand what RPID officers "are able to do, with and without knowledge or consent", whether RPID properly followed its own guidance and how RPID managed the data of third parties.
53. The Applicant also submitted that the public would be "more than interested" to know how the inspection had been carried out, including how RPID took account of ill-health affecting parties during the inspection process and how it applied penalties, and to understand whether RPID was taking "the consistent approach" that it should be taking.

The Commissioner's view on the public interest

54. The Commissioner accepts that there is an inherent public interest in the disclosure of information to ensure that an authority is transparent and accountable, to allow its actions and decisions to be scrutinised.
55. On the other hand, the Commissioner considered the strong public interest in ensuring that an authority can carry out its statutory functions, without unreasonable or disproportionate disruption.
56. As stated above, the Commissioner has no reason to doubt that the Applicant has now exhausted all appeal routes in relation to the outcome of the inspection concerned and he does not consider disclosure of the information requested in this case would alter her situation. He has also accepted that the Applicant's request in this case represents a continuation of a pattern of behaviour that the Authority has deemed manifestly unreasonable in another context
57. The Commissioner considers there is a public interest in ensuring the EIRs are used responsibly. While public authorities are encouraged to act in a transparent and accountable way, which benefits the public as a whole, the Commissioner also recognises that

responding to requests which require them to devote excessive or disproportionate amounts of time can only be at the expense of other areas of work.

58. The Commissioner recognises that there is a public interest in protecting the integrity of the EIRs, but it is not the intention of the legislation to require public authorities to devote excessive or disproportionate amounts of resource to a particular request. In fact, one aspect of protecting the integrity of the regime is ensuring that it can function effectively, without being disrupted by excessive or disproportionate requests.
59. On balance, therefore, the Commissioner accepts that, in all the circumstances of this case, the public interest arguments in favour of making the information captured by this request available are outweighed by the public interest in maintaining the exception in regulation 10(4)(b) of the EIRs.

Decision

The Commissioner finds that the Authority complied the Environmental Information (Scotland) Regulations 2004 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

23 March 2026

Appendix 1: Information request of 14 July 2025

"Under the Freedom of Information Act, I am writing to request the following Information, providing any internal notes, minutes, reports, mandates, guidance, procedures, constitution, regulatory, legal or other similar documentation for each of the following:

1. Following information from RPID on 4th June 2025, it was detailed that RPID Officers are **not** able to request an Agent to take on the role of Responsible Person at an Inspection or and request Agents to make a decision on whether animals could be "shot immediately on-site" and "be held back and slaughtered on the farm for uplift by the Fallen Stock Company", as detailed in RPIDs FOI. Evidence has previously been provided to RPID that this request was made by Inspectors following [REDACTED] ill-health. Therefore, can you provide all information, including internal notes and correspondence and communications with the agent / external parties, concerning the discussions by RPID, including any other party involved in such discussion or agreement, to request the agent to be the responsible person and requesting the agent to take on the role decision to shoot animals on at [REDACTED] in relation to the above comments, providing highlighting relevant areas of any internal notes, minutes, reports, mandates, guidance, procedures, constitution, regulatory, legal or other similar documentation that was used to make these decision to approach the Agent to be Responsible Person and the request have animals "shot" without allowing for the identification process to be used?
2. Provide a copy of the agreed Mandate between RPID and our SAC Agent, highlighting where it allows "Mandated agents can make decisions on behalf of their client"? I would also like it highlighted where the Inspectors only deal with the Agent, and exclude any partners in the business. Can the mandate be highlighted where it states that the duties requested by RPID Officers in 1. in relation to asking the Agent to be the Responsible Person at the Inspection and "deciding if animals can be "shot immediately on site" (as detailed in RPIDs FOI).
3. Where within the guidance, procedures, constitution, regulatory, legal or other similar documentation, please highlight where are RPID able to discuss and/or arrange to have animals "shot" or "held back and slaughtered on farm. " (as detailed in 1 above) prior to the Inspection taking place or having any discussion with the Responsible Person regarding the Inspection.
4. Provide any mandate or documentation that consents to our business information being shared with [REDACTED], our neighbour?
5. Provide any documentation that [REDACTED] was requested by RPID as part of "the Cattle Identification (Scotland) Regulations 2007 (as amended) section 10 Powers that (2) an inspector may (j) be accompanied by (ii) any person the inspector considers to be necessary" which was detail in the FOI response of 4th June 2025.
6. Following the Scottish Government investigation that a "data breach" or "breach of confidentiality" was found not to have taken place during our Inspection, as only personal data ie name, address etc was investigated and not **Business Data** as specifically requested to be investigated, is there an external body that this issue can be escalated to review that Scottish Government's lack of Business Data protection being investigated?
7. Is there no department within the Scottish Government that will Investigate a Business data breach, if so, can details be provided?
8. Provide a copy of the "report" that was initially submitted by a "concerned local farmer" that instigated the initial "targeted" Inspection. This was not released as part of the FOI request to RPID.

9. On 13th February 2023, RPID Officers stated that [REDACTED] ill-health would be considered as part of the Inspection. Please provide all information, including internal notes and correspondence, guidance, legislation or any other relevant documentation what was actually done to take [REDACTED] ill-health into consideration? This includes providing detail on how a letter from [REDACTED] doctor was not considered at any aspect of the Inspection or that he could not be involved at any stage of the Inspection, or being able to be present to identify cattle?

10. A doctor's note, dated 31st August 2023, was provided and also appeared not to have been taken into consideration. If this is not the case. please provide detail on how this letter was used, providing documentation, notes, reports, guidance, legislation or other relevant documentation.

11. Can details be provided why RPID Officers were able as part of an Inspection not to have any communication with the Responsible Person, [REDACTED]?

12. Since [REDACTED] ill-health, RPID Officers informed us that there was "no option to postpone the inspection". This was detailed in RPID Internal Stage 1 Complaint (dated 29th June 2023), "We were notified by your agent of [REDACTED] illness in January 2023 and have been working with yourselves to complete [REDACTED] inspection taking his illness and other conditions into account. We arranged with your vet to carry out the inspections in conjunction with the TB test to minimise number of times cattle had to be handled; reducing stress on [REDACTED] and the stock." RPID Internal Stage 2 Complaint details (dated 8th March 2024) ""As [REDACTED] had made alternative arrangements for the farm there was no reason why the inspection could not proceed." Our Agent detailed, both verbally, and then via email "Our understanding is that there was no option to postpone, [REDACTED] was present (business partner), [REDACTED] had asked for assistance and we understand that APHA would proceed on the basis that the business had the means to continue".

The RPID FOI which covered the period of the time we had "no choice to continue the Inspection", there is no reference to any "Postponement" being offered. However, RPID provided details on 15th October 2024 that a postponement was offered on 13th February 2023, detailing "At that time [REDACTED] stated that the partnership wished to continue with the inspection in order that it could be completed and the farm sold". As no such discussion took place, and this was not included within the FOI released or as part of the investigation in the Stage 1 and Stage 2 Complaints, can an explanation be provided on why RPID mis-led the Land Court with this incorrect information.

13. Provide a copy of all emails, notes, minutes and correspondence, to and from, RPID's Legal Team (including external representation) and our Solicitor [REDACTED] regarding the Land Court Case from the period of 31st January 2025 to 31st May 2025."