



Scottish Information
Commissioner
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Decision Notice 136/2026

Methods of pension payment – failure to respond

Authority: Highland Council
Case Ref: 202600803

Summary

The Applicant asked the Authority for information relating to methods of pension payment. 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 29 November 2025.
2. The Authority acknowledged the request on 1 December 2025, but it did not provide a response.
3. On 23 February 2026, the Applicant wrote to the Authority requiring a review in respect of its failure to respond.
4. On the same day, the Authority issued an acknowledgement, but it did not respond to the requirement for review.
5. On 29 April 2026, 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.

7. On 30 April 2026, the Authority notified the Applicant that it did not consider his requirement for review to contain a freedom of information request, instead, it considered it to be a service request for the Pension Team.

Investigation

8. 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 14 May 2026.
9. The Commissioner received submissions from the Authority. These submissions are considered below.
10. The Authority acknowledged that it had failed to comply with the legislative timescales. The Authority explained that it had incorrectly interpreted the Applicant's correspondence as a service enquiry to its pensions service, rather than a statutory request (and requirement for review thereafter).
11. The Authority stated that, on that basis, the Applicant's correspondence had not been referred to its Information Governance team until February 2026, approximately three months after the Applicant's original correspondence, by which time it considered the statutory deadline for responding to any requirement for review had passed.
12. The Authority recognised that, notwithstanding its initial misinterpretation of the Applicant's correspondence, it should have issued a review outcome once the matter had been identified as falling within the scope of FOISA.
13. The Authority considered that its failure to comply with statutory timescales in this case had arisen from the Applicant's correspondence being initially handled as operational customer contact, rather than a FOISA-related matter. The Authority submitted that, on that basis, it was reviewing its internal handling arrangements with the relevant service area to ensure that any correspondence which might comprise or contain an information request (or requirement for review) was identified and escalated appropriately in future.
14. 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.
15. 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.
16. 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.
17. 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.
18. 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.

19. In its submissions, the Authority commented that by the time its Information Governance function was made aware of the Applicant's request and requirement for review, the statutory deadline for responding to his review had passed. The Commissioner does not agree.
20. He notes that the original request was received on 29 November 2025, which required the Authority to respond by 31 December 2025 (taking into account bank holidays). He further notes that the Applicant's requirement for review was submitted on 23 February 2026 (i.e. within 40 working days of the date by which the Authority had been required to respond to his initial request, taking into account bank holidays) which required the Authority to issue a review outcome by 23 March 2026. If the request was escalated to the Authority's Information Governance team in February 2026, the Commissioner considers that there was sufficient time for it to have responded to the Applicant's requirement for review within the statutory deadline.
21. The Commissioner acknowledges that the Authority is undertaking work with its pensions service to ensure that requests for information and requirements for review are appropriately identified in future.
22. In the circumstances, 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 carry out a review in terms of section 21 of FOISA, by **13 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.

Jennifer Ross
Deputy Head of Enforcement

27 May 2026