



Scottish Information
Commissioner
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Decision Notice 112/2026

The number of pregnant women accommodated in Kyle Court & Loch Court between 2016 – 2025.

Authority: Highland Health Board

Case Ref: 202501266

Summary

The Applicant asked the Authority for the number of pregnant women accommodated in Kyle Court and Loch Court between 2016 – 2025. The Authority informed the Applicant that it did not hold the particular information requested and explained why this was the case. The Commissioner investigated and found that the Authority did not hold the information requested.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2), (4) and (6) (General entitlement); 17(1) (Notice that information is not held); 47(1) and (2) (Application for decision by Commissioner).

Background

1. On 6 June 2025, the Applicant made a request for information to the Authority. He asked for the number of pregnant women accommodated in Kyle Court and Loch Court in 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024 and 2025 to the present date. He asked for a breakdown of each year.
2. The Authority responded on 9 June 2025. It informed the Applicant, in terms of section 17(1) of FOISA, that it did not hold the information requested.

3. On 9 June 2025, the Applicant wrote to the Authority requesting a review of its decision. The Applicant stated that he was dissatisfied with the decision because he considered that the maternity department and the patient accommodation booking department would hold the information he had requested.
4. The Authority notified the Applicant of the outcome of its review on 2 July 2025, upholding its original response in full.
5. On 31 July 2025, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. The Applicant stated he was dissatisfied with the outcome of the Authority's review as he believed that the Authority held a record of the medical departments that patients were assigned to when they stayed at the accommodation.

Investigation

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.
7. On 15 September 2025, the Authority was notified in writing that the Applicant had made a valid application.
8. Section 49(3)(a) of FOISA requires the Commissioner to give public authorities an opportunity to provide comments on an application. The Authority was invited to comment on this application and to answer specific questions. These related to how the Authority carried out searches for the information, and its reasons for concluding that the information was not held.

Commissioner's analysis and findings

9. The Commissioner has considered all of the submissions made to him by the Applicant and the Authority.

Section 17(1) Notice that information is not held

10. Section 1(1) of FOISA provides that a person who requests information from a Scottish public authority which holds it is entitled to be given that information by the authority, subject to qualifications which, by virtue of section 1(6) of FOISA, allow Scottish public authorities to withhold information or charge a fee for it. The qualifications contained in section 1(6) are not applicable in this case.
11. The standard of proof to determine whether a Scottish public authority holds information is the civil standard of the balance of probabilities. In determining where the balance lies, the Commissioner must first of all consider the interpretation and scope of the request and thereafter the quality, thoroughness and results of the searches carried out by the public authority.
12. The Commissioner also considers, where appropriate, any reason offered by the public authority to explain why it does not hold the information. Ultimately, however, the Commissioner's role is to determine what relevant recorded information is actually held by the public authority (or was, at the time it received the request).

The Applicant's comments

13. The Applicant stated that the Kyle Court booking form includes a section identifying the department from which the patient originates. In his requirement for review, he also advised that, according to [Scottish Public Services Ombudsman \(SPSO\) report 201808032](#)¹, a copy of this form was also retained by the patient accommodation booking department.
14. The Applicant referred to the SPSO investigation report 201808032 and the Authority's final complaint response which stated that Kyle Court management contacted New Craig's Psychiatric Hospital Manager and Public Communications Manager regarding the Applicant's alleged behaviour. The Applicant therefore concluded that the patient accommodation department must hold records identifying the medical department with which each patient was associated.
15. The Applicant argued that, for the purposes of fire regulations, a record must be kept of the medical department which each patient was assigned to when they stay in Kyle Court. He contended that this information would also have to be recorded for medical purposes.
16. In his requirement for review the Applicant argued that the maternity ward at Raigmore Hospital must have a record of when pregnant women are accommodated outwith the maternity ward, in case they need to be seen by clinicians. He questioned how staff based in the patient accommodation facility would know which medical department to contact, if there was a medical emergency, if they did not have a record of the department each patient was associated with.
17. The Applicant submitted that any search for the requested information should extend beyond the patient accommodation booking department to include, in particular, the Raigmore maternity department in relation to the figures requested.

