



Scottish Information
Commissioner
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Decision Notice 057/2026

Police officer numbers in Orkney and Shetland

Authority: Chief Constable of the Police Service of Scotland
Case Ref: 202501381

Summary

The Applicant asked the Authority for information regarding the number of police officers in Scotland, including Orkney and Shetland. The Authority disclosed some information but withheld other information under several exemptions. The Commissioner investigated and found that the Authority was entitled to withhold some of the information, but it had wrongly withheld other information. He required the Authority to provide the Applicant with the information it had wrongly withheld.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); 2(1)(b) (Effect of exemptions); 35(1)(a) and (b) (Law enforcement); 39(1) (Health, safety and the environment); 47(1) and (2) (Application for decision by Commissioner).

Background

1. On 2 May 2025, the Applicant made a request for information to the Authority. He asked:
 - (i) How many Sexual Offence Liaison Officers (SOLOs) are there?
 - (ii) How many police officers are there with specific training in dealing with rape and serious sexual offences (please name the training)?

2. In respect of his above questions, the Applicant asked the Authority to provide separate numbers for Orkney, Shetland, the Highlands and Islands and Scotland. He also asked that the Authority provide the total number of officers, regardless of training, for each area.
3. On 11 June 2025, the Applicant wrote to the Authority requiring a review in respect of its failure to respond.
4. The Applicant did not receive a response to his requirement for review.
5. The Applicant wrote to the Commissioner on 15 July 2025, stating that he was dissatisfied with the Authority's failure to respond to his request and applying for a decision in terms of section 47(1) of FOISA.
6. Following this, the Authority notified the Applicant of the outcome of its review on 19 August 2025. It disclosed some information to the Applicant and withheld other information under the exemptions in sections 35(1)(a) and (b), and 39(1) of FOISA.
7. As a result of this, the Applicant withdrew his application for a decision in terms of section 47(1) of FOISA regarding the Authority's failure to respond.
8. However, on 19 August 2025, the Applicant again wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. He stated he was dissatisfied with the outcome of the Authority's review because he considered it was in the public interest for the withheld information to be disclosed.

Investigation

9. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.
10. On 8 October 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 subsequently allocated to an investigating officer.
11. 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 related to its application of the exemptions in sections 35(1)(a) and (b) and 39(1) of FOISA.

Commissioner's analysis and findings

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

The withheld information

13. The Authority disclosed the following information to the Applicant in response to his request:
 - The total number of all officers (i.e. regardless of training) in "N Division" (Highlands and Islands Division) and in Scotland

- The total number of officers with SOLO specialism in Highlands and Islands Division and in Scotland
 - The total number of officers with Visually Recorded Interview (VRI) SOLO specialism in Highlands and Islands Division and in Scotland.
14. The information being withheld from the Applicant by the Authority under the exemptions in sections 35(1)(a) and (b) and 39(1) of FOISA is the information in the above three bullet points as it relates to Orkney and Shetland (separately).
 15. In what follows, all references by the Commissioner to SOLO officers should be taken to encompass both those with SOLO specialism and those with VRI SOLO specialism.

Section 35(1)(a) and (b) – Law enforcement

16. Section 35(1)(a) of FOISA exempts information if its disclosure would, or would be likely to, prejudice substantially the prevention or detection of crime. As the Commissioner’s [guidance on the exemptions in section 35 of FOISA](#)¹ highlights, the term “prevention or detection of crime” is wide-ranging, encompassing any action taken to anticipate and prevent crime, or to establish the identity and secure prosecution of persons suspected of being responsible for crime. This could mean activities in relation to specific (anticipated) crime or wider strategies for crime reduction and detection.
17. Section 35(1)(b) of FOISA exempts information if its disclosure would, or would be likely to, prejudice substantially the apprehension or prosecution of offenders. As the Commissioner’s guidance also states, there is likely to be a considerable overlap between information relating to “the apprehension or prosecution of offenders” and that relating to “the prevention or detection of crime”.
18. The Commissioner considers that section 35(1)(b) of FOISA relates to all aspects of the process of identifying, arresting or prosecuting those suspected of being responsible for criminal activity. Again, this term could refer to the apprehension or prosecution of specific offenders or to more general techniques (such as investigative processes and use of police intelligence).
19. There is no definition of “substantial prejudice” in FOISA, but the Commissioner considers the authority would have to identify harm of real and demonstrable significance, which would be likely, at least, to follow disclosure, and more than simply a remote possibility.
20. The exemptions in section 35(1)(a) and (b) are subject to the public interest test in section 2(1)(b) of FOISA.

