



Scottish Information
Commissioner
www.foi.scot

Decision Notice 158/2026

General Practice Vacancies

Authority: Fife Health Board
Case Ref: 202300754

Summary

The Applicant asked the Authority for the number of General Practice (GP) job vacancies across Fife and by practice, as well as the total number of other highly skilled professionals employed in GP practices in Fife and the number of vacancies. The Authority informed the Applicant that it did not hold the information requested. The Commissioner investigated and found that the Authority provided adequate submissions to justify its position that it did not hold the requested information but had failed to provide adequate advice and assistance to the Applicant.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); 15 (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 23 March 2023, the Applicant made a multi-part request for information to the Authority. Only parts II and IV of the request set out below are covered by this investigation and Decision Notice. The Applicant asked for the following:
 - I. “Any workforce planning analysis of the current recruitment and retention issues facing General Practice in Fife, which should include GP’s and all other highly skilled professionals

- II. The number of GP job vacancies across whole of Fife and by practice
 - III. The number of GP's that are currently employed across Fife as of 23 March 2023
 - IV. The total number of other highly skilled professionals that are employed in GP practices across Fife and the number of vacancies
 - V. An estimate of the minimum number of GP's and other highly skilled professionals are needed to satisfactorily deal with the sustainability issues facing general practice in Fife"
2. The Authority responded on 26 April 2023. The Authority provided some information for parts I, III, and V. It advised that it did not collect information for independently run General Practices across Fife and that the one practice that was under its purview currently had one salaried GP vacancy, in response to parts II and IV.
 3. On 24 May 2023, the Applicant wrote to the Authority requesting a review of its decision. The Applicant stated that he was dissatisfied with the decision because he did not believe that the Authority had no idea of the number of GP's and other staff employed in GP practices, even if they were employed by independent general practices, given its public reports about understanding the sustainability issues facing GP surgeries in Fife.
 4. The Authority notified the Applicant of the outcome of its review on 25 May 2023. The Authority upheld its application of section 17, advising the Applicant again that it did not collect the data requested because General Practice surgeries were independent contractors and therefore not employed by the Authority directly. The Authority further asserted that the number of GP vacancies had already been provided.
 5. On 6 June 2023, 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 because he did not believe that the information was not held, given publicly available documents and statements made about recruitment and retention of General Practitioners and other occupations working in GP surgeries. The Applicant observed that strategies focused on tackling these issues could not be formulated without knowledge of the current staffing situation across the area.

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 5 July 2023, and in line with section 49(3)(a) of FOISA, the Commissioner gave the Authority notice in writing of the application and invited its comments.
8. Following the provision by the Authority of comments on the application, the case was allocated to an investigating officer.
9. The Authority was invited to answer specific questions, related to how it established that it did not hold the information requested. Further submissions were sought during the investigation, to better understand how the Authority handled and responded to the request.

Commissioner's analysis and findings

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

Section 17 of FOISA - Notice that information is not held

11. 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 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.
12. The information to be given is that held by the authority at the time the request is received, as defined by section 1(4). If no such information is held by the authority, section 17(1) of FOISA requires it to give the applicant notice in writing to that effect.
13. The standard of proof to determine whether a Scottish public authority holds information is the civil standard of the balance of probabilities. In determining where the balance of probabilities lies, the Commissioner considers the scope, quality, thoroughness and results of the searches carried out by the public authority.
14. The Commissioner also considers, where appropriate, any reason offered by the public authority to explain why it does not hold the information. While it may be relevant as part of this exercise to explore expectations about what information the authority should hold, ultimately the Commissioner's role is to determine what relevant recorded information is (or was, at the time the request was received) actually held by the public authority.

The Applicants comments on section 17

15. The Applicant questioned the veracity of the Authority's position in relation to the vacancy information, given his observation that the Authority had publicly stated its intentions to formulate a strategy for the management of the sustainability pressures facing General Practices in Fife. The Applicant believed its proclamation of ignorance was contrary to announcements of groups formed to tackle this growing concern. The Applicant noted that it would be unreasonable to launch a strategy about staffing sustainability without having knowledge of how many staff were in post and what the current need was.

The Authority's comments on section 17

16. The Authority maintained the position that the vacancy information was not data that it collected, despite published documents like the [HSCP Strategic Plan for Fife 2019-2022](https://www.nhsfife.org/media/sqtp5jzq/hscp_strategic_plan_2019-2022.pdf)¹ and the updated [Strategic Plan for Fife 2023-2026](https://www.fifehealthandsocialcare.org/media/bj2nwsxa/fife-strategic-plan-2023-to-2026.pdf)² where this type of information was referenced.
17. The Authority advised that the work force data that fed into its strategic plans was reported in line with [national guidance](https://www.legislation.gov.uk/asp/2014/9/contents)³ and sourced from [publicly available databases](https://publichealthscotland.scot/publications/general-practice-gp-workforce-and-practice-list-sizes/general-practice-gp-workforce-and-practice-list-sizes-2012-2022/)⁴. The Authority

¹ https://www.nhsfife.org/media/sqtp5jzq/hscp_strategic_plan_2019-2022.pdf

² <https://www.fifehealthandsocialcare.org/media/bj2nwsxa/fife-strategic-plan-2023-to-2026.pdf>

³ <https://www.legislation.gov.uk/asp/2014/9/contents>

⁴ <https://publichealthscotland.scot/publications/general-practice-gp-workforce-and-practice-list-sizes/general-practice-gp-workforce-and-practice-list-sizes-2012-2022/>

acknowledged that it had not directed the Applicant to sources or advised how its data is collated.