The Authority's submissions

18. The Authority submitted that the information it held was not held in a format that would enable them to answer the Applicant's information request.
19. It confirmed that the following information was held:
 - (i) Paper booking forms were completed and submitted by the relevant ward or department. These forms did not document health data and, while the name of the ward applying for accommodation may have been recorded, this did not in any way confirm that an individual requiring accommodation was pregnant. The Authority provided the Commissioner with a copy of the patient accommodation booking form.
 - (ii) A basic Excel spreadsheet records some data from the form to enable processing for payments – where the guest may be entitled to receive free accommodation under Highland and Island Travel Scheme (HITS) or where they were required to be charged for their stay. It confirmed that the excel spreadsheet is maintained solely for the financial processing of payments and does not contain clinical information.
20. The Authority submitted that it carried out searches of the recorded information it held, including both paper-based forms and the Excel spreadsheet, which was maintained by the Accommodation Department.

¹ https://www.spsso.org.uk/sites/spsso/files/decision_summaries/201808032.pdf

21. It explained that the information held in paper format was retained for a maximum period of 12 months. Paper forms were then destroyed each month once they had been retained for the full 12-month period. As an example, it explained that the forms received in October 2024 were destroyed and replaced with those from October 2025.
22. The Authority stated that the paper forms, which were completed at the time of booking, will provide information on patient demographics, the ward or department, the consultant, the escort and their expected length of stay. It commented that in many cases it was not patients who used the accommodation, but their escorts (i.e. the patient will stay on a ward, and their companion/escort will book the accommodation to prevent them from travelling long distances each day). The Authority explained that in such cases, it may be the escort's name that would be recorded against the accommodation rather than the patient's name.
23. The Authority added that, many emergency bookings are made for accommodation, however these bookings are generally for the patient's escort, rather than for the patient themselves. Given that no health data was recorded on the form, the Authority argued that it was not possible to distinguish, from the information held, whether the guest was actually the patient or an escort. The Authority also noted that the information provided by the patient was often incomplete or incorrect.
24. The Authority noted that the paper based accommodation booking forms were only held for a maximum of 12 months, and while they may contain the name of the patient or their escort and the ward/department that they are attending during the course of their stay, it was not possible to identify if it was the patient or an escort who was staying, and whether or not they were pregnant at the time of their stay.
25. The Authority explained that the spreadsheet was maintained solely to ensure that the standing financial procedures were followed for audit purposes. It commented that this information did not enable the Authority to identify the number of patients who have stayed in patient accommodation, only the total number of days stay. This was to ensure that appropriate charges were issued by the finance Department for both free and fee-paying guests.
26. The Authority initially submitted that it was not possible to identify (from the spreadsheet) if the guest was a patient, escort, or paying guest, as this information was not recorded on the spreadsheet. It commented that the spreadsheet did identify guests who were linked to a specific ward, but it stressed that it did not record any clinical information. However, in later submissions, the Authority confirmed that the spreadsheet recorded the names of guests booked in the accommodation, the (medical) department and whether they were a patient, escort, no show or cancelled. It noted that while the spreadsheet did record guests who were attending Maternity Services, it did not record if they were pregnant at the time of their stay.
27. The Authority explained that there may be situations where a person, who is the patient requiring accommodation, was linked to the maternity ward but was not, at that time, pregnant. It noted that this could be due to the loss of a baby, or where they have a baby in the neonatal unit. The Authority reiterated that the excel spreadsheet does not capture any clinical information as this was not required, as it was maintained solely for financial recording and audit purposes.
28. The Authority commented that it had held discussions with Maternity Services who confirmed that there was no central record held for patients or their escorts who are staying within the patient accommodation.

Information relating to where a patient, or their escort, may have been accommodated was not consistently recorded in the patient's health records but it might be noted within the free text clinical notes section. The Authority commented that it would be inappropriate to access confidential clinical records for individual patients to identify information requested under FOI.

