



Scottish Information
Commissioner
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Decision Notice 016/2026

Details relating to an all-staff meeting

Applicant: Anonymous
Authority: University of Aberdeen
Case Ref: 202500756

Summary

The Applicant asked the Authority for information relating to a specific all-staff meeting of the Authority. The Authority provided information in response to part of the Applicant's request, but it withheld the recording of the meeting on the grounds that disclosure would breach the data protection principles and would, or would be likely to, endanger the mental or physical health or the safety of individuals. The Commissioner investigated and found that the Authority had failed to fully comply with FOISA in responding to the Applicant's request. He required the Authority to disclose certain information to the Applicant.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); 2(1)(a) and (2)(e)(ii) (Effect of exemptions); 38(1)(b), (2A) and (5) (definitions of "data protection principles", "data subject", "personal data" and "processing") and (5A) (Personal information); 39(1) (Health, safety and the environment); 47(1) and (2) (Application for decision by Commissioner).

United Kingdom General Data Protection Regulation (the UK GDPR) Articles 5(1)(a) (Principles relating to processing of personal data) and 6(1)(f) (Lawfulness of processing).

Data Protection Act 2018 (the DPA 2018) sections 3(2), (3), 4(d), (5), (10) and (14)(a), (c) and (d) (Terms relating to the processing of personal data).

Background

1. On 27 February 2025, the Applicant made a request for information to the Authority in relation to an incident at a staff meeting as reported in [a specified article published by the Herald¹](#) in February 2025. Among other things, he asked for:
...
 - (e) The question asked by the member of staff
 - (f) The response to the question by the Principal of the Authority
 - (g) Subsequent discussion and exchanges during the meeting related to, or arising from, the aforementioned question/response
 - (h) The procedures, processes, clauses and agreements (or equivalent) (i) applied (ii) considered to be applied (iii) falling due to be applied under good governance, in response to complaints made about or otherwise arising from the incident.
2. By way of background, the article published by the Herald included a reference to an academic having asked a question about Authority management that the Principal had “reacted angrily” to.
3. While it acknowledged receipt of the request, the Authority did not respond to the Applicant’s information request.
4. On 31 March 2025, the Applicant wrote to the Authority requiring a review in respect of its failure to respond.
5. The Authority notified the Applicant of the outcome of its review on 28 April 2025, in the following terms:
 - for parts (e), (f) and (g) of the request, it withheld the information requested under the exemption in section 38(1)(b) of FOISA
 - for part (h) of the request, it explained that its Complaints Handling Procedure (CHP) “can be used for any situation and is available to any individual to use” should they wish to make a complaint about any event. It provided a link to the CHP and attached a copy of it to its response.
6. On 12 May 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 review because:
 - for parts (e), (f) and (g) of his request, he disagreed that the exemption in section 38(1)(b) of FOISA applied
 - for part (h) of his request, he did not consider that the information provided by the Authority properly addressed this part of his request.

¹ <https://www.heraldscotland.com/news/24937603.aberdeen-uni-staff-speak-bullying-claims/>

Investigation

7. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.
8. On 28 May 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.
9. 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 justification for applying the exemption in section 38(1)(b) to withhold information for parts (e), (f) and (g) of the Applicant's request and its handling of part (h) of his request.
10. During the investigation, the Authority confirmed that it wished to additionally rely on the exemption in section 39(1) of FOISA to withhold the information it had withheld under the exemption in section 38(1)(b) (i.e. for parts (e), (f) and (g) of the Applicant's request).

Commissioner's analysis and findings

11. The Commissioner has considered all of the submissions made to him by the Applicant and the Authority.
12. As stated in previous decisions, in [Scottish Ministers v Scottish Information Commissioner \[2006\] CSIH 8](#)², at paragraph [18], the Court of Session recognised that:

"in giving reasons for his decision, [the Commissioner] is necessarily restrained by the need to avoid, deliberately or accidentally, disclosing information which ought not to be disclosed."
13. In this decision notice, the Commissioner has endeavoured to give as full account of his reasoning as he can, but, by necessity, in this case the comments of the Court of Session are applicable to some aspects.

