



Scottish Information  
Commissioner  
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# Decision Notice 086/2026

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## Information relating to surveillance – failure to respond

Authority: Highland Council  
Case Ref: 202600157

### Summary

The Applicant asked the Authority for information relating to IPCO (Investigatory Powers Commissioner's Office) reports and RIPSAs (Regulation of Investigatory Powers (Scotland) Act 2000) training. 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 18 November 2025.
2. On the same day, the Authority acknowledged the Applicant's information request. However, it did not respond to the information request.
3. On 18 December 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 her requirement for review.
5. On 22 January 2026, the Applicant wrote to the Commissioner, 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 February 2026.
8. The Commissioner received submissions from the Authority. These submissions are considered below.
9. The Authority stated that it had no comment to make on its handling of this particular request, and it referred the Commissioner to submissions provided previously regarding the volume of statutory requests it had received. The Authority submitted that it was operating in an environment where local authorities were working with reduced resources and staff recruitment difficulties.
10. The Authority further explained that the Applicant corresponded with the Authority through various channels, in addition to submitting numerous requests for information, which had occupied a significant amount of officials' time over the previous year.
11. 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.
12. 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.
13. 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.
14. 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.
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 notes the Authority's comments on the pressures it was experiencing at the time it received the request. He would remind authorities that under paragraph 1.1.1 of the Scottish Ministers' Code of Practice on the discharge of functions by Scottish public authorities under FOISA and the Environmental Information (Scotland) Regulations 2004 ([the Section 60 Code](#)<sup>1</sup>), FOI should be recognised as a specific statutory corporate function within an authority. As such, it should receive the necessary levels of organisational support at both strategic and operational levels, as well as sufficient resource, to ensure compliance with Scotland's access to information regimes.

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<sup>1</sup> <https://www.gov.scot/publications/foi-eir-section-60-code-practice/>

17. 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.

**Jennifer Ross**  
**Deputy Head of Enforcement**

**28 April 2026**