



Scottish Information
Commissioner
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Decision Notice 141/2026

Guidance and instructions for email management

Authority: Dumfries and Galloway Council
Case Ref: 202502131

Summary

The Applicant asked the Authority for guidance or instructions provided to its Social Work Department on email communication and record keeping. The Authority informed the Applicant that it did not hold the information requested. The Commissioner investigated and found that the Authority was not entitled to notify the Applicant that it did not hold the information requested and that it failed to provide adequate advice and assistance.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2), (4) and (6) (General entitlement); 15(1) (Duty to provide advice and assistance); 17(1) (Notice that information is not held); 47(1) and (2) (Application for decision by Commissioner).

Background

1. On 20 January 2025, the Applicant made a request for information to the Authority. Among other things, he asked for copies of any informal guidance, instructions, memos, or emails circulated within the Authority's Social Work Department from 2022 to the present date that address or provide advice on:
 - responding to emails from clients
 - expected response times for client emails
 - prioritizing or escalating urgent emails from clients, and

- documenting email communications in client records.
2. The Authority responded on 17 February 2025. It issued the Applicant with a notice, in terms of section 17(1) of FOISA, that it did not hold the information requested. In particular, it stated that it did not have specific guidance for email management.
 3. On 22 March 2025, the Applicant wrote to the Authority requesting a review of its decision. He stated that he was dissatisfied with the decision because in a response to a later request for information, the Authority had provided him with an “Email Management Policy” that he considered fell within the scope of his present request.
 4. The Applicant did not receive a response to his requirement for review.
 5. On 29 April 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. This resulted in the Commissioner issuing [Decision 247/2025](#)¹, which required the Authority to respond to the Applicant’s requirement for review by 24 November 2025.
 6. The Authority notified the Applicant of the outcome of its review on 21 November 2025, which upheld its original response. However, it acknowledged that it should have, under section 15 of FOISA, provided the Applicant with a copy of the “Email Management Policy” it had provided him with in response to a later request rather than adopting a narrow interpretation of his present request.
 7. On 24 November 2025, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. He stated that he was dissatisfied with the outcome of the Authority’s review because he considered that the “Email Management Policy” fell within the scope of his present request and that the Authority had failed to provide him with adequate advice and assistance by relying on an overly narrow interpretation of the request and withholding the relevant policy.

Investigation

8. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.
9. On 20 February 2026, the Authority was notified in writing that the Applicant had made a valid application. The case was subsequently allocated to an investigating officer.
10. 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 related to its interpretation of the request and how it established that it did not hold the information requested.

Commissioner’s analysis and findings

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

¹ <https://www.foi.scot/decision-2472025>

Section 17(1) – Notice that information is not held

12. 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 public 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.
13. The information to be given is that held by the Authority at the time the request is received, as defined by section 1(4) of FOISA. This is not necessarily to be equated with information that an applicant believes the public authority should hold. If no such information is held by the public authority, section 17(1) of FOISA requires the authority to give the applicant notice in writing to that effect.

The Applicant's submissions

14. The Applicant explained that he had submitted a later request to the Authority relating to the Authority's Social Work Department's policies, procedures and practices for data retention, specifically concerning email communications and client case records. In response to this later request, the Authority disclosed a copy of its "Email Management Policy" to the Applicant.
15. The Applicant commented that he did not understand why the Authority deemed the "Email Management Policy" disclosed in response to his later request to fall outwith the scope of his present request. He considered that the Authority was not entitled to issue him with a notice, in terms of section 17(1) of FOISA, that it did not hold the information requested as the relevant information (the "Email Management Policy") was held by the Authority.

The Authority's submissions

16. The Authority explained that it had interpreted the present request as being "solely regarding the Social Work Service". Given that no such policy existed, it considered that a notice, under section 17(1) of FOISA, to the effect that the information was not held was appropriate.
17. In terms of the Applicant's later request (referred to in paragraph 14 above), the Authority noted that the Applicant had asked for the "Email Retention Policy" followed by the service. It considered his later request to be broader than his present request and, as such, it was appropriate to disclose policies which were Authority-wide and that did not solely regard the Social Work Service. It therefore disclosed the corporate "Email Management Policy" to the Applicant in response to his later request.
18. However, as stated above, the Authority acknowledged that it should have, under section 15 of FOISA, provided the Applicant with a copy of the "Email Management Policy" it had provided him with in response to his later request, rather than adopting a narrow interpretation of his present request.

