



Scottish Information
Commissioner
www.foi.scot

Decision Notice 154/2026

Hybrid working/office attendance – failure to respond

Authority: NHS 24

Case Ref: 202600855

Summary

The Applicant asked the Authority for information about hybrid working arrangements and office attendance. This decision finds that the Authority failed to respond to 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 4 March 2026.
2. The Authority responded to the information request on 1 April 2026.
3. On 2 April 2026, the Applicant wrote to the Authority requiring a review of its decision.
4. The Authority acknowledged the requirement for review on 23 April 2026, but the Applicant did not receive a response to his requirement for review.
5. The Applicant wrote to the Commissioner, on 6 May 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.
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 21 May 2026.
8. The Commissioner received submissions from the Authority. These submissions are considered below.
9. The Authority explained that upon receiving a requirement for review, its usual practice was to record its receipt on its FOI tracker.
10. A review panel would then be formed. The panel would be comprised of senior managers across several directorates, and the chair of the panel would be selected from one of the executive directors who were also Information Asset Owners (IAO). The Authority explained that panel members were also selected, wherever possible, from directorates that had no previous involvement with the request.
11. The Authority stated that where a director was not available to chair the panel, a Head of Service (or above) was selected to chair the panel and that a senior manager from the Information Governance team attended the review panel purely on a consultative basis to explain FOISA procedural requirements.
12. The Authority submitted that in this case, staff absences and workload led to significant problems in identifying a director/IAO for the position of chair. This meant the review panel for this case did not take place until 7 May 2026, which was after the statutory deadline for responding to the requirement for review.
13. The Authority acknowledged that the delay in forming the review panel should not have delayed the review outcome, and it stated that it would take this as an opportunity to review its process for undertaking reviews in a timely manner.
14. The Authority stated that it was:
 - (i) Updating how it recorded and tracked all review requests
 - (ii) Putting together a review request timeline with stage gate deadlines for each step of the process with a view to alerts being sent to key officers and senior managers in advance of each deadline,
 - (iii) Establishing a rota for review request panel chairs which included a back-up chair (subject to support from the Executive Management Team (EMT)).
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.
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.
17. The Authority responded to the Applicant's requirement for review on 3 June 2026, so the Commissioner does not require it to take any further action in relation to the Applicant's application.

18. The Commissioner notes that the Authority apologised to the Applicant for its failure to comply in its review outcome of 3 June 2026.

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 requirement for review within the timescales laid down by section 21(1) of FOISA. 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.

Jennifer Ross
Deputy Head of Enforcement

09 June 2026