Further background to the request

14. The Authority's submissions to the Commissioner included further background information to the all-staff meeting referred to in the Applicant's request. In the circumstances, the Commissioner considers it appropriate to summarise elements of that submission to provide context to the request.
15. On 6 February 2025, the Authority's Senior Management Team held an all-staff meeting. Staff were able to attend in person or online – 559 attended in total (70 in person and 489 online). The session was via "Microsoft Town Hall functionality" and was recorded, with an automated transcript generated.
16. Media articles were subsequently published (including, as stated above, by the Herald) relating to aspects of the question-and-answer (Q&A) session of the all-staff meeting.

² <https://webarchive.nrscotland.gov.uk/20240713015729/https://scotcourts.gov.uk/search-judgments/judgment?id=a94886a6-8980-69d2-b500-ff0000d74aa7>

However, the content of the Q&A session was not disclosed via the media. (As stated above, the Herald reported that the Principal had “reacted angrily” to a question from an academic.)

17. The Authority provided the Commissioner with a copy of a statement issued by the Principal to all staff the day after the all-staff meeting where he apologised “unreservedly” that his response to one of the questions in the Q&A session was inappropriate and said that he had since written to the colleague concerned to “apologise formally” for this. He also apologised to all staff for this “lapse in the standard of interaction” that all staff have a right to expect.

Section 38(1)(b) – Third party personal information

18. As stated above, the Authority withheld the information requested for parts (e), (f) and (g) of the Applicant’s request under the exemption in section 38(1)(b) of FOISA.
19. Section 38(1)(b) of FOISA, read in conjunction with section 38(2A)(a) or (b), exempts information from disclosure if it is “personal data” (as defined in section 3(2) of the DPA 2018) and its disclosure would contravene one or more of the data protection principles set out in Article 5(1) of the UK GDPR or (where relevant) in the DPA 2018.
20. The exemption in section 38(1)(b) of FOISA, applied on the basis set out in the preceding paragraph, is an absolute exemption. This means that it is not subject to the public interest test contained in section 2(1)(b) of FOISA
21. To rely on this exemption, the Authority must show that the information withheld is personal data for the purposes of the DPA 2018 and that disclosure of the information into the public domain (which is the effect of disclosure under FOISA) would contravene one or more of the data protection principles to be found in Article 5(1) of the UK GDPR.
22. The Commissioner must decide whether the Authority was correct to withhold the information requested under section 38(1)(b) of FOISA.

Is the withheld information personal data?

23. The first question that the Commissioner must address is whether the specific information withheld information by the Authority is personal data for the purposes of section 3(2) of the DPA 2018 (i.e. any information relating to an identified or identifiable living individual).
24. Section 3(3) of the DPA 2018 defines "identifiable living individual" as a living individual who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, or an online identifier, or one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.
25. Information will "relate to" a person if it is about them, linked to them, has biographical significance for them, is used to inform decisions affecting them, or has them as its main focus. An individual is "identified" or "identifiable" if it is possible to distinguish them from other individuals.
26. The Authority explained that the withheld information comprised questions, comments or answers provided by identifiable individuals, namely the Principal and other members of staff (whose identities were known to the majority of those in attendance at the all-staff meeting).
27. Having considered the Authority’s submissions and the withheld information, the Commissioner accepts that the withheld information (i.e. relevant sections of the recording of the meeting) contains personal data. This is because it relates to identified or identifiable individuals in that it contains images and voices of individuals (including their names and

opinions). He is therefore satisfied that the information is personal data in terms of section 3(2) of the DPA 2018.

Would disclosure contravene one or more of the data protection principles?

28. The Authority argued that disclosure would breach the data protection principle in Article 5(1)(a) of the UK GDPR. Article 5(1)(a) states that personal data shall be processed “lawfully, fairly and in a transparent manner in relation to the data subject.”
29. "Processing" of personal data is defined in section 3(4) of the DPA 2018. It includes (section 3(4)(d)) disclosure by transmission, dissemination or otherwise making available personal data. The definition therefore covers disclosing information into the public domain in response to a FOISA request.
30. The Commissioner must consider whether disclosure of the personal data would be lawful. In considering lawfulness, he must consider whether any of the conditions in Article 6 of the UK GDPR would allow the data to be disclosed.
31. The Commissioner considers that condition (f) in Article 6(1) of the UK GDPR is the only condition which could potentially apply in the circumstances of this case.

