



Scottish Information
Commissioner
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Decision Notice 224/2026

Works carried out at specified addresses – failure to respond

Authority: City of Edinburgh Council
Case Ref: 202601249

Summary

The Applicant asked the Authority for information relating to works carried out at a number of specified addresses. This decision finds that the Authority failed to respond to the Applicant's request and requirement for review within the timescales allowed by the Freedom of Information (Scotland) Act 2002 (FOISA) and the Environmental Information (Scotland) Regulations 2004 (the EIRs).

Background

1. On 8 February 2026, the Applicant made an information request to the Authority.
2. Although the Applicant received an acknowledgement, he did not receive a response to his information request.
3. On 22 March 2026, the Applicant wrote to the Authority requiring a review in respect of its failure to respond.
4. The Authority wrote to the Applicant on 10 April 2026, apologising for the significant delay in responding. It explained that clarification of some information had been requested from the service area, and that this was actively being pursued as a priority.
5. The Authority did not respond to the Applicant's requirement for review within 20 working days.
6. On 8 July 2026, the Applicant wrote to the Commissioner, 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. The enforcement provisions of FOISA apply to the enforcement of the EIRs, subject to specified modifications – see regulation 17.

7. 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

8. 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 20 July 2026.
9. The Commissioner received submissions from the Authority. These submissions are considered below.
10. The Authority acknowledged that it had failed to handle the Applicant's request properly, in accordance with the requirements of the legislation.
11. In its submissions, the Authority accepted that it had failed to issue an initial response within the statutory timescale, which, it explained, had been due to delays in the service area obtaining information from an external contractor. It apologised for the failure to respond to the Applicant's request within 20 working days.
12. The Authority further recognised that the Applicant's email of 22 March 2026 ought to have been identified and handled as a request for review. The Authority explained that "unfortunately", however, it had not interpreted it as such at that time, and therefore no review outcome had been issued within the statutory timescale. The Authority apologised for these failures.
13. The Authority confirmed that it had issued a review response to the Applicant on 10 July 2026, and provided the Commissioner with a copy of that review.
14. In its submissions, the Authority recognised the concerns raised regarding its handling of the Applicant's request, and accepted that improvements were required to prevent a recurrence.
15. In this regard, the Authority explained that it had raised the matter with the responding team to ensure that any correspondence expressing dissatisfaction with the handling of an information request (including any lack of response) was correctly identified and escalated as a request for review. The Authority further submitted that relevant staff had been reminded of the need to identify requests for review promptly, and to ensure that these were responded to within the statutory timescales.
16. The Authority apologised again for its failures in this case, and for the distress caused to the Applicant by the delay.
17. It is apparent from the terms of the request that at least some of the information caught by it is likely to be environmental information, as defined by regulation 2(1) of the EIRs. In [Decision 218/2007](https://www.foi.scot/decision-2182007)¹, the Commissioner confirmed (at paragraph 51) that, where environmental information is concerned, there are two separate statutory frameworks for access to that information and, in terms of the legislation, an authority is required to consider the request under both FOISA and the EIRs.

¹ <https://www.foi.scot/decision-2182007>

18. 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. The same timescale is laid down by regulation 16(4) of the EIRs.
19. 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 and regulation 5(2)(a) of the EIRs.
20. 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. The same timescale is laid down by regulation 16(4) of the EIRs.
21. 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.
22. As stated above, the Authority responded to the Applicant's requirement for review on 10 July 2026, so the Commissioner does not require it to take any further action in relation to the Applicant's application.
23. The Commissioner notes that the Authority has apologised for its failures in this case, and welcomes the steps it has taken to make improvements in this regard.

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 and regulations 5(2) and 16(4) of the EIRs. 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.

Nick Murton
Freedom of Information Officer

8 September 2026