The Applicant’s submissions

21. The Applicant explained that his request did not seek shift patterns, station-level deployments, operational tactics or any detail that would reveal officer movements. Instead, it asked only for the number of officers with defined training qualifications (and the number of officers, regardless of training, to aid comparison).
22. The Applicant said that this constituted information about overall capability rather than deployable resource levels. He considered that this level of information could not provide criminals with actionable intelligence.

¹ <https://www.foi.scot/sites/default/files/2022-04/BriefingSection35LawEnforcement.pdf>

23. The Applicant noted that the Authority already published “substantial area-level data including officer numbers, crime statistics, and performance indicators”. He did not believe that such disclosures undermined policing.
24. The Applicant also noted that the Authority released figures for both Scotland as a whole and for Highlands and Islands Division. If disclosure genuinely posed a threat to crime prevention or officer safety, he believed that disclosure at the divisional level would create the same risk and said that no rationale had been provided for why disaggregation to Orkney and Shetland would introduce any new harm.
25. The Applicant considered that this inconsistency suggested the risks asserted by the Authority were not linked to the nature of the data but to a generalised concern about releasing localised numbers. In his view, this was not sufficient to meet the threshold of “substantial prejudice”.
26. The Applicant noted that the refusal notice stated that disclosure “may” or “could” allow individuals to infer police presence or target officers. He said that no explanation was provided as to how knowing the number of specially trained officers in each area could realistically allow anyone to evade detection or pose a greater threat to staff.
27. The Applicant pointed to the Commissioner’s guidance, which consistently stated that vague or speculative assertions of harm were insufficient to engage the cited exemptions and that authorities must demonstrate a real, significant, and substantial likelihood of prejudice. In this case, he argued that no such demonstration had been made.
28. The Applicant also considered that residents of small communities had “clear practical familiarity with local police presence” and knowing whether certain officers held additional training would not “materially alter” that awareness.

The Authority’s submissions

29. The Authority submitted that disclosure of the withheld information would prejudice its ability to effectively police communities, which would directly lead on to a detriment to its ability to keep people safe from harm.
30. The Authority explained that police officer resources were split over three tiers – local, regional and national. This structure ensured a core complement of police officers dedicated to community and response policing, who could then draw in specialist expertise and resources from a regional and national level wherever and whenever required.
31. The Authority said that the model was “demand-led”, which enabled it to ensure that it had “the right people in the right place at the right time”. It explained that local police officer resources were the core complement of officers under the direction of the Divisional Commander and included community and response policing. However, these local police officer resources were supplemented by specialist resources at a regional and national level.
32. The Authority considered that disclosure of any breakdown more detailed than by policing division to be “inherently harmful”, hence the reason that all of its publications were to that level only.
33. The Authority noted that the withheld information comprised a detailed breakdown of the local police officer numbers for Orkney and Shetland (separately), as well as their related SOLO specialisms. It submitted that disclosure of this information would provide significant insight as to the baseline number of police officers who would be deployed in Orkney and Shetland at a particular time.

34. The Authority argued that disclosure of this information would be invaluable to individuals intent on committing crime or causing public disorder, as it amounted to highly credible intelligence based upon which individuals could plan, with some accuracy, the likely police response to their actions. It also said that it would provide significant insight into what level of disruption, for example, would be required to divert the majority of, or even all, available police resources in these areas.
35. The Authority considered that this would be particularly dangerous, as it would allow individuals the opportunity to effectively ensure that the majority of, if not all, the officers in a particular location at a particular time were engaged with one incident whilst a further, potentially far more serious, incident was created elsewhere.
36. Considering the vast area covered by Highlands and Islands Division, the Authority argued that the potential impact of such a disclosure was further heightened as inter-division redeployment of resource can take hours of traveling time. It submitted that disclosure of such information could only serve to put police officers and communities at increased risk of harm.
37. Taking all of the above into account, the Authority said that the safe level at which police officer numbers could be published had been carefully considered and assessed to be at divisional level. It said that disclosure of the withheld information (i.e. below divisional level) would lead to an increased risk of crime and disorder which, in turn, would have an impact on the safety of both police officers and members of the public.
38. The Authority also noted that, while the focus of the request in this case was on the Highlands and Islands Division, the same arguments applied to all parts of Scotland and decisions about disclosure are applied nationally for consistency.