The Commissioner's view

29. The Commissioner has carefully considered the submissions made by both the Applicant and the Authority.
30. In all cases where an applicant disputes whether an authority has identified all relevant information falling within the scope of their request, the onus is on the authority to persuade the Commissioner, with reference to adequate, relevant descriptions and evidence, that it does not hold any information.
31. The Commissioner notes that, in this case, the Applicant sought the number of pregnant women who stayed in Kyle Court and Loch Court in each year from 2016 to 6 June 2025. The Applicant did not specify patients and so the Commissioner considers that his request sought the numbers of all pregnant women who were accommodated in both sites, including patients and their escorts.
32. The Commissioner has been provided with a copy of the blank paper booking form used to record bookings at the accommodation, and he has also obtained a sample copy of the spreadsheet. He is satisfied that the paper forms are only held for 12 months, and that therefore the paper forms alone are not sufficient to meet the Applicant's request, given he is seeking data from 2016.
33. The Commissioner notes the Authority's comments that sometimes accommodation is booked under a patient's name, when in fact, it is for their escort/companion. Despite this, he notes that the blank paper form does have a tick box for staff to identify whether a guest is a patient or an escort.
34. As outlined above, the Authority has explained that patient names are usually recorded (in the place of an escort) when it is an emergency booking. The Commissioner considers that if an emergency booking is made, the booking may be made under the patient's name as that is the data that is held, and in an emergency there may be little time to obtain the data of the escort (the essential issue is that accommodation is booked and that the booking is linked to the patient). The Commissioner has no reason to question the Authority's practice in this area, but given this practice, he would comment that the tick box included in the blank form (to specify patient or escort) suggests a form of record keeping that is not or cannot always be followed in practice.
35. The Commissioner has also been provided with a redacted form of the spreadsheet used to record data from the booking forms (for financial accountability purposes). He notes that while the spreadsheet also contains a tick box to record if a guest was an escort or a patient. This information is taken from the paper booking forms, so any misrecording of data collected in the paper forms (i.e. where accommodation is booked under a patient's name when it is an escort who stays) will be duplicated in the spreadsheet.
36. In relation to patients, the Commissioner considers that it is possible that the Authority could cross reference the names in the spreadsheet with the patient records and identify whether or not the individual was pregnant at the time of their stay.

However, he acknowledges that there is no “tick box” for this, and the patient file would have to be read and cross-referenced with the booking dates to determine if the patient was pregnant at the time of their stay. Additionally, if it was not actually the patient who stayed in the accommodation, but their unnamed escort, then establishing whether or not the patient was pregnant, would not answer the question of whether or not the guest who stayed in the accommodation under the patient’s name was pregnant.

37. As explained previously, accommodation (in an emergency) can be booked under the patient’s name, even if the guest is an escort, therefore checking patient records for each patient booking, will not identify if the guest was pregnant during their stay, as that guest may have been an escort of the patient, and not the patient themselves. It is not unreasonable to consider that pregnant women may reside as a guest when visiting partners who are having an operation.
38. Furthermore, the Commissioner considers that having a guest listed under Maternity in the spreadsheet does not indicate that the patient was pregnant, only that they were under the care of the Maternity department. The Commissioner is satisfied that there are various instances (such as those outlined by the Authority) where women may be linked with the Maternity Department, without them being pregnant at the time of their stay. For example, they may have suffered a miscarriage, or they may have had a baby who is being treated in the neonatal unit.
39. Having examined both the paper form and the spreadsheet, the Commissioner is satisfied that the Authority does not record any health data (such as pregnancy status) of any individual who stays in the accommodation, including escorts, in its booking forms. Information on a patient’s pregnancy status could be determined from their clinical records, but he is persuaded that there are no means of identifying the pregnancy status of any escorts who stayed in the accommodation. Furthermore, as escorts can be booked under a patient’s name, it is not possible for the Authority to identify which of the guests who resided in the accommodation were pregnant at that time.
40. The Commissioner is therefore satisfied that the Authority does not hold any data on whether or not an escort was pregnant at the time of their stay. As the Applicant’s request sought data on all pregnant women (not just patients) who resided in the accommodation in specific years, and as the Authority does not record the pregnancy status of escorts, the Commissioner is satisfied that the Authority does not hold information that would fulfil the Applicant’s information request.
41. For the reasons outlined above, the Commissioner is satisfied that the Authority does not hold this information, and he finds that it was correct to give the Applicant notice, under section 17(1) of FOISA, that this information was not held.

Decision

The Commissioner finds that the Authority complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by the Applicant.

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.

Jennifer Ross
Deputy Head of Enforcement

18 May 2026