



Scottish Information
Commissioner
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Practice Recommendation

001/2026

Recording of information about senior management restructuring

Public authority: Perth and Kinross Council

Case Ref: 202501540

Summary

This intervention recommends Perth and Kinross Council (the Authority) take certain steps to ensure that it is able to keep the records it needs for business, regulatory, legal and accountability purposes.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 43(1) and (8) (General functions of Commissioner); 44 (Recommendations as to good practice)

Background

1. On 20 June 2023, the Chief Executive of the Authority placed a report before the Finance and Resources Committee of Perth and Kinross Council. This report provided an update on the Authority's Leadership Review and set out the changes recommended by the Chief Executive to the executive arrangements and strategic leadership team structure. In placing this report before the committee, the Chief Executive sought approval to take the steps necessary to formally implement the revised structure. Prior to this, the first stage of Leadership Review, approved by the Authority in 2022, saw the removal of two Depute Director posts.
2. The 20 June 2023 report sought approval from the Authority for a reduction of the Executive Leadership Team from five posts to three posts. The report explained that extensive consultation with all affected individuals and trade unions had taken place prior to the proposal being put forward to Committee members in the report.
3. The proposal for the new Executive Leadership Team comprised of the existing post of Chief Officer, Health and Social Care Partnership and two new Director level posts; the first of these being Director of Economy, Place and Learning and the second being Director of Strategy, People and Resources.
4. The proposals put forward by the Chief Executive in his report were approved by the Committee on 20 June 2023.
5. On 2 August 2024, the Director of Economy, Place and Learning left the Authority by mutual consent and the post was removed.
6. On 24 September 2024, a requester asked the Authority for communications between the Executive Leadership Team regarding the removal of an individual from the post of Director of Economy, Place and Learning and the subsequent removal of the post itself.
7. Following an application on these matters, made to him under section 47(1) of FOISA, the Commissioner carried out an investigation and issued his findings on 27 June 2025 in Decision [165/2025](#).
8. The Commissioner accepted that the Authority had complied with the requirements of Decision 165/2025 on 10 September 2025.

9. Notwithstanding the Authority's compliance with the decision, on that same day (10 September 2025), the Commissioner opened a [Level 2 intervention](#) to assess the Authority's compliance with the Scottish Ministers' Code of Practice on Records Management By Scottish Public Authorities under the Freedom Of Information (Scotland) Act 2002 (the Section 61 Code¹). As part of this intervention, the Commissioner issued an Information Notice requiring the Authority to provide him with:
 - (i) A copy of the Authority's records management plan that was extant in January to September 2024
 - (ii) A copy of the Authority's current records management plan (if different to the above)
 - (iii) Any information held concerning the recording of decisions relating to the removal of the post of Director of Economy, Place and Learning.
10. The Authority responded to the Information Notice on 27 October 2025.
11. Section 3 of Part 1 of the Section 61 Code expects authorities to ensure they keep the records they will need for business, regulatory, legal and accountability purposes. Specifically, at section 3.2 in Part 1 of the Section 61 Code, authorities are expected to set business rules identifying matters including what records should be kept. There is further provision in the Code on the retention of such records. On 8 January 2026, the Commissioner asked the Authority to provide
 - (i) a copy of the Authority's business rules that were extant in the period January to September 2024,
 - (ii) a copy of the Authority's current business rules (if different to the above),
 - (iii) any other comments that the Authority would wish to make regarding Section 3 of Part 1 of the Section 61 Code, and
 - (iv) any comments the Authority might wish to make in relation to how it was achieving the aims set out in the policy statement of its Records Management Plan, which notes the Authority's intention to embrace both the letter and the spirit of the [Public Records \(Scotland\) Act 2011](#)² and other relevant standards.
12. The Authority responded to the Commissioner's request on 21 January 2026.
13. The Commissioner has considered all of the information and comments given to him by the Authority.

Specific areas of failure

14. The Commissioner is satisfied that the Authority has adequate rules and procedures in place to ensure the retention of records that are created.
15. However, the Commissioner has not been supplied with any evidence which demonstrates that the Authority has any rules or procedures to allow its employees, including the Senior Leadership Team, to identify what records should be kept, in line with the guidance in sections 3.1, 3.2 and 3.3 of the Section 61 Code.

¹ <https://www.gov.scot/publications/code-of-practice-on-records-management/>

² <https://www.legislation.gov.uk/asp/2011/12/contents>

16. In terms of section 44(1) of FOISA, the Commissioner may give a Scottish public authority a Practice Recommendation if it appears to him that the authority's practice in relation to the exercise of its functions under FOISA does not conform with the code of practice issued by the Scottish Ministers under section 60 or 61 of FOISA. In this case, the Commissioner is not satisfied that the Authority's practice has conformed with the Code of Practice issued under section 61 of FOISA in certain respects. The Section 61 Code has an important role to play in supplementing the provisions of, and allowing Scottish public authorities to fulfil their duties under, FOISA. With that in mind, the Commissioner must take any significant failure to follow the guidance in the Code seriously: the absence of basic tools required for effective record keeping must fall into that category. In all the circumstances, the Commissioner does not believe he can be satisfied that these matters have been addressed fully without further assurance from the Authority. He is therefore giving the Authority this practice recommendation, with a view to securing that assurance.
17. As required by section 44(2) of FOISA, the Commissioner will now set out which specific provisions of the Section 61 Code he believes are not being conformed with and (under "Action Sought") the steps he considers the Authority ought to take in order to conform. In his view, the following areas of good practice in Part 1 of the Section 61 Code should be addressed by the Authority, with regard to deciding what records should be kept to meet corporate requirements (Section 3):
 - (i) Section 3.1(b) – The need to refer to authoritative information about past actions and decisions for current business purposes.
 - (ii) Section 3.1(d) – The need to explain, and if necessary justify, past actions in the event of an audit, public inquiry or other investigation.
 - (iii) Section 3.2(a) – Authorities should set business rules, identifying matters including what records should be kept, by whom and what those records should contain.

Commissioner's further comments

18. Regardless of the obligations of the Section 61 code and the Authority's failure to fully align its policies to those, the Commissioner remains perplexed as to why senior managers did not consider it appropriate to record such a significant structural and financial decision. It is not, however, his role to investigate or even speculate on the reasons for that.
19. In the course of his investigations, the Commissioner has, as is required, consulted with the Keeper of the Records of Scotland. The Keeper supports the Commissioner's recommendation on the steps the Authority ought to take in order to conform with the good records management practice set out in the Section 61 code.

Action sought

The Authority is recommended to ensure that it makes adequate provision for keeping the records it needs for business, regulatory, legal and accountability purposes.

In doing so, the Authority should set business rules in accordance with the good practice guidance in Section 3.2, subsections (a) to (e), and to ensure that all staff, including senior managers, are adequately trained in understanding and applying those rules.

The Authority is asked to report back to the Commissioner, with a copy of the business rules, details of the training provided and evidence that it has been provided to all relevant staff (including senior managers), by **08 July 2026**.



David Hamilton
Scottish Information Commissioner

08 April 2026

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews, Fife
KY16 9DS

t 01334 464610

enquiries@foi.scot

www.foi.scot