



Scottish Information
Commissioner
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Decision Notice 135/2026

All correspondence between the Scottish Government and the General Teaching Council for Scotland since 1 January 2025.

Authority: Scottish Ministers
Case Ref: 202501331

Summary

The Applicant asked the Authority for all correspondence between itself and the General Teaching Council for Scotland since 1 January 2025. The Authority informed the Applicant that as it would cost in excess of £600 it was not obliged to comply with his request. The Commissioner finds that the Authority partially complied with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by the Applicant.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); 12(1) (Excessive cost of compliance); 15 (Duty to provide advice and assistance); 47(1) and (2) (Application for decision by Commissioner).

Background

1. On 9 July 2025, the Applicant made a request for information to the Authority. He asked for all correspondence between the Authority (including the First Minister and/or his office) and the General Teaching Council for Scotland (GTCS) since 1st of January 2025, to include all emails and letters sent to and received by both parties.

2. The Authority responded on 25 July 2025. informing the Applicant, in line with section 12 of FOISA, that as it would cost in excess of £600 to fulfil his request it was not obliged to comply with it. It suggested that it might be able to comply with a narrowed request and invited the Applicant to consider reducing the scope of his request.
3. On the same date, the Applicant wrote to the Authority requesting a review of its decision. The Applicant stated that he was dissatisfied with the decision because he believed the Authority's calculations were unreasonable. The Applicant commented that searching for email communications which included the GTCS domain address would be based on Decision Notice 080/2024 and take around 15 minutes, which he considered to be generous. He also expressed his view that there should be no sift time required, because he was asking for a copy of all correspondence. The Applicant noted that this left the redaction phase, which the Authority had stated (in Decision Notice 080/2024) would take 2 minutes per email. The Applicant stated that he was struggling to understand how the Authority had worked out that compliance with his request would exceed the £600 limit. The Applicant also considered that insufficient guidance had been provided on how to narrow the request and invited the Authority to be more specific with him as to the options open to him.
4. The Authority notified the Applicant of the outcome of its review on 6 August 2025. which fully upheld its original decision. The Authority explained the nature and breadth of searches it carried out and that this led to over 2,200 pieces of correspondence being identified as falling within scope of the Applicant's request. It also explained the likely level of any redactions which might need to be applied. The Authority advised the Applicant that in terms of reducing the scope of his request, providing more information on the topic of correspondence he was interested in, or narrowing down the request from the Authority as a whole to particular policy themes, was most likely to bring the request to under the cost limit. The Authority also provided the Applicant with links to guidance available on the Commissioner's website which it considered might be helpful to assist him in narrowing the scope of his request.
5. On 6 August 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. He believed that the Authority wrongly inflated the scope and costs and was dissatisfied with the inadequate advice provided on narrowing the request.

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 3 September 2025, the Authority was notified in writing that the Applicant had made a valid application. The case was then allocated to an investigating officer.
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 it established that complying with the request would exceed £600 and also whether it had fulfilled its duty under section 15 of FOISA to provide advice and assistance.

Commissioner's analysis and findings

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

Interpretation of the request

10. The Applicant considered that the Authority had misinterpreted the request by including correspondence between multiple agencies (Disclosure Scotland (DS) and Education Scotland (ES)) and the Authority. Specifically, the Applicant's request was limited to correspondence between the Authority and the GTCS.
11. The Authority provided background information on the GTCS and its relationship with the Authority.
12. The Authority stated that the GTCS is the regulatory body for the teaching profession and, as such, various parts of the Authority had regular contact with it. It provided examples, including policy areas with responsibilities for schools, workforce planning, pupil support and wellbeing, among others.
13. The Authority explained that the two agencies—Disclosure Scotland (DS) and Education Scotland (ES) – had regular contact with the GTCS and copied it into correspondence, and vice versa. It further explained that teachers were required to register with the GTCS, whether provisionally or fully, and that this process involved GTCS obtaining personal information (for example, safeguarding and vetting details) from bodies such as DS.
14. The Authority commented that various parts of it and the GTCS sat on a number of the same working groups and strategic boards, so would directly correspond on matters relating to these or be copied in. It also noted that in some cases they would be partners on shared pieces of work so would correspond frequently.
15. The Authority further explained that it worked closely with DS and ES due to the cross-cutting nature of policy and operational matters, and that both agencies were therefore often copied into much of its correspondence relating to the GTCS.
16. The Authority clarified that it had asked DS and ES to search their systems because it expected them to hold information within the scope of the request, given that they were frequently copied into correspondence. However, the Authority accepted that any information held by those agencies that fell within scope should also have been held on its own systems and in colleagues' inboxes. Accordingly, in responding to the request for submissions, the Authority excluded the search results received from DS and ES and revised the cost calculation to reflect this.
17. It advised that correspondence might be between any or all of the bodies or policy areas, with one or more of the others copied in; that is, it could only be established whether correspondence was directly between an Authority policy area (or ministerial office) and the GTCS by checking this detail in emails (or letters). As a result, the Authority stated that it was unable to separate information it held that did not include either agency, and that such material would form part of the sift in any event.
18. The Commissioner considers that, while it may have been appropriate for the Authority initially to include the search results received from both DS and ES, he accepts that during the investigation, the Authority correctly interpreted the request by excluding these search results and updating the cost calculation accordingly.

