



Scottish Information
Commissioner
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Decision Notice 201/2026

Breakdown of itemised expenses for councillors

Authority: Moray Council
Case Ref: 202502005

Summary

The Applicant asked the Authority for a breakdown of itemised expenses for each councillor over a specified period. The Authority stated that complying with the request would exceed the £600 cost limit, so it was not obliged to comply. Following an investigation, the Commissioner accepted this. However, he considered that the Authority could have provided advice and assistance to the Applicant on how to refine the request to bring the majority of the information requested below the cost limit.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); 12 (Excessive cost of compliance); 15 (Duty to provide advice and assistance); 47(1) and (2) (Application for decision by Commissioner).

Background

1. On 7 August 2025, the Applicant made a request for information to the Authority. He asked for a breakdown of itemised expenses claims for each elected member (councillor) of the Authority from May 2022 to present. For each councillor, he asked for the breakdown to include the:
 - (i) Date expense incurred;
 - (ii) Date claimed;
 - (iii) Category of claim (transport, IT, etc);

- (iv) Purpose and/or description of claim;
 - (v) Amount claimed;
 - (vi) Amount paid.
2. The Authority responded on 4 September 2025. It informed the Applicant, in line with section 12 of FOISA, that as it would cost in excess of £600 to fulfil his request it was not obliged to comply with it. However, it signposted the Applicant to information on Councillors' Allowances and Expenses [available on its website](#)¹.
 3. Later the same day, the Applicant wrote to the Authority requesting a review of its decision. He stated that he was dissatisfied with the decision because he considered it inconceivable that complying with his request would exceed the upper cost limit under FOISA.
 4. The Authority notified the Applicant of the outcome of its review on 2 October 2025, which upheld its original response.
 5. On 4 November 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 was not satisfied with the Authority's approach to calculating the costs.

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 4 February 2026, 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 reliance on section 12 of FOISA.

Commissioner's analysis and findings

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

Section 12 of FOISA – Excessive cost of compliance

10. Section 12(1) of FOISA provides that a Scottish public authority is not obliged to comply with a request for information where the estimated cost of doing so would exceed the relevant amount prescribed in the Fees Regulations. This amount is currently £600 (see regulation 5). Consequently, the Commissioner has no power to require the disclosure of information should he find that the cost of responding to a request for that information would exceed this sum.

¹ <https://www.moray.gov.uk/council-and-government/councillors/councillors-allowances-and-expenses/>

11. The projected costs a Scottish public authority can consider in relation to a request for information are, according to regulation 3 of the Fees Regulations, the total costs (whether direct or indirect) it reasonably estimates it will incur in locating, retrieving and providing the information requested, in accordance with Part 1 of FOISA.
12. The authority may not charge for the cost of determining whether it:
 - (i) actually holds the information,
 - (ii) or whether or not it should provide the information.
13. The maximum hourly rate the authority can charge for staff time is £15 per hour.

The Applicant's submissions

14. The Applicant highlighted that he had previously requested information about councillors' expenses for an eight-year period (2017-2025), but that the Authority refused this request as it estimated it would take approximately 49 hours to break down the information as requested and therefore exceed the upper cost limit under FOISA.
15. The Applicant explained that he therefore revised his request (the request being considered in this decision notice) to cover less than half the amount of information received previously: a three-year period (2022-2025). He considered it inconceivable that collating less than half of the information previously requested would take the same amount of time to collate.
16. The Applicant commented that it appeared that the amount of time the Authority estimates to collate information seems to grow inversely to the volume of information. He also referred to material [published by the Authority](#)² indicating that most councillors did not make any expenses claims.

The Authority's submissions

17. The Authority explained that the discrepancy between the calculations for the Applicant's request in this case and his previous request (which he did not appeal to the Commissioner) appeared to have arisen due to differences in the experience of the staff members handling the requests. It commented that the more senior member of staff handling the previous request would probably have been able to complete the task a little more quickly.
18. In any event, the Authority reconsidered its calculations during the appeal.
19. The Authority explained that there were 29 councillors within the period requested. For the councillors who made a claim, these claims were usually submitted every month and the sample of forms it checked showed around 20 rows of data each month. The claim forms were stored per councillor, so all the claim forms for an individual councillor would be stored together.
20. The Authority further explained that where a councillor had made a claim, then this could be broken down into years and then months. This gives:
 - 2022/2023 - 12 months in a year x 11 councillors = 131 months. If there is an average of 20 rows of data, this could mean that in total there are 2,620 rows for 2022/2023.
 - 2023/2024 – 12 months in a year x 9 councillors = 108 months. If there is an average of 20 rows of data, this could mean that in total there are 2,160 rows for 2023/2024.

