



Scottish Information  
Commissioner  
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# Decision Notice 093/2026

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## Legal and policy basis for signage in bus shelters – failure to respond

Authority: Orkney Islands Council  
Case Ref: 202502118

### Summary

The Applicant asked the Authority for information about the legal and policy basis for “No Food or Drink” signage in bus shelters. 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 22 September 2025.
2. The Authority responded to the information request on 17 October 2025.
3. On the same date, the Applicant wrote to the Authority requiring a review of its decision.
4. The Applicant did not receive a response to his requirement for review.
5. The Applicant wrote to the Commissioner on 22 November 2025, 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 9 December 2025.
8. The Commissioner received submissions from the Authority on 22 December 2025. These submissions are considered below.
9. The Authority acknowledged that it had failed to respond to the Applicant's requirement for review in the timescale set down by FOISA. By way of mitigation, it explained that the requirement for review had been received when a member of the Governance team was absent and when the workload within the service was particularly heavy.
10. 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.
11. 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.
12. The Authority responded to the Applicant's requirement for review on 17 December 2025, so the Commissioner does not require it to take any further action in relation to the Applicant's application.
13. The Commissioner notes that the Authority provided the Applicant with an apology for its failure to respond to his requirement for review within the timescales laid down by FOISA.

## **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. Given that the Authority has now responded to the Applicant's requirement for review, the Commissioner 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.

**Cal Richardson**  
**Deputy Head of Enforcement**

**5 May 2026**