



Scottish Information
Commissioner
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Decision Notice 159/2026

Copy of a building warrant

Authority: Glasgow City Council
Case Ref: 202500623

Summary

The Applicant asked the Authority for a copy of a building warrant. The Authority advised that the building warrant was available to view in person and to access a copy would incur a fee of £150. The Commissioner investigated and found that the building warrant was publicly available to view in person and was reasonably accessible to the Applicant.

Relevant statutory provisions

[Freedom of Information \(Scotland\) Act 2002](#)¹ (FOISA) sections 1(1), (2) and (6) (General entitlement); 47(1) and (2) (Application for decision by Commissioner).

The [Environmental Information \(Scotland\) Regulations 2004](#)² (the EIRs) regulations 2(1) (definition of “the Act”, “applicant” and “the Commissioner” and paragraphs (c) and (f) of the definition of “environmental information”) (Interpretation); 5(1) (Duty to make environmental information available on request); 6(1) (otherwise accessible); 17(1), (2)(a), (b) and (f) (Enforcement and appeal provisions).

Background

1. On 2 September 2024, the Applicant made a request for information to the Authority. He asked for full details of a building warrant application for a property neighbouring his own.

¹ <https://www.legislation.gov.uk/asp/2002/13/contents>

² <https://www.legislation.gov.uk/ssi/2004/520/regulation/2/made>

2. The Authority responded in terms of the EIRs on 13 September 2024. The Authority stated that the information was publicly accessible and applied regulation 6(1)(b) of the EIRs. The Authority also commented that copies of plans were available from its Building Standards service, subject to a fee, and it provided the Applicant with a link to enable him to complete a form to request this.
3. On 27 September 2024, the Applicant wrote to the Authority requesting a review of its decision. The Applicant stated that he was dissatisfied with the decision because he was refused a copy of the information and was only allowed to view it in person in offices. He also considered that the fee quoted by the Authority for copying the plans covered the cost of searching for the plans and this posed a barrier to the public requesting information. Therefore, he argued that the information was not publicly accessible.
4. The Authority notified the Applicant of the outcome of its review on 25 October 2024. The Authority upheld its decision to rely on regulation 6(1)(b), noting that information on Building Warrants was available and easily accessible under normal business, without the necessity of an information request under the EIRs. The Authority commented that this included plans, which could be viewed subject to restrictions such as copying. The Authority also noted that the Applicant had confirmed in his requirement for review that he had been able to view the relevant file at its offices. In seeking to provide advice and assistance to the Applicant, the Authority explained that it did not copy plans without the express permission of the copyright holder. In relation to the fee quoted in its original response, the Authority clarified that this was a search fee payable when the applicant did not have the file reference number, necessitating a more extensive search by its staff. However, it did note that if copies were being provided the fee might also cover the cost of these.
5. On 24 April 2025, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. By virtue of regulation 17 of the EIRs, Part 4 of FOISA applies to the enforcement of the EIRs as it applies to the enforcement of FOISA, subject to specified modifications. The Applicant stated he was dissatisfied with the outcome of the Authority's review because he did not agree that a copy of the information was easily accessible.

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 2 May 2025, the Authority was notified in writing that the Applicant had made a valid application, and the case was allocated to an investigating officer.
8. 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. These related to the Authority's reliance on regulation 6(1)(b) and why it considered the requested information was already publicly available and easily accessible to the Applicant in another form or format.

Commissioner's analysis and findings

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

Handling in terms of EIRs

10. The Authority considered and responded to the Applicant's requirement for review in accordance with the EIRs, having concluded that the information requested was environmental information as defined in regulation 2(1) of the EIRs.
11. Where information falls within the scope of this definition, a person has a right to access the information under the EIRs, subject to the various restrictions and exceptions contained in the EIRs.
12. The Commissioner is satisfied that the information covered by the request is environmental information, as defined in regulation 2(1) of the EIRs. The request relates to the state of built structures (paragraph (f) of the definition), as they may be affected by measures, including plans and activities, likely to affect the land and landscape (paragraph (c) of the definition). The Applicant has not disputed the Authority's decision to handle his request under the EIRs and the Commissioner will consider the Authority's handling of the request solely in terms of the EIRs.

Regulation 5(1) - Duty to make available environmental information on request

13. Regulation 5(1) of the EIRs requires a Scottish public authority which holds environmental information to make it available when requested to do so by any applicant. This obligation relates to information that is held by the authority when it receives a request.
14. On receipt of a request for environmental information, the authority must ascertain what information it holds falling within the scope of the request. Having done so, regulation 5(1) requires the authority to make the information available to the requester, unless a qualification in regulations 6 to 12 applies (regulation 5(2)(b)).