² http://www.moray.gov.uk/moray_standard/page_90017.html

- 2024/2025 - 12 months in a year x 9 councillors = 108 months. If there is an average of 20 rows of data, this could mean that in total there are 2,160 rows for 2024/2025.
- In total, this gives: 6,940 rows of data for the period requested.

21. The Authority estimated that to collate the data covering the six pieces of information requested would take a minimum of two minutes per row: 6,940 rows x 2 minutes = 231 hours and 20 minutes. However, it noted that this did not include the councillor claims for 2025/2026 (April 2025 to August 2025, when the Applicant's request was received).

The Commissioner's view

22. The Commissioner acknowledges that as a consequence of the response he received to his previous request to the Authority for the same information (over a longer period), the Applicant considers that the Authority should be capable of providing the information requested without exceeding the £600 cost limit under FOISA.
23. The Commissioner recognises that the discrepancy between the Authority's approach to his two requests is likely to be confusing and frustrating for the Applicant. However, it is important to treat each request on a case-by-case basis.
24. The Commissioner must therefore determine if section 12(1) of FOISA is applicable in this case, focusing on the Authority's actual searches of its systems which hold the relevant recorded information and the exercise carried out to establish how long it would take to locate, retrieve and provide that information.
25. The Commissioner notes that there is at least one minor arithmetical error in the calculations above: for 2022/2023, 12 months x 11 councillors equal 132 months, not 131. This corrected calculation would add time and make the final estimate of time 232 hours, not 231 hours and 20 minutes.
26. Given this appears to be an isolated error, and one in favour of the Applicant, the Commissioner is satisfied that this is a simple mistake. However, he would encourage authorities to confirm the accuracy of their calculations when assessing whether the cost limit applies.
27. It is not within the Commissioner's remit to instruct a public authority to change its record keeping systems. He is required to consider whether section 12(1) of FOISA applies in this case, with regard to how the Authority has logged the information requested, and not with regard to how the Applicant believes that information should be logged.
28. Having viewed the authority's claim forms the Commissioner notes that, although some are typed, they are often handwritten. He accepts that two minutes a row is a reasonable estimate for the time taken to extract the information and collate it into the rows requested by the Applicant and that the Authority's estimate that it would take around 232 hours to respond to the request was therefore also reasonable.
29. Although the Authority did not specifically advise the Commissioner of the grade of staff member assigned to responding to the request, he understands that the Authority is a Living Wage employer. At the current real living wage, as calculated by the Living Wage Foundation, of £13.45, this would cost £3,120.40. If a more senior staff member, paid at or above the £15 an hour limit in the Fees Regulations, carried out the work this would cost £3,480. Both estimates are well in excess of the upper cost limit under FOISA.

30. Considering all of the circumstances, the Commissioner is satisfied that the Authority could not have provided the requested information within the £600 cost limit. Consequently, he finds that the Authority was entitled to rely on section 12(1) of FOISA in responding to the Applicant's request and was under no obligation to comply with it.

Section 15 of FOISA – Duty to provide advice and assistance

31. Section 15(1) of FOISA requires a Scottish public authority, so far as 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.
32. 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 Scottish Ministers' Code of Practice on the discharge of functions by Scottish public authorities under FOISA and the EIRs (the [Section 60 Code](#)³).
33. The below extracts are from the Section 60 Code published in 2016 that was in place during the Authority's handling of the request in this case. An [updated version](#)⁴ of the Section 60 Code was issued in March 2026.
34. The Section 60 Code states (at paragraph 5.1 in Part 2):

“Authorities should offer advice and assistance at all stages of a request

Authorities have a duty to provide advice and assistance at all stages of a request. It can be given either before a request is made, or to clarify what information an applicant wants after a request has been made, whilst the authority is handling the request, or after it has responded.” (Paragraph 5.1.1.)

