



Scottish Information  
Commissioner  
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# Decision Notice 092/2026

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## Consultations – failure to respond

Applicant: Anonymous

Authority: East Dunbartonshire Council

Case Ref: 202502113

### Summary

The Applicant asked the Authority for information related to a specified consultation undertaken by it. 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) and the Environmental Information (Scotland) Regulations 2004 (the EIRs).

### Background

1. The Applicant made an information request to the Authority on 27 September 2025.
2. The Authority did not respond to the information request.
3. On 26 October 2025, the Applicant wrote to the Authority requiring a review in respect of its failure to respond.
4. The Authority responded to his request for review on 24 November 2025 under the EIRs, within the statutory timescale.
5. On 22 November 2025 the Applicant wrote to the Commissioner, stating that he 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 25 November 2025.
8. The Commissioner received submissions from the Authority on 9 December 2025. These submissions are considered below.
9. The Authority stated that the Applicant's initial request had been received, and that a response was being finalised when the applicant then submitted a request for review. The Authority processed the internal review request, and a response was issued to the Applicant on 24 November 2025.
10. The Authority remarked that there was nothing to suggest the (internal review) response was not received at the time.
11. The Applicant confirmed to the Commissioner that he did receive the review response of 24 November 2025 from the Authority.
12. It is apparent from the terms of the request that at least some of the information caught by it will be environmental information as defined by regulation 2(1) of the EIRs. [In Decision 218/2007 Transport Scotland](#)<sup>1</sup>, the Commissioner confirmed at paragraph 51 that where environmental information is concerned, there are two separate statutory frameworks for access to that information and, in terms of the legislation, an authority is required to consider the request under both FOISA and the EIRs.
13. 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. The same timescale is laid down by regulation 5(2)(a) of the EIRs.
14. 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 and regulation 5(2)(a) of the EIRs.
15. 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. The same timescale is laid down by regulation 16(4) of the EIRs.
16. While the Authority were deficient in providing a response to the Applicant's initial request, the Authority did respond to the Applicant's requirement for review within 20 working days, so the Commissioner finds that it complied with section 21(1) of FOISA and regulation 16(4) of the EIRs.
17. The Authority responded to the Applicant's requirement for review on 24 November 2025, so the Commissioner does not require it to take any further action in relation to the Applicant's application.

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<sup>1</sup> [Decision 218/2007 | Scottish Information Commissioner](#)

## **Decision**

The Commissioner finds that the Authority failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) and the Environmental Information (Scotland) Regulations 2004 (the EIRs) in dealing with the information request made by the Applicant. In particular, the Authority failed to respond to the Applicant's request for information within the timescale laid down by section 10(1) of FOISA and regulation 5(2) of the EIRs. Given that the Authority has now responded to the Applicant's requirement for review, he does not require the Authority to take any action.

## **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.

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

**4 May 2026**