



Scottish Information
Commissioner
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Decision Notice 205/2026

Information relating to a named individual and to specified guidance and policies – failure to respond

Authority: Scottish Ministers
Case Ref: 202601106

Summary

The Applicant asked the Authority for information about information relating to a named individual and to specified policies and guidance. 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 (by post) on 6 March 2026.
2. The Authority signed for the letter at 8:30am on 12 March 2026 but did not respond to the information request.
3. On 28 April 2026, the Applicant wrote to the Authority (by post) requiring a review in respect of its failure to respond.
4. The Authority signed for the requirement for review at 9:02am on 11 May 2026, but the Applicant did not receive a response to her requirement for review.
5. The Applicant wrote to the Commissioner on 16 June 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 26 June 2026.
8. The Commissioner received submissions from the Authority. These submissions are considered below.
9. The Authority confirmed that it had established that it had received the Applicant's request and requirement for review on 12 March 2026 and 11 May 2026 respectively and that these were signed for upon delivery.
10. The Authority explained that, due to an administrative handling error, neither item was picked up by the appropriate team for logging, consideration or response. As a result, neither the request nor the subsequent requirement for review was identified or responded to within the statutory timescales under FOISA.
11. The Authority acknowledged that the absence of any acknowledgement or response would have caused the Applicant additional frustration and distress (in the context of the issues the Applicant raised in her correspondence), and it sincerely apologised for this.
12. The Authority stated that it had reviewed how the correspondence was handled and that its investigation had confirmed that the failure arose from an administrative error in the management and distribution of incoming mail, rather than any deliberate decision not to respond to the Applicant.
13. The Authority explained that it had taken steps to reduce the likelihood of a similar occurrence in future, including reinforcing responsibilities for ensuring correspondence was checked and routed promptly to the appropriate business area.
14. 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.
15. 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.
16. 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.
17. 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.
18. The Authority responded to the Applicant's requirement for review by post on 22 July 2026, so the Commissioner does not require it to take any further action in relation to the Applicant's application.
19. The Commissioner notes that the Authority has apologised to the Applicant for its failure to comply with the statutory timescales and for the resulting impact on her.

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, the Commissioner 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

14 August 2026