Section 12(1) – Excessive cost of compliance

19. Section 12(1) of FOISA provides that a Scottish public authority is not obliged to comply with a request for information where the estimated cost of doing so would exceed the relevant amount prescribed in the [Fees Regulations](#)¹. This amount is currently £600 (see regulation 5). Consequently, the Commissioner has no power to require the disclosure of information should he find that the cost of responding to a request for that information would exceed this sum.
20. The projected costs a Scottish public authority can consider in relation to a request for information are, according to regulation 3 of the Fees Regulations, the total costs (whether direct or indirect) it reasonably estimates it will incur in locating, retrieving and providing the information requested, in accordance with Part 1 of FOISA.
21. The authority may not charge for the cost of determining:
 - (i) whether it actually holds the information specified in the request, or
 - (ii) whether the person seeking the information is entitled to receive the requested information or not.
22. In line with regulation 3(2)(b) the maximum hourly rate the authority can charge for staff time is £15 per hour.

The Applicant's submissions

23. The Applicant disputed that the cost of providing all communications between the GTCS and the Authority over a six-month period would exceed £600.
24. He doubted that the sift time was required because he had asked for all correspondence between the GTCS and the SG.
25. As mentioned previously, in his requirement for review the Applicant referred to Decision Notice [80/2024](#)² in which the Scottish Ministers estimated the calculation of the cost as:
 - (i) Search time = 15 minutes returned 4,855 emails (0.25 hours)
 - (ii) Sift time = estimated at 30 seconds, on average, to open and review each of the 4,855 emails to establish whether they fell within the scope of the request (4,855 x 30 seconds per document = 2,427.5 minutes (40.5 hours)
 - (iii) Redacting information = (20 hours)
 - (iv) Estimated cost of locating, sifting and redacting information = (0.25 + 40.5 + 20) hours x £15/hour = £911.25
26. The Applicant stated that he had submitted a freedom of information request to the GTCS for the same information, covering three months of the six-month period in question, and had received 335 items of correspondence. He commented that, even if this figure were doubled to 670 to reflect the full six-month period, the cost calculation—based on two minutes per redaction—would amount to 22.33 hours (£344.95), plus an additional 15 minutes for searching. The Applicant therefore concluded that the volume of correspondence would

¹ [The Freedom of Information \(Fees for Disclosure under Section 13\) \(Scotland\) Regulations 2004](#)

² <https://www.foi.scot/decision-0802024>

need to be just under 1,200 items to exceed the £600 cost limit, based on a staff rate of £15.00 per hour and on the assumption that no sifting was required.

27. The Applicant disputed that over 2,200 items of correspondence had been identified. As set out in paragraph 10, he considered that the Authority had misinterpreted the request by including correspondence involving DS and ES.