Regulation 6(1)(b) – Form and format of information

15. Regulation 6(1)(b) of the EIRs, provides that a Scottish public authority shall comply with a request that environmental information be made available in a particular form or format, unless the information is already publicly available and easily accessible to the applicant in another form or format. This is a two-part test, which must (for the regulation to apply) conclude that the information is both publicly available and easily accessible.
16. In order to determine whether the Authority dealt with the Applicant's request correctly, the Commissioner must be satisfied as to whether, at the time it received the request, all the information held by the Authority (and which fell within the scope of the request) was both publicly available and easily accessible.

The Authority's submissions

17. The Authority explained that the building warrant was held in line with its statutory obligations to maintain a building standards register as per section 24(1) of the [Building \(Scotland\) Act 2003](https://www.legislation.gov.uk/asp/2003/8/section/24)³. The rights of access to view this register were defined in the Building (Procedure)

³ <https://www.legislation.gov.uk/asp/2003/8/section/24>

(Scotland) Regulations 2004, specifically regulation 58, inspection of records and applications which states:

“(1) Subject to paragraph (3), Parts I and II of the building standards register shall be available for inspection by the public at all reasonable hours and without prejudice to that generality Part I shall be published on a website maintained by the relevant local authority.

(2) Subject to paragraph (3), the local authority shall on payment of the appropriate fee provide copies of any of the documents contained in Part II of the building standards register.

(3) Documents shall not be available for inspection in terms of paragraph (1) or for copying in terms of paragraph (2) in the cases to which paragraphs (4) and (5) apply.

(4) This paragraph applies to cases where disclosure or copying would raise security concerns but not where the owner of the building to which the documents relate has consented, in writing, to that disclosure or copying.

(5) This paragraph applies where the relevant building is a residential building unless the application is by an interested party and for the purposes of this paragraph “interested party” means any owner, occupier, tenant or prospective tenant.”

18. The Authority stated that the Applicant had visited its offices and viewed the information requested. It also noted that it had provided links and outlined the process to enable the Applicant to submit a digital building standards form with the relevant fee paid and necessary permission from the copyright holder, if copies of the information were required.
19. The Authority acknowledged the right of access by the Applicant, citing [Article 3\(4\) of the Directive](#)⁴, agreeing that the Applicant had requested the information in a specific form or format. The Authority argued that where regulation 6(1)(b) applies it states that the Authority shall comply with that request, unless the information is already publicly available and easily accessible to the applicant in another form or format. The Authority submitted that the information sought by the Applicant, in this case, was publicly available as the Register was available to view in its offices during reasonable opening hours. The Authority noted that the Applicant had confirmed that he lived in Glasgow and did not have an unreasonably far distance to travel to view the Register. The Authority considered this to be evidenced by the Applicant’s confirmation that they had already viewed the information sought. As a consequence of this, the Authority considered the two-part test in this exception to have been satisfied.
20. The Authority cited three previous decisions in support of its position; [Decision 018/2011](#)⁵ [Decision 133/2019](#)⁶ and [Decision 071/2012](#)⁷. All of these Decisions found in favour of the Authority concerned and noted that the information must be accessible and publicly available at the time of the Applicants request, and in the case of Decision 071/2012 that it was not unreasonable to expect an applicant to access this kind of information by way of inspection at an Authority’s premises. The Authority argued, for the reasons given in paragraph 19 above, that the information was accessible and publicly available through attendance at its offices, and also as a consequence of the signposting to its electronic form

⁴ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:041:0026:0032:EN:PDF#:~:text=Member%20States%20shall%20ensure%20that,having%20to%20state%20an%20interest.>

⁵ <https://www.foi.scot/decision-0182011>

⁶ <https://www.foi.scot/decision-1332019>

⁷ <https://www.foi.scot/decision-0712012>

on how to search the register and advice on how the information could be viewed and copies made.

21. The Authority noted that the Applicant's appeal was premised on requiring copies of the information held in the Register and that it had advised the Applicant of the correct process for acquiring copies in this instance, which included payment of a fee. The Authority argued that the Commissioner had previously agreed that where a public Authority required payment of a fee to access information on a public register from a public source, they were satisfied that the information was publicly available and easily accessible.
22. The Authority advised that it was entitled to charge a fee to recover costs involved in searching for and providing copies of the information requested. The Authority referred to Regulation 58(2) of the [Building Standards Procedural Handbook](#)⁸, which stated that local authorities shall provide copies on receipt of payment of an appropriate fee. The Authority also commented that whilst Parliament had revised the Building Standards Regulations since the introduction of FOISA and the EIRs on several occasions, it had not found it necessary to extend the statutory obligations of local authorities with regard to making information of this kind available without payment of a reasonable fee.
23. The Authority stated in its initial submissions that Regulation 58 provided the right of access to an "interested party" and it acknowledged that the Applicant would be an "interested party" by this definition, if he were to supply evidence of his current address and evidence of permission from the copyright holder, which were also requirements under this provision.
24. During the investigation the Authority confirmed that no information held in respect of the Building Warrant was withheld when the Applicant attended the Authority premises in person, in line with Regulation 58(1) of the Building (Procedure) (Scotland) Regulations 2004 (as amended and as cited above). The Authority clarified that this provision gave access to view Parts I and II of the Register to the "public" and that "the public" is not defined for the purposes of this provision. It also noted that Regulation 58(5) described the right of access to physical copies from Part II of the Register as being restricted to an "interested party". The Applicant's status as an "interested party" was not, therefore, relevant to allowing him access to view the documents and only had to be considered when physical copies of documents were requested.
25. The Authority upheld their position that copies of the requested warrant would be supplied if the Applicant followed the process, including permission from the copyright holder and payment of the fee. The Authority stated that the right of access under the EIRs did not overrule the [Copyright, Designs and Patents Act 1988](#) ("the 1988 Act")⁹, which required permission for copies to be provided.
26. The Authority then went on to rely on the exception in regulation 10(5)(c), stating that the intellectual property rights of the architect who created the drawings and/or plans held in the building warrant file were covered by this provision and that the onus was on the Applicant to access permission.