The Commissioner's view

19. The Commissioner has carefully considered the submissions from both parties, the terms of the Applicant's present request and the content of the "Email Management Policy" disclosed by the Authority in response to his later request.
20. The Commissioner notes that the "Email Management Policy" states:
 - "This policy applies to and must be followed by all [Authority] staff.... and anyone who creates, captures or maintains records relating to [Authority] functions." [Paragraph 2.2]

- “Email messages that constitute records must be captured within the relevant electronic case management/record keeping system and managed in context with any other records to which they relate to. Email messages captured as records should be located with other records relating to the same business activity or client.” [Paragraph 7.2]
21. As stated above, the Authority’s position is that no specific email management policy exists for staff in the Social Work Department. Given this and since the “Email Management Policy” must be followed by “all [Authority] staff”, the Commissioner considers that the “Email Management Policy” is the relevant policy applicable to staff in the Social Work Department.
 22. The Commissioner also considers that paragraph 7.2 of the “Email Management Policy” satisfies, albeit in very general terms, the part of the Applicant’s present request relating to “Documenting email communications in client records”. In other words, emails should be captured within the relevant electronic case management/record keeping system.
 23. The Commissioner acknowledges that the Applicant’s present request specified “informal guidance”. However, it did not specify that “instructions” must also be informal. In all of the circumstances, the Commissioner is satisfied that the “Email Management Policy” can reasonably be considered to constitute “instructions” for the purposes of his present request.
 24. Given that the “Email Management Policy” applies to “all [Authority] staff”, the Commissioner also considers it reasonable to treat the policy as information provided to, or applicable to, staff in the Social Work Department for the purposes of the request.
 25. In light of the above, the Commissioner concludes that the “Email Management Policy” disclosed by the Authority in response to a later request by the Applicant also fell within the scope of the Applicant’s request in this case.
 26. The Commissioner therefore finds that the Authority was not entitled to issue the Applicant with a notice, in terms of section 17(1) of FOISA, that it did not hold the information requested. Given that the Authority has already disclosed the “Email Management Policy” to the Applicant, he does not require the Authority to take any action in respect of this failure in response to the Applicant’s application.

Section 15 – Advice and assistance

27. Section 15 of FOISA requires Scottish public authorities to provide advice and assistance to applicants, so far as it would be reasonable to expect them to do so.
28. Section 15(2) of FOISA provides that a Scottish public authority shall be taken to have complied with this duty if it conforms with the guidance contained in the Scottish Ministers’ Code of Practice on the Discharge of Functions by Scottish Public Authorities under FOISA and the EIRs ([the Section 60 Code](https://www.gov.scot/publications/foi-eir-section-60-code-practice/)²).
29. In this case, the Commissioner considers that the Authority’s interpretation of the request, although not inexplicable, was too narrow and that a more reasonable interpretation would have found that the “Email Management Policy”, which it disclosed in response to a later request by the Applicant, also fell within the scope of the present request.
30. Had the Authority provided the Applicant with adequate advice and assistance in response to the present request, this would have reduced the significance of its narrow interpretation of that request. In other words, the Authority could simply have advised the Applicant of the

² <https://www.gov.scot/publications/foi-eir-section-60-code-practice/>

existence of the “Email Management Policy” that it disclosed to him in response to his later request.

31. In all of the circumstances, the Commissioner finds that the Authority failed to provide adequate advice and assistance to the Applicant and therefore failed to comply with the requirements of section 15 of FOISA.

Decision

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

Specifically, the Commissioner finds that the Authority failed to comply with Part 1 of FOISA by:

- wrongly notifying the Applicant, in terms of section 17(1) of FOISA, that it did not hold the information requested;
- failing to give the Applicant adequate advice and assistance in terms of section 15 of FOISA.

Given that the information falling within the scope of the present request has now been identified and disclosed to the Applicant, the Commissioner does not require the Authority to take any action in respect of these failures in response to the Applicant’s application.

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

29 May 2026