35. The Section 60 Code further states (at paragraph 9.4 in Part 2):

“Where excessive costs apply

When refusing a request on cost grounds, it is good practice for the authority's response to provide clear advice on how the applicant could submit a new, narrower request within the cost limit. In giving advice you may wish to take account of how much the cost limit has been exceeded. Any narrowed request would be a separate new request and should be responded to accordingly.” (Paragraph 9.4.3.)

36. In the circumstances of this case, the Commissioner is not satisfied that the Authority has complied with its duty under section 15 of FOISA.
37. While the Commissioner agrees that extracting and compiling all six pieces of information requested by the Applicant into the format requested would breach the cost limit, it appears likely that the Authority could provide much of the information requested within the cost limit.

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<https://web.archive.org/web/20250513062935/https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2016/12/foi-eir-section-60-code-of-practice/documents/foi-section-60-code-practice-pdf/foi-section-60-code-practice-pdf/govscot%3Adocument/FOI%2B-%2Bsection%2B60%2Bcode%2Bof%2Bpractice.pdf>

⁴ <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2026/03/foi-eir-section-60-code-practice/documents/foi-eir-section-60-code-practice/foi-eir-section-60-code-practice/govscot%3Adocument/foi-eir-section-60-code-practice.pdf>

38. In Reuben Kirkham v Information Commissioner (Section 12 of FOIA) [2018] UKUT 126 (AAC) (11 April 2018)⁵, the Upper Tribunal found that a public authority cannot comply with the Freedom of Information Act 2000 (FOIA) by providing such information as it can find before the upper cost limit applies.
39. The Commissioner is not bound by the Upper Tribunal's findings, but he is of the view that its interpretation of the equivalent (FOIA) provisions can be taken as a reasonable guide in this case. However, this does not relieve a public authority of its duty to provide advice and assistance to help a requester refine their request to bring it below the upper cost limit under FOISA.
40. The Commissioner notes that the date of the expense, date of claim and a description of the claim are all clearly given in each form. He considers that by providing, appropriately redacted, copies of the original forms, the Authority could have provided the Applicant with much of the information he sought.
41. Although the Commissioner has not received comments on how long it would take to appropriately redact these forms, this would clearly be less time-consuming than extracting and compiling the information in these forms into the format requested by the Applicant.
42. The Commissioner notes that the amount claimed, amount paid, and category do not seem to be specifically recorded on a row-by-row basis. However, the standard form contains columns that identify the amount claimed for mileage, subsistence, other travel and other expenses. While not identical to the categories suggested by the Applicant, they appear to broadly correspond to the information sought by the Applicant under the heading of "category".
43. The amount claimed is not clearly recorded on each row. However, it can be calculated from information in this row (for example, by multiplying the mileage by the Authority's standard rate for mileage). While the Commissioner accepts that calculating this for each row would be time consuming, the Applicant could, with the raw data and appropriate descriptions of how to carry out the calculations, calculate any row of particular interest himself.
44. As the Authority's comments have focused on the claim forms and the amount actually paid does not appear to be recorded in these forms, the Commissioner cannot specifically comment on the cost of providing this information in isolation. However, given his observations on the other components of the Applicant's request, he anticipates that the Authority could give the Applicant advice and assistance on how to refine the request further.
45. Given that it appears that the Applicant's request could be refined in a manner that would bring the majority of the information requested below the cost limit, the Commissioner considers that it would have been appropriate for the Authority to have provided the Applicant with advice and assistance on how to refine his request.
46. If the Applicant wishes to make further requests, the Commissioner would encourage the Applicant to engage with the Authority to help refine his requests to bring the cost of complying with them below the upper cost limit in FOISA.

⁵ https://assets.publishing.service.gov.uk/media/5ae969fc40f0b631578af0c5/GIA_1055_2016-00.pdf

Decision

The Commissioner finds that, in respect of the matters specified in the application, 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.

Cal Richardson
Deputy Head of Enforcement

4 August 2026