Article 6(1)(f) of the UK GDPR – legitimate interests

32. Condition (f) in Article 6(1) of the UK GDPR states that processing shall be lawful if it:
“...is necessary for the purposes of legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data...”
33. Although Article 6 states that this condition cannot apply to processing carried out by a public authority in the performance of their tasks, section 38(5A) of FOISA makes it clear that public authorities can rely on Article 6(1)(f) when responding to requests under FOISA.
34. The three tests which must be met before Article 6(1)(f) can be relied on are as follows (see paragraph 18 of [South Lanarkshire Council v Scottish Information Commissioner \[2013\] UKSC 55](#)³):
 - (i) does the Applicant have a legitimate interest in the personal data?
 - (ii) if so, would the disclosure of the personal data be necessary to achieve that legitimate interest?
 - (iii) even if the processing would be necessary to achieve the legitimate interest, would that be overridden by the interests or fundamental rights and freedoms of the data subjects which require protection of personal data?

Does the Applicant have a legitimate interest in obtaining the information?

35. The Applicant referred to the specific extracts from the aforementioned article in The Herald, including:
 - “[The Principal] reacted angrily and questioned the academic’s competence, according to multiple sources.”

³ <https://www.supremecourt.uk/cases/uksc-2012-0126>

- “One staff member said: ‘During the survey meeting, the Principal publicly bullied a staff member by questioning their professionalism.’”
 - “The interaction was seen by around 600 members of staff in the session, with three colleagues intervening on [their] behalf in the session and numerous making direct complaints about it afterwards.”
36. The Applicant submitted that the Principal – by nature of his public profile, senior role and remuneration package – should reasonably be expected to be held to account for his actions in office, particularly given the extensive public funding granted to universities in Scotland.
 37. The Applicant argued that his request sought greater transparency over the possible failings of the Authority (which he described) and that it was perfectly reasonable for him to exercise his right of access to the information requested (which he said had no direct bearing on himself, but was of wider public interest) with the intention of making public bodies more transparent and accountable.
 38. The Authority explained that it understood that the Applicant believed that disclosure of the withheld information would increase accountability and transparency in matters pertaining to the Principal and that he believed this was in the public interest. However, it noted that it had not received any other FOI requests for a copy of the recording (or associated information). Given the media reporting, it suggested it was unusual, should a wider public interest exist, for it not to have received other FOI requests.
 39. In the circumstances, the Authority concluded that a legitimate interest “of wider public interest” had not been demonstrated.
 40. The Commissioner has carefully considered the submissions from both the Authority and the Applicant, together with the subject matter of the request. Having done so, he is satisfied that the Applicant has a legitimate interest in understanding precisely what was said at the all-staff meeting that led to the Principal issuing an unreserved apology to all staff members for his lapse in behaviour.

Is disclosure necessary to achieve the Applicant’s legitimate interest?

41. Having accepted that the Applicant has a legitimate interest in the personal data, the Commissioner must consider whether disclosure of the personal data would be necessary to meet the Applicant’s legitimate interests.
42. Here, “necessary” means “reasonably” rather than absolutely or strictly necessary. The Commissioner must therefore consider whether the disclosure is proportionate as a means and fairly balanced as to the aims to be achieved, or whether the Applicant’s legitimate interests can be met by means which interfere less with the privacy of the data subjects.
43. The Authority noted that, to ensure accountability and transparency of his actions, the Principal had issued an unreserved apology to all staff members the day after the meeting, acknowledging his lapse in behaviour. It submitted that the Applicant’s stated interest in accountability and transparency in the failings of the Authority had been met by the Principal’s apology, which was directed to the appropriate audience – namely, the staff at the Authority.
44. The Commissioner accepts that disclosure of the personal data is necessary to achieve the Applicant’s legitimate interest. He can identify no viable means of fully meeting the Applicant’s legitimate interest which would interfere less with the privacy of the data subject

than disclosing the withheld information. In all of the circumstances, therefore, the Commissioner is satisfied that disclosure of the information is necessary for the purposes of the Applicant's legitimate interest.

45. The Commissioner will now consider whether the Applicant's legitimate interest in obtaining the withheld information outweighs the rights and freedoms of the data subjects.