18. The Authority explained that it did not hold information for independently run GP practices as these were independent contractors, not bound by NHS reporting requirements. The Authority advised that the terms and conditions of the contract between independently run General Practices and the Authority did not require this, and the information sharing agreement supplied as evidence verified this.
19. The Authority stated that colleagues in its Workforce Directorate and its Primary Care team were consulted, but as the searches were carried out two years previously, evidence of these were not kept. The Authority explained that as part of its internal improvement planning, this information would be captured moving forward.

The Commissioner's view about section 17

20. The Commissioner has carefully considered all relevant submissions and the terms of parts II and IV of the Applicant's request.
21. The Commissioner understands why the Applicant would be inclined to find the Authority's position on this unbelievable. However, this does not materially change the fact that information about the number of other highly skilled professionals employed in GP practices across Fife, and GP and other staff vacancies for independently run GP practices, is not recorded by the Authority by General Practice or for the Fife area.
22. The Commissioner acknowledges that there is no legal requirement for the Authority to record this information, despite references to vacancy information in online publications. The Commissioner has reviewed the [National Health Service \(General Medical Services Contracts\) \(Scotland\) Regulations 2004](#)⁵ and the Information Sharing Agreement provided, noting that reporting requirements embedded within these do not include any requirement for vacancy information.
23. The Commissioner accepts that whilst the specific information may not be held by the Authority, other sources which the Authority feeds into could have been provided to the Applicant, with [work force information for the Fife](#)⁶ area, but not broken down by practice, accessible online.
24. The Commissioner also notes that while the Authority was clear that searches had been carried out in order to ascertain what recorded information it held falling within scope of the Applicant's request, no record of these was retained. The Commissioner acknowledges that the Authority is taking steps to rectify this practice.
25. In all the circumstances, the Commissioner is satisfied, on balance, that the Authority does not (and did not, on receipt of the request) hold the information requested in parts II and IV of the Applicant's request. He therefore finds that the Authority was correct to give the Applicant notice, in terms of section 17(1) of FOISA, that it did not hold the information requested.

⁵ <https://www.legislation.gov.uk/ssi/2004/115/made>

⁶ <https://publichealthscotland.scot/publications/general-practice-workforce-survey/general-practice-workforce-survey-2022/dashboard/>

Section 15 - Duty to provide advice and assistance

26. Section 15(1) of FOISA requires a Scottish public authority, so far as it 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.
27. 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 guidance in the Scottish Ministers' Code of Practice on the discharge of functions by Scottish public authorities under FOISA and the Environmental Information (Scotland) Regulations 2004 ([the Section 60 Code](#)⁷).
28. During the investigation, the Authority provided the Commissioner with links to information which was publicly accessible via the Public Health Scotland website. The Authority commented that GP workforce and list size data was publicly available via this link: [General Practice - GP Workforce and practice list sizes 2012 - 2022 - General Practice - GP workforce and practice list sizes - Publications - Public Health Scotland](#)⁸. The GP survey information (available via this link: [General practice workforce survey 2022 - General practice workforce survey - Publications - Public Health Scotland](#)⁹) provides additional information. The Authority explained that this information was utilised to support its strategic analysis to shape workforce challenges for the Primary Care strategy.
29. The Authority acknowledged that it could have supplied links to some of the websites that were identified during the investigation and that this oversight had been less than helpful for the Applicant. The Authority recognised that this was not in keeping with its obligations under section 15.

The Commissioner's view on section 15

30. The Commissioner notes that the Authority supplied some publicly available reports that provided an overview of strategic work force planning but failed to identify other sources of information that could have been of use to the Applicant.
31. The Commissioner therefore finds that, in failing to provide adequate advice and assistance to the Applicant, the Authority failed to comply with the requirements of section 15 of FOISA.

Decision

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

Specifically, the Authority satisfied the Commissioner that it does not hold the requested information. As a result, the Commissioner finds that the Authority was entitled to respond in terms

⁷ <https://www.gov.scot/publications/foi-eir-section-60-code-practice/>

⁸ <https://publichealthscotland.scot/publications/general-practice-gp-workforce-and-practice-list-sizes/general-practice-gp-workforce-and-practice-list-sizes-2012-2022/>

⁹ <https://publichealthscotland.scot/publications/general-practice-workforce-survey/general-practice-workforce-survey-2022/>

of section 17(1) (Notice that information is not held) of FOISA and that, in doing so, it complied with section 1(1) (General entitlement).

However, the Commissioner also finds that the Authority failed to comply with the duty in section 15 (Duty to provide advice and assistance) by failing to provide adequate advice and assistance to the Applicant.

The Commissioner therefore requires the Authority to provide the Applicant with all relevant links to information it now considers may be useful, with any advice and assistance it would offer alongside these. The Commissioner requires the Authority to undertake this action by **3 August 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

18 June 2026