⁸ <https://www.gov.scot/publications/building-standards-procedural-handbook-third-edition-version-1-8/pages/8/>

⁹ <https://assets.publishing.service.gov.uk/media/5a74e470e5274a59fa715c7f/cdpa1988-unofficial.pdf>

The Applicant's Submissions

27. The Applicant does not agree that information was easily accessible, because his request was for a copy of the information and, whilst he acknowledged that a member of the public could view the information at the Authority's premises, they could not obtain a copy.
28. The Applicant asserted that the Authority had indicated in its response to his requirement for review that copies of information were available to adjoining neighbours but that would require permission of the copyright holder. He considered this explanation to be inconsistent with the requirement in regulation 6(1)(b) that the information be easily accessible in another form or format.
29. In his review request, the Applicant argued that he is an "interested party" because he lived in a neighbouring property, which was defined in the [Building Standards Procedural Handbook](#)¹⁰ under paragraph 8.2.2, as cited above.
30. The Applicant further observed that it is not reasonable for someone to be expected to retain all the information in the building warrant file simply by viewing it.

The Commissioner's view

31. In order to determine whether the Authority correctly applied regulation 6(1)(b), the Commissioner must be satisfied as to whether, at the time it responded to the Applicant's requirement for review, the information held by the Authority (and which fell within the scope of the request) was both publicly available and easily accessible to the Applicant in another form or format.
32. Having considered the submissions from both the Applicant and the Authority, the Commissioner accepts that the Applicant has been able to attend the Authority's premises to view all of the information associated with the specified Building Warrant.
33. The Commissioner also notes that whilst the Applicant has raised the matter of his position as an "interested party", the Authority has clarified that because of the terms of regulation 58(1) of the Building (Procedure) (Scotland) Regulations 2004 (as amended), Parts I and II of the Building Standards Register are available for inspection by the public at all reasonable hours and this is not subject to any qualification as to who "the public" is defined as. Furthermore, whilst it is acknowledged that the Applicant would like to receive a copy of the information of interest to him, the Commissioner is satisfied that the information concerned is (and was at the time of his request and requirement for review) already publicly available and easily accessible to him via attendance at the Authority's office, in another form or format (and that the requirements of regulation 6(1)(b) may, as in this case, be fulfilled without a copy of the information in question being available).
34. The Commissioner therefore accepts that the Authority was entitled to rely on the terms of regulation 6(1)(b) in response to the Applicant's request.
35. The Authority has also relied on the exception in regulation 10(5)(c) of the EIRs for withholding information from the Applicant. As the Commissioner has concluded that the

¹⁰ <https://www.gov.scot/publications/building-standards-procedural-handbook-third-edition-version-1-8/pages/8/>

Authority was entitled to rely on regulation 6(1)(b) of the EIRs in the circumstances, he will not go on to consider the Authority's reliance on regulation 10(5)(c).

36. The Commissioner does acknowledge the frustratingly inconsistent approaches across local authorities to this type of information. It would appear that local authority websites differ greatly in the level of advice to applicants about the legislative position here. This lack of clarity has resulted in the current application. The [Authority's website](#)¹¹ in this case was one of the more easily accessible to navigate, but it did not make clear that rights of access here are restricted by legislation outwith the EIRs.
37. The Commissioner considers this inconsistency and lack of clarity around the overlap of these rights of access (the Building Standards Regulations and the EIRs) to be unhelpful but that these observations do not alter the outcome of the current case.

Decision

The Commissioner finds that the Authority complied with the Environmental Information (Scotland) Regulations 2004 (the EIRs) in responding to the information request made by the Applicant.

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.

Euan McCulloch
Head of Enforcement

19 June 2026

¹¹ <https://www.glasgow.gov.uk/bcpsonline>