



Scottish Information
Commissioner
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Decision Notice 065/2026

Data Protection Impact Assessment and Transfer Impact Assessment relating to the Seesaw application – failure to respond

Authority: West Lothian Council
Case Ref: 202600043

Summary

The Applicant asked the Authority for information about any Data Protection Impact Assessment and Transfer Impact Assessment relating to the Seesaw application. The decision finds that the Authority failed to comply with the Applicant's requirement for review within the timescale set down by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

1. The Applicant made an information request to the Authority on 18 September 2025.
2. The Authority responded to the information request on 13 October 2025.
3. On 17 October 2025, the Applicant wrote to the Authority requiring a review of its decision.
4. The Applicant did not receive a response to her requirement for review.
5. The Applicant wrote to the Commissioner on 7 January 2026, stating that she was dissatisfied with the Authority's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
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.

Investigation

7. Section 49(3)(a) of FOISA requires the Commissioner to notify public authorities of an application and to give them an opportunity to comment. The Commissioner did this on 11 March 2026.
8. The Authority did not provide the Commissioner with submissions in response to this request.
9. However, at an earlier stage, the Authority confirmed to the Commissioner that it had received the Applicant's requirement for review but that it had not been identified or progressed appropriately. It said that it had now commenced the review process and that it would provide a copy of the review response to the Commissioner when it was issued to the Applicant.
10. While the Authority stated that it would issue a review response to the Applicant, it has not provided the Commissioner with evidence that, as at the date of this decision, it has done so.
11. Section 21(1) of FOISA gives Scottish public authorities a maximum of 20 working days following the date of receipt of the requirement to comply with a requirement for review. This is subject to qualifications which are not relevant in this case.
12. It is a matter of fact that the Authority did not provide a response to the Applicant's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
13. The remainder of section 21 of FOISA sets out the requirements to be followed by a Scottish public authority in carrying out a review. As no review has been carried out in this case, the Commissioner finds that the Authority failed to discharge these requirements: he now requires a review to be carried out in accordance with section 21.
14. The Commissioner recommends that the Authority considers whether it would be appropriate to apologise to the Applicant for its failure to comply.

Decision

The Commissioner finds that the Authority failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in dealing with the information request made by the Applicant. In particular, the Authority failed to respond to the Applicant's requirement for review within the timescales laid down by section 21(1) of FOISA. The Commissioner requires the Authority to provide a review response, by **28 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.

Cal Richardson
Deputy Head of Enforcement

13 April 2026