The Commissioner's view on the exemption

39. The Commissioner has considered carefully the submissions from the Applicant and the Authority.
40. For some of the information – specifically, the total number of officers, regardless of training, in Orkney and Shetland (separately) – the Commissioner accepts, on balance, that disclosure would, or would be likely to, prejudice substantially the prevention or detection of crime and the apprehension or prosecution of offenders.
41. In particular, the Commissioner recognises that a confirmed headcount would provide significant and valuable intelligence about the Authority's resourcing and operational capability in these geographical areas. including the likely scale of response available for deployment in these areas at any particular time.
42. The Commissioner accepts that this information, if disclosed, could be used by those intent on committing crime or causing public disorder to plan the likely police response to their actions, thus prejudicing substantially, or being likely to prejudice substantially, the Authority's ability to prevent or detect crime and to apprehend or prosecute offenders.
43. The Commissioner therefore finds that the Authority was entitled to withhold the total number of officers, regardless of training, in Orkney and Shetland (separately) under the exemptions in section 35(1)(a) and (b) of FOISA.
44. However, for the total number of SOLO officers in Orkney and Shetland (separately), the Commissioner is not satisfied that the Authority has demonstrated that the substantial

prejudice required for the exemptions in section 35(1)(a) and (b) of FOISA to be engaged would result from disclosure of this information.

45. It is for the Authority to provide the required evidence of harm, not for the Commissioner to go out and find it or make the case on behalf of the Authority. In this case, the Authority's submissions do not describe the harm that would result from disclosure of the total number of SOLO officers in Orkney and Shetland (separately). Instead, they are focused – as described above – on the harm that would result from the disclosure of the total number of officers, regardless of training, in these areas.
46. The Commissioner does not accept that disclosure of the total number of SOLO officers in Orkney and Shetland (separately) would result in the same harm that he accepted would be caused by disclosure of the total number of officers, regardless of training, in these areas. This is because disclosure of the total number of SOLO officers in these areas would not result in disclosure of, or any indication of, the total number of officers, regardless of training, available to be deployed in these areas.
47. The Authority's submissions noted that local police officer resources were supplemented by specialist resources at a regional and national level. The Commissioner understands this to mean that if, for whatever reason, specialist resource (e.g. SOLO officers) was unavailable it would be drafted in from elsewhere, but that that the existing complement of local response policing officers would still, where required, respond in the first instance to reports of crime.
48. Taking the above into account, the Commissioner does not consider that disclosure of the number of SOLO officers would provide intelligence of any significance or value to those intent on committing sexual offences. This is because – unlike disclosure of the total number of officers, regardless of training – it would not reveal anything about the Authority's resourcing and operational capability in these geographical areas, including the likely scale of response available for deployment in these areas at any particular time.
49. In light of this, the Commissioner does not accept that disclosure of the total number of SOLO officers in these areas would, or would be likely to, prejudice substantially the prevention or detection of crime and the apprehension or prosecution of offenders.
50. Taking account of these circumstances – and in the absence of specific submissions from the Authority in relation to the harm that would specifically be caused by disclosure of the number of SOLO officers in these areas – the Commissioner does not accept that the Authority was entitled to withhold the total number of SOLO officers in Orkney and Shetland (separately) under the exemptions in section 35(1)(a) and (b) of FOISA.
51. As the Commissioner is satisfied that the exemptions in section 35(1)(a) and (b) apply to the total number of officers, regardless of training, in Orkney and Shetland (separately), he is required to consider the public interest test in section 2(1)(b) of FOISA in relation to this information.
52. As the Commissioner is satisfied that the exemptions in section 35(1)(a) and (b) do not apply to the total number of SOLO officers in Orkney and Shetland (separately), he is not required to consider the public interest test in section 2(1)(b) of FOISA in relation to this information. However, he will go on to consider later in his decision notice whether the Authority was entitled to withhold this information under the exemption in section 39(1) of FOISA.