Interests and fundamental freedoms of the data subjects

46. The Commissioner must balance the legitimate interests in disclosure of the information, against the data subjects' interests or fundamental rights and freedoms. In doing so, it is necessary for him to consider the impact of such a disclosure.
47. For example, if a data subject would not reasonably expect that the information would be disclosed to the public under FOISA in response to the request, or if such disclosure would cause unjustified harm, their interests or rights are likely to override any legitimate interests in disclosure. Only if the legitimate interests of the Applicant outweighed those of the data subjects could the information be disclosed without breaching the first data protection principle.
48. [The Commissioner's guidance](#)⁴ on section 38 of FOISA notes factors that should be taken into account in balancing the interests of parties. He notes that Recital (47) of the General Data Protection Regulation states that much will depend on the reasonable expectations of the data subjects. These are some of the factors public authorities should consider:
- (i) Does the information relate to an individual's public life (their work as a public official or employee) or to their private life (their home, family, social life or finances)?
 - (ii) Has the individual has objected to the disclosure?
 - (iii) Would the disclosure cause harm or distress?
49. The Commissioner considers there to be two types of personal information that has been withheld under section 38(1)(b) of FOISA: that relating to the Principal (namely, his comments) and that relating to other employees of the Authority (namely, their identities and their comments). He will consider both types of information in turn.
50. The Authority provided submissions explaining why it considered that the exemption in section 38(1)(b) of FOISA applied to the personal information of both the Principal and other employees of the Authority. The Commissioner is unable to reproduce or summarise those submissions fully, within this decision notice, without breaching the obligation of confidentiality in section 45 of FOISA. However, the Authority submitted that the Applicant's legitimate interest would be overridden by the fundamental rights and freedoms and legitimate interests of the data subjects.

Employees of the Authority other than the Principal

51. While the questions were asked in an all-staff meeting convened by the Authority (attended by 559 employees), the Commissioner is not satisfied that the speakers who asked questions could reasonably have expected their identities to be disclosed into the wider public domain under FOISA.

⁴ [https://www.foi.scot/sites/default/files/2025-04/FOISA Exemption Guidance Section 38 Personal Information v04 CURRENT ISSUE Access Checked.pdf](https://www.foi.scot/sites/default/files/2025-04/FOISA%20Exemption%20Guidance%20Section%2038%20Personal%20Information%20v04%20CURRENT%20ISSUE%20Access%20Checked.pdf)

52. While any employee is junior relative to the Principal, the Commissioner considers it relevant that the individuals in question do not appear to occupy roles involving public-facing seniority (e.g. like members of the Authority's Senior Management Team do).
53. In view of the difference in seniority between the speakers who asked questions and the Principal, and the fact that they were speaking in a forum in which they are expected to be able to express themselves frankly, the Commissioner considers that disclosure of their personally identifying data would carry a real risk of causing detriment, to the extent that the Applicant's legitimate interest would be outweighed by any unwarranted prejudice that would result to the rights and freedoms and legitimate interests of these data subjects.
54. The Commissioner has carefully balanced the legitimate interests of the Applicant against the interests or fundamental rights and freedoms of the data subjects in question (i.e. the speakers other than the Principal). Having done so, he finds that the legitimate interests served by disclosure of personally identifying data of these data subjects would not be outweighed by any unwarranted prejudice that would result to their rights and freedoms and legitimate interests.
55. However, the Commissioner considers it important to distinguish between personally identifying data and the content of the questions themselves. Once the questions asked by the speakers are redacted of personally identifying data (e.g. names and departments), the impact on the data subjects is necessarily significantly reduced (to the extent, in the Commissioner's view, that the information would cease to be their personal data), while the legitimate interest in transparency can still be met to a substantial extent through disclosure of the remaining content of the questions.
56. The Commissioner also notes that the withheld information is held in the form of a video recording. Disclosure of the information in this form (or in audio form) would, even if redactions were made to personally identifying data, materially increase the risk of identification of the speakers. In the circumstances, he considers provision of a written transcript (with appropriate redactions) to be a proportionate means of disclosing information to which the exemption in section 38(1)(b) of FOISA does not apply (that is, to the content of the questions asked by the speakers, once redacted of personally identifying data).
57. In the circumstances of this particular case, the Commissioner finds that condition (f) in Article 6(1) of the UK GDPR cannot be met in relation to personally identifying data (e.g. names and departments) of the employees other than the Principal and that disclosure of this information would be unlawful.
58. Given that the Commissioner has concluded that the processing of this personally identifying data would be unlawful, he is not required to go on to consider whether disclosure of this personal data would otherwise be fair and transparent in relation to the data subjects.
59. The Commissioner is satisfied, in the absence of a condition in Article 6 of the UK GDPR which would allow this personally identifying data to be disclosed, that disclosure would be unlawful. This personally identifying data is therefore exempt from disclosure under section 38(1)(b) of FOISA.

