



Scottish Information
Commissioner
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Decision Notice 146/2026

Street cleaning within a specified area – failure to respond

Authority: City of Edinburgh Council
Case Ref: 202600192

Summary

The Applicant asked the Authority for information about street cleaning within area covered by the New Town and Broughton Community Council. 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) and the Environmental Information (Scotland) Regulations 2004 (the EIRs). The decision also finds that the Authority failed to comply with the Applicant's requirement for review within the timescale set down by FOISA and the EIRs.

Background

1. On 12 November 2025, the Applicant made an information request to the Authority.
2. The Authority did not respond to the information request.
3. On 28 December 2025, the Applicant wrote to the Authority requiring a review in respect of its failure to respond.
4. The Applicant did not receive a response to his requirement for review.
5. The Applicant wrote to the Commissioner on 29 January 2026, 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. The enforcement provisions of FOISA apply to the enforcement of the EIRs, subject to specified modifications – see regulation 17.
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 3 February 2026.
8. The Commissioner received submissions from the Authority on 17 February 2026. These submissions are considered below.
9. The Authority acknowledged that it had failed to respond to the Applicant's request and requirement for review within the statutory timescales.
10. The Authority explained that the request was sent to the relevant service to respond to on day two, with two other reminders being sent before a manual escalation to the Head of Service on day 20 as per the Authority's procedure. However, no acknowledgement was received.
11. After receiving the Applicant's requirement for review, the Authority again notified the relevant service and asked it to provide a response. It eventually provided a response to the Applicant, albeit after the statutory deadline.
12. It is apparent from the terms of the request that at least some of the information caught by it is likely to be environmental information as defined by regulation 2(1) of the EIRs. In [Decision 218/2007 Transport Scotland](#)¹, the Commissioner confirmed at paragraph 51 that where environmental information is concerned, there are two separate statutory frameworks for access to that information and, in terms of the legislation, an authority is required to consider the request under both FOISA and EIRs.
13. 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. The same timescale is laid down by regulation 5(2)(a) of the EIRs.
14. 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 and regulation 5(2)(a) of the EIRs.
15. 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. The same timescale is laid down by regulation 16(4) of the EIRs.
16. 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 and regulation 16(4) of the EIRs.
17. The remainder of section 21 of FOISA and regulation 16 of the EIRs sets out the requirements to be followed by a Scottish public authority in carrying out a review.
18. The Authority responded to the Applicant's requirement for review on 30 January 2026, so the Commissioner does not require it to take any further action in relation to the Applicant's request.

¹ <https://www.foi.scot/decision-2182007>

19. However, the Commissioner is unclear why the Authority opted to wait until the last working day to escalate internally. Doing so does not give the person or department to whom the issue has been escalated much time to address the concern or to assess the information requested and prepare a compliant response.
20. The Commissioner would therefore invite the Authority to consider whether its current escalation process is adequate.

Decision

The Commissioner finds that the Authority failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) and with the Environmental Information (Scotland) Regulations 2004 (the EIRs) 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 and regulations 5(2) and 16(4) of the EIRs. Given that the Authority has now responded to the Applicant's requirement for review, he 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

2 June 2026