The Authority's submissions

28. The Authority explained that having excluded the search results from both DS and ES it found that the cost limit would still be breached.
29. In its submissions, the Authority outlined the keywords used by its staff who carried out searches of its electronic records system (eRDM) as well as the search terms used by colleagues when carrying out searches of their inboxes. It also provided details of the staff involved in undertaking these searches.
30. The Authority estimated that case handler searches took approximately 20 minutes using keywords/files in its eRDM, along with its case handling system. It also asked 25 officials to search Outlook and personal storage; after discounting four nil returns, the time taken by 21 officials to conduct searches was an average of 10 minutes each. The total time for searches was therefore 210 minutes, and the total number of documents identified was 1,838.
31. The Authority determined whether each document was within the scope of the request by carrying out a sifting process. It estimated that the sifting time was 1 minute per document, totalling 1,838 minutes.
32. The Authority carried out a sample exercise involving 30 documents and considered that of the 30 documents it sifted, it was found that 3 of these were out of scope. It therefore assumed that this would be replicated across the documents for the purposes of the estimate it provided. The Authority noted that 10% ($3/30 \times 100$) of the 1,838 is 184, $1,838 - 184 = 1,654$ documents to be considered.
33. The Authority estimated that a further 5% of the 1,654 documents ($(1,654 \times 5)/100=83$) would not require redaction, therefore leaving 1,571 of the documents requiring some level of redaction. Having completed the required redaction in 5 documents taking 5 minutes each, the Authority explained that an average of 5 minutes per document had been allowed for redaction. This meant that for the 1,571 which it considered would require some level of redaction, the total time calculated for redaction would be 7,855 minutes.
34. The Authority concluded that the total resource time was; searches, 210 minutes + sift, 1838 minutes + redaction, 7855 minutes = 9903 minutes = 165 hours and 3 minutes x £15 limit based on the hourly rates = $165.05 \text{ hours} \times £15 = £2,475.75$
35. The Authority stressed that decision 080/2024 was for a request that asked for all emails/communications (including personal SNP emails) sent to, and sent by, the First Minister on 5 February 2020. It explained that the detailed request was different from the request that is the subject of this appeal, not just in terms of topic.
36. The Authority stated that it considers each individual request received, conducts searches and in this case considers the cost limit with all associated calculations on an individual basis. It explained that it does not take a collective approach to cases that have no overlap in terms of scope and topic and each policy area within the Authority will take different

approaches to storing and identifying the information they hold, based on how their information is arranged in folders.

37. It further explained that redaction times vary for each case, depending on document length, so each case handler conducts a sample and uses that to inform their estimated redaction time if applying the cost limit.
38. The Authority stated that in this specific case, many emails were cross-cutting, involving a wide range of people with extremely long email strings requiring extensive redaction of personal information etc. It commented that it would also have to open each email individually to decipher the emails which were directly between itself and the GTCS.
39. The Authority submitted that it was not aware of how the GTCS stored its information, and based on its searches, it held more information than GTCS.

The Commissioner's view

40. The Commissioner acknowledges that as a consequence of the response he received to his request for similar information (albeit for a reduced timescale) from the GTCS, as well as the calculations set out by the Authority in Decision Notice 080/2024, the Applicant considers that the Authority should be capable of providing the information requested without exceeding the £600 cost limit under FOISA.
41. However, the Commissioner must determine if section 12(1) is applicable in this case, focusing on the Authority's actual searches of its systems which hold the relevant recorded information and the exercise carried out to establish how long it would take to locate, retrieve and provide that information.
42. The Commissioner accepts that the areas searched by the Authority and the key words used to locate relevant, recorded information falling within scope were reasonable. He is also satisfied that the staff involved in carrying out the searches were those most likely to know where information of the kind covered by the Applicant's request would be held.
43. The Commissioner notes that the search results provided in the Authority's evidence indicated that 2,017 documents were identified, whereas the Authority's submissions stated that only 1,838 documents had been identified (see paragraph (30)).
44. The Commissioner also notes that the search results covered the period January 2025 to November 2025, whereas the request related to correspondence from January 2025 up to 9 July 2025, being the date the request was submitted.
45. This means that documents identified from August to November fall outside the scope of the request and should be excluded. These comprised August (200 documents), September (260 documents), October (126 documents), and November (121 documents), totalling 707 documents. Accordingly, the number of relevant documents should be reduced to 1,310.
46. The total documents identified in July 2025 were 260; for the purposes of estimation, the Commissioner assumes that documents were distributed evenly across July. On that basis, the 260 documents identified for the full month of July equate to an average of approximately 8.39 documents per day. Applying this average to the period 1 to 9 July, the estimated number of documents within scope for that period is approximately 76 documents.

47. This calculation is made on a proportional basis in the absence of more granular daily breakdown data. This would result in a total of approximately 1,310 – 184 (which is the average amount of documents received from 9 July to 31 July (so out of scope) = 1,126 documents identified within scope of the request.
48. The Commissioner notes that the Authority has indicated that 10 records were located in its correspondence system, along with 700 documents which were identified from searches carried out of relevant staff members inboxes. This brought the total to 1,836.
49. The Commissioner accepted the Authority's arguments set out in paragraphs 33–37 and therefore applied the Authority's calculation parameters as follows:
 - (i) Search: 210 minutes
 - (ii) Sifting: 1,836 minutes. Applying a 10% exclusion ($1,836 \times 0.10 = 184$), this results in 184 documents being outwith scope and 1,652 documents remaining within scope for consideration, assuming 1 minute per document is allowed to consider whether the document is in scope. Total time for sift = 1,652 minutes
 - (iii) Redaction: 1,569 documents (on the basis that 5% of 1,652 (or 83) documents would not be subject to redaction) $\times$ 5 minutes per document = 7,845 minutes
 - (iv) Total resource time: $210 + 1,652 + 7,845 = 9,707$ minutes, which equates to 162 hours. At £15 per hour, this gives a total estimated cost of £2,430.
50. The Commissioner accepts that the time required for redaction may vary between documents. However, even on the assumption of an average redaction time of two minutes per document, the calculation is as follows: $2 \times 1,569 = 3,138$ minutes. The total resource time is therefore $210 + 1,836 + 3,138 = 5,184$ minutes, which equates to 86 hours and 40 minutes. At £15 per hour, this gives an estimated total cost of £1,296.
51. Considering all of the circumstances, the Commissioner is satisfied that the Authority could not have provided the requested information within the £600 cost limit. Consequently, he finds that the Authority was entitled to rely on section 12(1) of FOISA in responding to the Applicant's request and was under no obligation to comply with it.

