



Scottish Information
Commissioner
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Decision Notice 177/2026

Decisions relying on reasonableness

Authority: Scottish Public Services Ombudsman
Case Ref: 202501700

Summary

The Applicant asked the Authority for the number of cases closed on the basis of “reasonableness”. The Authority advised the Applicant that this information was available on its website. The Commissioner investigated and found that the Authority was entitled to advise the Applicant the information was otherwise accessible to him.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); 25(1) and (3) (Information otherwise accessible); 47(1) and (2) (Application for decision by Commissioner).

Background

1. On 5 August 2025, the Applicant made a request for information to the Authority. Among other things, he asked for:

“Statistical data for the past five years showing how many complaints were upheld, partially upheld, or not upheld where the final decision explicitly referenced “reasonableness” rather than direct statutory breaches”.
2. The Authority responded on 29 August 2025. It withheld the information requested under the exemption in section 25(1) of FOISA and provided links to relevant sections of its website. Insofar as any complaints that had not been published, the Authority advised that this information would be withheld under the exemption in section 26(a) of FOISA because of the

effect of sections 12 and 19 of the Scottish Public Services Ombudsman Act 2002 (the SPSO Act).

3. On 29 August 2025, the Applicant wrote to the Authority requesting a review of its decision. He stated that he was dissatisfied with the decision because, while he recognised the statutory restrictions under the SPSO Act, he required a fuller explanation of why the Authority could not disclose the aggregate statistics requested.
4. The Authority notified the Applicant of the outcome of its review on 24 September 2025, which fully upheld its original decision.
5. On 26 September 2025, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. He stated that he was dissatisfied with the outcome of the Authority's review because he considered that the statistical information requested could be disclosed and that the Authority's reliance on section 25(1) of FOISA did not address the specific nature of his request.

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 21 October 2025, the Authority was notified in writing that the Applicant had made a valid application. The case was subsequently 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 related to its application of the exemption in section 25(1) of FOISA.
9. As the Applicant's application was focused on the application of the exemption in section 25(1) of FOISA, the Commissioner will not consider the application of the exemption in section 26(a) further in his decision notice.

Commissioner's analysis and findings

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

Section 25(1) – Information otherwise accessible

11. Under section 25(1) of FOISA, information which an applicant can reasonably obtain, other than by requesting it under section 1(1) of FOISA, is exempt information. This exemption is not subject to the public interest set out in section 2(1)(b) of FOISA.
12. Section 25(1) of FOISA is not intended to prevent or inhibit access to information, but to relieve public authorities of the burden of providing information that an applicant can access readily without asking for it.
13. Section 23 of FOISA requires each public authority, as defined by FOISA, to adopt and maintain a publication scheme, approved by the Commissioner. The purpose of this scheme

is to provide access to information that an authority readily makes available, without an applicant having to go through the formal request process within FOISA.

14. All Scottish authorities have adopted the Commissioner's Model Publication Scheme (MPS). This requires them to publish a Guide to Information that they make available. Each publication scheme sets out the classes of information that are published by the public authority and, for each class, details the manner in which the information is made available, and whether or not a charge will apply.
15. Section 25(3) of FOISA creates the presumption that where information can be requested in accordance with an authority's publication scheme, it is reasonably accessible and so subject to an absolute exemption from release under the terms set out in Part 1 of FOISA. Instead, the information should be made available under the terms set out in the publication scheme.

The Applicant's submissions

16. The Applicant accepted that the specific aggregate information he requested was not available within a single report and would instead require analysis of multiple published documents and complaint findings in order to identify references to "reasonableness" and compile the requested statistics.
17. The Applicant highlighted that the Authority was aware of his disabilities and need for reasonable adjustments. He argued that that requiring him to locate, review, analyse and compile information from numerous published documents was not a reasonable means of providing access to the information requested.
18. In the Applicant's view, even if the source material was publicly available, he doubted that the specific information requested was reasonably accessible in practice.

The Authority's submissions

19. The Authority explained that, in line with its publication scheme, it published statistics regarding the outcomes of complaints, on the statistics [page](#)¹ of its website.
20. The Authority noted that complaints closed under the outcome group "Discretion – Good complaint handling" (i.e. complaints that were not upheld and therefore closed before moving to the next stage) relied on "reasonableness".
21. The Authority explained that complaints closed under the next stage (i.e. investigation stage) had a different breakdown in the complaint outcome statistics report under outcome group. However, the reports of investigations, published on the findings [page](#)² of its website, included the detail and these could be searched using keywords and outcomes.
22. The Authority confirmed that this information was contained in its publication scheme. It also confirmed that it did not capture the information requested in another way to create aggregate statistics.
23. The Authority commented that if the Applicant had difficulty in searching its reports, it may be able to provide him with further advice and assistance.

¹ <https://www.spsso.org.uk/statistics>

² <https://www.spsso.org.uk/our-findings>

The Commissioner's view

24. The Commissioner has carefully considered the submissions from both parties, together with the terms of the request and the information publicly available on the Authority's website.
25. For the information relating to complaints that did not reach the investigation stage the Commissioner notes that this information is spread over several pages. He acknowledges that this will slow down the process of locating relevant information. However, these pages are clearly labelled, so he considers that this information can be located and compiled without unreasonable effort.
26. For the information relating to complaints that did reach the investigation stage, the Commissioner notes that searching for "reasonable", "unreasonable", and "reasonableness" all produce results that appear to be in scope of the Applicant's request.
27. The Commissioner is therefore satisfied that the information sought is available on the Authority's website and that the Authority has appropriately signposted the Applicant to this information.
28. However, section 25(1) of FOISA is one of the few sections of FOISA that is not entirely "applicant blind". Whether the exemption in this section applies depends on the ability of the individual requester to be able to obtain the information other than under section 1(1) of FOISA.
29. The Applicant has stated that he has complex disabilities and that the Authority is aware of his need for reasonable adjustments. In light of this, he did not consider that requiring him to locate, review, analyse and compile information from numerous published documents was a reasonable means of providing access to the information requested. The Commissioner has taken these personal circumstances into account in considering whether the information was, in practice, reasonable obtainable by the Applicant.
30. The Commissioner has considered the availability of the information requested on the Authority's website, the fact that the Authority does not itself capture the information requested as a pre-existing aggregate dataset and the absence of submissions from the Applicant explaining, with sufficient particularity, why the information requested was not reasonably accessible to him, what practical disadvantage he would face in locating it, or why any disadvantage could not be mitigated by the provision of adequate advice and assistance.
31. In all of the circumstances, the Commissioner is not satisfied, on balance, that the Applicant's own circumstances are, based on the submissions provided, sufficient to show that the information was not reasonably obtainable to him by other means. He therefore finds that the Authority was entitled to rely on the exemption in section 25(1) of FOISA to withhold the information requested.
32. To the extent that the Applicant may have difficulties with searching for and retrieving this information, the Commissioner notes that section 15 of FOISA requires Scottish public authorities to provide advice and assistance to applicants, so far as it would be reasonable to expect them to do so.
33. In this case, the Authority has already suggested it may be able to provide further advice and assistance to the Applicant if he has difficulties with these searches. The Commissioner would therefore encourage the Applicant to engage with the Authority if he has any specific

difficulties (including difficulties relating to his disabilities) in locating the information he has requested.

Decision

The Commissioner finds that the Authority complied with Part 1 of the Freedom of Information (Scotland) Act 2002 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.

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

3 July 2026