Public interest test

53. As noted above, the exemptions in section 35(1)(a) and (b) are subject to the public interest test required by section 2(1)(b) of FOISA.
54. The "public interest" is not defined in FOISA but has been described as "something which is of serious concern and benefit to the public", not merely something of individual interest. The "public interest" does not mean "of interest to the public" but "in the interest of the public", i.e. disclosure must serve the interests of the public.

The Applicant's submissions on the public interest

55. The Commissioner will not repeat them here, but he has had regard to the Applicant's submissions on the application of the exemptions in section 35(1)(a) and (b) of FOISA to the extent they are also relevant to the public interest.
56. The Applicant concluded that the public interest favoured disclosure of the withheld information because it would:
 - Promote transparency in the handling of rape and serious sexual offences
 - Support victim confidence
 - Enable scrutiny of policing across Scotland
 - Inform public and policy debate on a matter of significant societal concern
 - Align with national priorities on tackling violence against women and girls
57. In conclusion, the Applicant believed that the data requested was "non-operational, high-level, and directly relevant to public accountability" and that the public interest in its release clearly outweighed the claimed exemptions.
58. The Applicant provided further specific submissions on the public interest in disclosure of the total number of SOLO officers in Orkney and Shetland (separately). The Commissioner has not included these submissions here as he is considering the public interest test in respect of the total number of officers, regardless of training, in Orkney and Shetland (separately).

The Authority's submissions on the public interest

59. The Authority accepted that significant public interest existed in the information sought as the public seek to be assured that public funds are being used effectively and that their communities are properly resourced.
60. However, the Authority considered it important that the published information regarding police officer numbers struck the appropriate balance between ensuring that the public are informed but also ensuring that the Authority can effectively enforce the law via the prevention and detection of crime and the apprehension or prosecution of offenders.
61. The Authority submitted that low-level information about resource deployment was of significant intelligence value in terms of the likely police response to any incident. It argued that it could not be in the public interest to disclose information that would lead to an increase in crime and disorder and/or make it more difficult for the Authority to deal with such events.
62. In all of the circumstances, the Authority considered that the public interest lay in favour of withholding the information sought when there is "any risk at all" that disclosure would lead to

parts of Scotland becoming more vulnerable, not only in terms of a major attack but also to lower-level crime and disorder.

The Commissioner's view on the public interest

63. The Commissioner has considered the submissions from both the Applicant and Authority in relation to where the balance of the public interest lies. As stated above, he is considering whether the public interest favours maintain the exemptions in section 35(1)(a) and (b) in respect of the total number of officers, regardless of training, in Orkney and Shetland (separately).
64. The Commissioner accepts that there is a public interest in the disclosure of the total number of officers, regardless of training, in Orkney and Shetland (separately). It is clear that disclosure of this information would provide openness and transparency and inform an understanding of, and allow scrutiny of, the policing resource in these areas.
65. However, a balancing exercise must be undertaken. The Commissioner has already found that disclosure of this information would, or would be likely to, prejudice substantially the Authority's ability to prevent or detect of crime and to apprehend or prosecute offenders. This means that he public interest arguments in favour of disclosure must be strong to outweigh the public interest in ensuring that these harms do not arise.
66. Having balanced the public interest for and against disclosure, the Commissioner has concluded that the arguments against disclosure should prevail in this particular case. While he has accepted that there is a public interest in the disclosure of the information in question, he is not persuaded that this interest is strong enough to outweigh the public interest in preventing the harms that he has found would, or would be likely to, result from disclosure.
67. The Commissioner is therefore satisfied that, in all the circumstances of the case, the public interest in maintaining the exemptions in section 35(1)(a) and (b) of FOISA outweighs that in disclosure of the total number of officers, regardless of training, in Orkney and Shetland (separately).
68. Consequently, the Commissioner finds that the Authority was entitled to withhold the total number of officers in Orkney and Shetland (separately) on the basis that this information was exempt information under section 35(1)(a) and (b) of FOISA.
69. As stated earlier, the Commissioner will now consider whether the exemption in section 39(1) of FOISA applies to the total number of SOLO officers in Orkney and Shetland (separately).
70. However, the Commissioner will not consider whether the Authority was also entitled to withhold under the exemption in section 39(1) of FOISA the total number of officers in Orkney and Shetland (separately) given he has found this information was properly withheld under the exemptions in sections 35(1)(a) and (b).