Section 15 of FOISA – Duty to provide advice and assistance

52. Section 15(1) of FOISA requires a Scottish public authority, so far as is reasonable to expect it to do so, to provide advice and assistance to a person who proposes to make, or has made, a request for information to it.
53. Section 15(2) states that a Scottish public authority shall be taken to have complied with this duty where (in relation to the provision of advice and assistance in a particular case) it conforms with the Scottish Ministers' Code of Practice on the discharge of functions by Scottish public authorities under FOISA and the EIRs ([the Section 60 Code](#)).³
54. The Section 60 Code states (at paragraph 5.1.1):

“Authorities have a duty to provide advice and assistance at all stages of a request. It can be given either before a request is made, or to clarify what information a requester wants after a request has been made, whilst the authority is handling the request, or after it has responded. It will be good practice for authorities to provide clear and helpful advice and

³ [FOI/EIR: Section 60 code of practice](#)

guidance on making a request on their website, to support potential requesters to understand and use their FOI rights effectively. Providing clear and helpful guidance to requesters up-front may also reduce the need for direct advice to be provided at a later point in the process.”.

55. The Section 60 Code further states (at paragraph 9.5.5):

“When refusing a request on cost grounds, it is good practice for the authority’s response to provide clear advice on how the requester could submit a new, narrower request within the cost limit. Indeed, such advice may be required in line with the duty to provide advice and assistance.” Paragraph 9.5.6 states that “In giving advice you may wish to take account of how much the cost limit has been exceeded. Any narrowed request would be a separate new request and should be responded to accordingly. Advice on narrowing the request should, wherever possible, be specific, and should be focused on the information the requester is seeking, with reference to the information which is held by the authority. If, for example, the authority knows of particular files or business areas likely to hold a reasonable amount of relevant information, advice should guide the requester towards making a specific request for that information”.

56. The Applicant expressed dissatisfaction with the Authority’s discharge of its duty to provide advice. He stated that, although he had asked the Authority to be more specific about the options available to him for narrowing the request in order to reduce the cost of compliance, he considered that the advice provided had not been adequate.

57. The Authority submitted that at both request and review stage, it provided advice and assistance where it suggested that the Applicant should refine the range of information requested to focus on a particular topic or policy that they were interested in. It explained that it did this to allow it to conduct more specific searches as the broad terms of the current request had returned a significant amount of results, given that the Authority corresponded regularly with the GTCS on a number of topics.

58. In this case, although the Authority provided advice suggesting that the Applicant should refine the range of information requested to focus on a particular topic or policy that he was interested in, the Commissioner considers this advice was not enough to assist the Applicant on how he might narrow the scope of his request to allow it to comply without breaching the upper cost limit. The Commissioner considers it would have been helpful for the Authority to provide the Applicant with details of the specific policy areas it corresponds with the GTCS on, to enable the Applicant to restrict the scope of his request to areas of most interest to him. Therefore, the Commissioner is not satisfied that the Authority complied with the duty, under section 15(1) of FOISA, to provide advice and assistance.

Decision

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

The Commissioner finds that the Authority was correct to inform the Applicant, in terms of section 12 of FOISA, that complying with his request would exceed £600.

However, the Commissioner finds that the Authority did not fulfil its duty, under section 15 of FOISA, to advise and assist the Applicant.

Given that the advice and assistance the Authority should have provided to the Applicant was not included in this decision notice, the Commissioner requires the Authority to provide the Applicant with clear and adequate advice on how the scope of the request might be narrowed so that the Authority can comply without exceeding the upper cost limit. by 11 July 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.

Euan McCulloch
Head of Enforcement

27 May 2026