



Scottish Information
Commissioner
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Decision Notice 184/2026

School protocols and policies regarding safeguarding and child protection in the context of removing children from classes – failure to respond

Authority: Dundee City Council
Case Ref: 202600136

Summary

The Applicant asked the Authority for various information relating to its policies around safeguarding and child protection in the context of removing children from classes. This decision finds that the Authority failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also 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 21 September 2025.
2. On the following day, the Authority acknowledged receipt of the Applicant's information request. However, it did not respond to the information request.
3. On 29 October 2025, the Applicant wrote to the Authority requiring a review in respect of its failure to respond.
4. The Applicant did not receive a response to her requirement for review.
5. The Applicant wrote to the Commissioner on 21 January 2026, stating that she 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 11 February 2026.
8. The Commissioner received submissions from the Authority on 3 March 2026. These submissions are considered below.
9. The Authority stated that the Applicant's correspondence of 21 September 2025 was "not submitted as a Freedom of Information (FOI) request, nor was it treated or recorded as such by [the Authority] or [the named school]".
10. While the Authority recognised that some of the information sought by the Applicant would in principle, fall within the scope of FOISA, it explained that it had decided to address the Applicant's queries through the Authority's complaints procedure, which it considered was better suited to the complexity and context of the issues raised.
11. The Authority stated that it should have made the Applicant aware that it was handling her request for information through the Authority's complaints procedure. Given that the request for information remained outstanding following the conclusion of the complaints procedure, the Authority confirmed that it would issue a response as soon as possible.
12. The Authority subsequently issued a review outcome to the Applicant on 15 May 2026.
13. Section 10(1) of FOISA gives Scottish public authorities a maximum of 20 working days following the date of receipt of the request to comply with a request for information. This is subject to qualifications which are not relevant in this case.
14. It is a matter of fact that the Authority did not provide a response to the Applicant's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
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. Given that the Authority responded to the Applicant's requirement for review on 15 May 2026, the Commissioner does not require it to take any further action in relation to the Applicant's application.
18. However, in the circumstances, the Commissioner reminds the Authority that it must respond in accordance with Part 1 of FOISA to any request for recorded information which complies with the requirements of section 8 of FOISA. This obligation applies whether or not the correspondence expressly cites FOISA and whether or not the correspondence is also considered under the Authority's complaints procedure. A public authority's complaints procedure cannot displace its statutory obligations under FOISA.

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 request for information and requirement for review within the timescales laid down by sections 10(1) and 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.

Cal Richardson
Deputy Head of Enforcement

15 July 2026