



Scottish Information  
Commissioner  
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# Decision Notice 085/2026

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## Council Tax recovery – failure to respond

Authority: West Lothian Council

Case Ref: 202600212

### Summary

The Applicant asked the Authority for information relating to the recovery of Council Tax. This decision finds that the Authority failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that the Authority failed to comply with the Applicant's requirement for review within the timescale set down by FOISA.

### Background

1. The Applicant made an information request to the Authority on 23 November 2025.
2. On the same day, the Authority acknowledged receipt of the Applicant's information request. However, it did not respond to the information request.
3. On 29 December 2025, the Applicant wrote to the Authority requiring a review in respect of its failure to respond.
4. The Authority provided a response to the Applicant's requirement for review on 26 January 2026. This response upheld the Authority's failure to respond to the Applicant's request within statutory timescales and advised the Applicant of their right of application to the Commissioner. However, the Authority did not respond to the content of Applicant's information request, instead providing a timescale for disclosure of relevant information (which it subsequently did not do).

5. On 4 February 2026, the Applicant wrote to the Commissioner, stating that they were 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 4 March 2026 and again on 20 April 2026.
8. The Authority did not provide the Commissioner with any submissions.

### **Section 10(1) of FOISA**

9. Section 10(1) of FOISA gives Scottish public authorities a maximum of 20 working days following the date of receipt of the request to comply with a request for information. This is subject to qualifications which are not relevant in this case.
10. It is a matter of fact that the Authority did not provide a response to the Applicant's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.

### **Section 21(1) of FOISA**

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. Again, this is subject to qualifications which are not relevant in this case.
12. In this case, while the Authority issued a response to the Applicant's requirement for review in which it "upheld" its failure to respond to their information request, and provided therein the Applicant's right of application to the Commissioner in terms of section 21(10) of FOISA, the Commissioner would note that section 21(4)(c) of FOISA requires authorities to "reach a decision, where the complaint is that no decision has been reached" "... **as respects the request for information to which the requirement [for review] relates.**". **[Emphasis added]**.
13. The Commissioner considers that the Authority's response of 26 January 2026, which was issued as a review response, did not comprise a review response for the purposes of section 21(1) of FOISA on the basis that it failed to reach a decision in **respect of the information originally requested by the Applicant** in terms of section 21(4)(c). In short, the Commissioner considers that a review response finding a technical failure in respect of statutory timescales, but which does not itself address the information originally requested, cannot comprise a satisfactory review outcome in terms of section 21 of FOISA. **[Emphasis added]**.
14. It is therefore 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.
15. The remainder of section 21 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.

16. 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 request for information and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA.

The Commissioner requires the Authority to issue a response, by **12 June 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.

**Jill Walker**  
**Deputy Head of Enforcement**

**28 April 2026**