The Principal

60. The Commissioner notes that the withheld personal data of the Principal relates to him when speaking in his capacity to an all-staff meeting as the Authority's senior office-holder. In that context, the Commissioner considers that the Principal would reasonably expect his

responses to be open to scrutiny through disclosure into the wider public domain under FOISA.

61. However, the Commissioner has considered the harm or distress that might be caused by disclosure of the information. As stated above, disclosure, under FOISA, is a public disclosure. He has taken this into account when reaching his decision.
62. While the Commissioner cannot reproduce in his decision notice the specific reasons cited by the Authority without potentially breaching section 45 of FOISA, he has carefully considered these reasons.
63. The Commissioner considers it reasonable for those in senior positions (like the Principal) to expect to be subject to enhanced scrutiny. In his view, the Principal cannot have much of an expectation of privacy when addressing (potentially, at least) the entire workforce. He also notes that the fact the Principal made comments in the all-staff meeting for which he issued an unreserved apology is a matter of public record, having been reported in the media.
64. While disclosure of his personal data may bring back to the fore matters of regret (for which he apologised) for the Principal, the Commissioner does not consider that this would amount to unwarranted prejudice to the rights and freedoms and legitimate interests of the Principal. (In this respect, the Commissioner notes that the Authority has [published an article](#)⁵ on its website – brought to his attention by the Applicant – where it acknowledges that information must routinely be disclosed under FOISA, “even if it causes embarrassment for those involved”.)
65. In view of the factors set out above, the Commissioner finds, having carefully balanced the legitimate interests of the Applicant against the interests or fundamental rights and freedoms of the Principal, that the legitimate interests served by disclosure of the personal data would not be outweighed by any unwarranted prejudice that would result to the rights and freedoms and legitimate interests of the data subject.
66. In the circumstances of this particular case, the Commissioner finds that condition (f) in Article 6(1) of the UK GDPR can be met in relation to the withheld personal data of the Principal.
67. However, the Commissioner notes that the Principal’s responses, at times, reveal the identities of the speakers who asked questions. To the extent that this occurs, the Commissioner accepts that limited redactions should be made where (and only where) the content of the Principal’s response would identify the speaker.
68. As stated above, the Commissioner considers that provision of a written transcript (with appropriate redactions) to be a proportionate means of disclosing information to which the exemption in section 38(1)(b) of FOISA does not apply.

Fairness

69. The Commissioner must also consider whether disclosure of the Principal’s personal data would be fair. He finds, for the same reasons as he finds that condition (f) in Article 6(1) can be met, that disclosure of the Principal’s personal data would (subject to the qualification set out in paragraph 67) be fair.

⁵ <https://www.abdn.ac.uk/staffnet/news-events/news/24555/>

Conclusion on the data protection principles

70. Having carefully balanced the legitimate interests of the Applicant against the interests or fundamental rights or freedoms of the data subject, the Commissioner finds that the legitimate interests of the Applicant served by disclosure of the Principal's personal data (subject to the qualification set out in paragraph 67) outweigh any unwarranted prejudice that would result to the rights and freedoms and legitimate interests of the data subject. The Commissioner's conclusions in respect of the personal data of other employees (and what can be disclosed from a transcript of their questions without disclosing personal data) are set out at paragraphs 51 to 59 above).
71. As stated above, the Authority said that it wished to additionally rely on the exemption in section 39(1) of FOISA for the information withheld for parts (e), (f) and (g) of the Applicant's request. The Commissioner will therefore consider whether the exemption in section 39(1) of FOISA applies to the information he has found the Authority was not entitled to withhold under the exemption in section 38(1)(b).

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

72. 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.
73. As the Commissioner notes in [his briefing](#)⁶ on this exemption, section 39(1) of FOISA 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. The endangerment must be at least likely for the exemption to apply: there would need to be, at least, a significant probability of it occurring as a result of disclosure.

The Authority's submissions

74. The Authority provided submissions explaining why it considered that the exemption in section 39(1) of FOISA applied to the information withheld for parts (e), (f) and (g) of the Applicant's request. Again, the Commissioner is unable to reproduce or summarise those submissions fully, within this decision notice, without breaching the obligation of confidentiality in section 45 of FOISA. However, the Authority submitted that disclosure of the information in question would, or would be likely to, endanger the physical or mental health or safety of certain individuals.

