



Scottish Information
Commissioner
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Decision Notice 166/2026

Communication-related reasonable adjustments – failure to respond

Authority: Lothian Health Board
Case Ref: 202600956

Summary

The Applicant asked the Authority for information relating to communication-related reasonable adjustments. This decision finds that the Authority failed to comply with 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 14 March 2026.
2. The Authority responded to the information request on 15 April 2026.
3. On 20 April 2026, the Applicant wrote to the Authority requiring a review of its decision.
4. The Applicant did not receive a response to his requirement for review.
5. The Applicant wrote to the Commissioner on 22 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 8 June 2026.
8. The Commissioner received submissions from the Authority. These submissions are considered below.
9. The Authority accepted that it had failed to respond to the Applicant's requirement for review within the statutory timescale. It explained that this was as a result of the information requested being held over several service areas and staff absence which meant the usual handover of work had not taken place. However, it stated that it would complete the review as soon as it could.
10. The Authority subsequently provided evidence to the Commissioner that it had issued a review outcome to the Applicant on 22 June 2026 in which it apologised to him for the delay in doing so.
11. 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. This is subject to qualifications which are not relevant in this case.
12. 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.
13. As the Authority responded to the Applicant's requirement for review on 22 June 2026, the Commissioner does not require it to take any further action in relation to the Applicant's application.

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 timescale laid down by section 21(1) of FOISA. Given that the Authority has now responded to the Applicant's requirement for review, the Commissioner does not require the Authority to take any action in relation to this failure.

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

25 June 2026