Section 39(1) – Health, safety and the environment

71. Section 39(1) of FOISA states that information is exempt information if its disclosure under FOISA would, or would be likely to, endanger the physical or mental health or the safety of an individual. This is a qualified exemption and is subject to the public interest test required by section 2(1)(b) of FOISA.

72. As the Commissioner notes in his [briefing on the exemption](#)², section 39(1) does not contain the usual harm test. Instead of the "substantial prejudice" test found in many other harm-based exemptions in Part 2 of FOISA, this exemption refers to the "endangerment" of health or safety.
73. The Commissioner's view is that the term "endanger" is broad enough to apply where there is a (direct or indirect) threat to the safety of a person which would foreseeably arise in the future, as well as immediate harm, since the exemption does not specify that any threat should be imminent before it applies. He believes that, for endangerment to be considered likely, however, there must be some well-founded apprehension of danger, such that the prospect of harm could reasonably be regarded as a distinct possibility.
74. The Commissioner's briefing on the exemption sets out that it may be a single individual whose health or safety is likely to be endangered by the disclosure of information or it may be a group of people.
75. The submissions provided by the Applicant and the Authority in relation to the exemptions in sections 35(1)(a) and (b) are also relevant to the exemption in section 39(1) of FOISA. The Commissioner will therefore not repeat these submissions, but he has fully taken them into account in what follows.

The Commissioner's view on the exemption

76. The remaining withheld information being considered under the exemption in section 39(1) of FOISA is the total number of SOLO officers in Orkney and Shetland (separately).
77. As noted above, the Authority's submissions do not describe the harm that would result from disclosure of the total number of SOLO officers in Orkney and Shetland (separately). Instead, they are focused – as described above – on the harm that would result from the disclosure of the total number of officers, regardless of training, in these areas. It is for the Authority to provide the required evidence of harm, not for the Commissioner to go out and find it or make the case on behalf of the Authority.
78. The central question when considering the application of the exemption in section 39(1) of FOISA in this case is whether disclosure under FOISA of the withheld information would, or would be likely to, endanger the physical or mental health or the safety of an individual.
79. For similar reasons to those set out in his consideration of the application of the exemptions in section 35(1)(a) and (b) of FOISA, the Commissioner does not accept that disclosure of the total number of SOLO officers in Orkney and Shetland (separately) would, or would be likely to, result in the harm required for the exemption in section 39(1) to be engaged.
80. The Commissioner has already found that disclosure of the total number of SOLO officers in Orkney and Shetland (separately) would not result in disclosure of, or any indication of, the total number of officers, regardless of training, available to be deployed in these areas.
81. In the circumstances, the Commissioner can identify no link between total number of SOLO officers in Orkney and Shetland (separately) specifically and the harm that the Authority has claimed would, or would be likely to, be caused either to police officers or to the general public in these areas by disclosure of this information.

² https://www.foi.scot/sites/default/files/2023-07/BriefingSection39HealthSafetyandtheEnvironment_2023.pdf

82. For the reasons set out, the Commissioner finds that disclosure would not be likely to endanger the physical or mental health or the safety of any person. He therefore finds that the exemption in section 39(1) of FOISA has been wrongly applied by the Authority to the total number of SOLO officers in Orkney and Shetland (separately).
83. Given that the Commissioner is satisfied that the exemption in section 39(1) of FOISA does not apply to the total number of SOLO officers in Orkney and Shetland (separately), he is not required to go on to consider the public interest test in section 2(1)(b).
84. The Commissioner therefore requires the Authority to disclose to the Applicant the total number of SOLO officers in Orkney and Shetland (separately).

Decision

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

The Commissioner finds that by relying on the exemptions in sections 35(1)(a) and (b) to withhold some information, the Authority complied with Part 1 of FOISA.

However, the Commissioner finds that by wrongly relying on the exemptions in sections 35(1)(a) and (b) and 39(1) to withhold other information, the Authority failed to comply with Part 1 (in particular, section 1(1)) of FOISA.

The Commissioner therefore requires the Authority to provide the Applicant with the wrongly withheld information, by 8 May 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

24 March 2026