The Commissioner's view

75. The Commissioner has carefully considered the Authority's submissions, together with the withheld information. While he cannot reproduce in his decision notice the specific reasons cited by the Authority without potentially breaching section 45 of FOISA, he has carefully considered these reasons.
76. The Commissioner again acknowledges that disclosure of this information may bring back to the fore matters of regret (for which he apologised) for the Principal or unwelcome memories for the other speakers. However, he does not consider that this would, or would be likely to, be at the level of causing real distress or harm to health.

⁶ [BriefingSection39HealthSafetyandtheEnvironment_2023.pdf](#)

77. As stated above, the Commissioner considers it reasonable for those in senior positions (like the Principal) to expect to be subject to enhanced scrutiny. He also considers that any impact to the other speakers will be minimised through the redactions to personally identifying information that he has already accepted can be made under the exemption in section 38(1)(b) of FOISA.
78. The Commissioner has taken the Authority's submissions seriously, but he is not persuaded that the Authority has established that the necessary harm required for the exemption in section 39(1) of FOISA to be engaged, nor does he consider that exemption was intended to act as a shield to prevent the disclosure of unwelcome information (particularly when it relates to senior employees of public authorities).
79. In all of the circumstances, including that the fact that the Principal issued an unreserved apology for his lapse in behaviour is a matter of public record, the Commissioner finds that the exemption in section 39(1) of FOISA has been wrongly applied by the Authority.

The Authority's interpretation of part (h) of the request

80. 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 (6) of FOISA, allow Scottish public authorities to withhold information or charge a fee for it. The qualifications contained in 1(6) are not applicable in this case.
81. 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
82. In relation to an incident at a staff meeting as reported in a specified article published by the Herald in February 2025, part (h) of the Applicant's request sought the following information:
- (h) The procedures, processes, clauses and agreements (or equivalent) (i) applied (ii) considered to be applied (iii) falling due to be applied under good governance, in response to complaints made about or otherwise arising from the incident.

The Applicant's submissions

83. While the Authority provided a response to part (h) of his request, the Applicant did not consider it had provided the actual information requested.
84. The Applicant explained that he considered the behaviour of the Principal at the all-staff meeting (as described in the Herald article) would typically constitute misconduct and that a reasonable employer would be expected to follow relevant processes and procedures for disciplinary matters "consistently and irrespective of seniority". Despite this, he noted that the Authority's response to part (h) of his request did little more than signpost him to an already publicly complaints procedure.

The Authority's submissions

85. The Authority explained that it considered the focus of part (h) of the Applicant's request was on what procedures, processes, clauses and agreements were applied to complaints. It said that it did not consider that this part of the request asked for complaints held and that it did not seek clarification of the request as this interpretation seemed clear.

The Commissioner's view

86. The Commissioner has carefully considered the terms of part (h) of the Applicant's request. While he understands the nature of information the Applicant is interested in, he does not consider part (h) to be worded particularly clearly. In the circumstances, while he acknowledges the existence of alternative interpretations, he does not consider the Authority's interpretation to be unreasonable or wrong.
87. Had the Authority sought clarification of this part of the request (or had it not failed to provide an initial response to the request the Commissioner considers it likely that it would have provided the Applicant with a more satisfactory response. It is open to the Applicant to make a new, clarified request to the Authority in this regard if he so wishes.
88. In the circumstances, the Commissioner finds that the Authority complied with Part 1 of FOISA in responding to part (h) of the Applicant's request.

Decision

The Commissioner finds that the Authority partially failed to comply 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 the Authority was entitled to withhold certain information under the exemption in section 38(1)(b) of FOISA. Specifically, information that would identify the speakers other than the Principal.

However, the Commissioner finds that the Authority was not entitled to withhold other information under the exemptions in sections 38(1)(b) and 39(1) of FOISA. Specifically, the content of questions from speakers (except for information that would identify them) and the content of the Principal's responses (except for information that would identify the speakers other than him). By doing so, the Authority failed to comply with section 1(1) of FOISA.

The Commissioner therefore requires the Authority to disclose to the Applicant a written transcript of the information it was not entitled to withhold under the exemptions in sections 38(1)(b) and 39(1) of FOISA (he will identify the information he considers can be withheld to prevent identification), by **22 March 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

5 February 2026