



Scottish Information
Commissioner
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Decision Notice 226/2026

The number of days and hours that the Police Scotland office at Tam Dalyell House, Linlithgow, was staffed each year from 2019 to 2024.

Authority: Chief Constable of the Police Service of Scotland
Case Ref: 202501339

Summary

The Applicant asked the Authority for the number of days and hours that the Police Scotland office at Tam Dalyell House, Linlithgow, was staffed each year from 2019 to 2024, including annual and monthly breakdowns. The Authority provided the Applicant with most of the information requested in parts (i) and (ii) of the request and informed the Applicant in line with section 17 of FOISA that no information was held which would fulfil part (iii) of the request. The Commissioner investigated and found that the Authority partially complied with part 1 of FOISA.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); 17 (Notice that information is not held); 47(1) and (2) (Application for decision by Commissioner).

Background

1. On 19 December 2024, the Applicant made a request for information to the Authority. He asked for:
 - (i) the number of days when the desk within Tam Dalyell house in Linlithgow was manned during the years 2019, 2020, 2022, 2023 & 2024;

- (ii) a breakdown of days per year;
 - (iii) if the office was only manned for a period during the day, the weekly manned hours per month, per year.
- 2. The Authority responded on 22 January 2025, refusing to provide the requested information on the basis that complying with the request would exceed the cost limit. It therefore relied on section 12(1) of FOISA.
- 3. On 22 January 2025, the Applicant wrote to the Authority requesting a review of its decision. The Applicant stated that, while recognising the financial constraints associated with responding to FOI requests, they were dissatisfied with the Authority's refusal and considered that it would have been appropriate to provide information on the proportion of time the office is actually staffed.
- 4. The Authority failed to carry out a review and issue a review outcome within the timescales required by FOISA. Accordingly, the Applicant applied to the Scottish Information Commissioner, who issued [Decision 110/2025](#)¹ requiring the Authority to carry out a review and issue a review outcome.
- 5. The Authority notified the Applicant of the outcome of its review on 26 June 2025. It informed the Applicant that the office concerned was staffed on a permanent basis and provided a breakdown, for each year from 2020 to 2025, of the number of days a member of staff was present at the named premises, together with an explanation of why the office was not staffed. In relation to part (iii) of the request, the Authority advised that it did not hold the requested information and gave notice under section 17(1) of FOISA. It explained that its systems could not provide the required level of detail.
- 6. On 11 August 2025, the Applicant applied to the Commissioner for a decision under section 47(1) of FOISA. The Applicant stated that he was dissatisfied with the outcome of the Authority's review because, having checked the building's visitor log, he could find no record of any Authority officer or representative signing into the building during 2025. He believed this suggested that the Authority may have provided information relating to the wrong building.

Investigation

- 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.
- 8. On 18 September 2025, the Authority was notified in writing that the Applicant had made a valid application, and the case was allocated to an investigating officer.
- 9. 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. These related to how the Authority had established what information it held falling within the scope of the request and its justification for applying section 17(1) of FOISA to part III of the request.

¹ <https://www.foi.scot/decision-1102025>

10. Submissions were also sought and received from the Authority as to why it had not provided any information covered by part (i) of the request for 2019.

Commissioner's analysis and findings

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

Section 1(1) – General entitlement

12. Section 1(1) of FOISA provides that a person who requests information from a Scottish public authority which holds it is entitled to be given that information by the authority subject to qualifications which are not applicable in this case.
13. In terms of section 1(4) of FOISA, the information to be provided in response to a request under section 1(1) is that falling within the scope of the request held by the authority at the time the request is received. This is not necessarily to be equated with information an applicant believes the authority should hold.
14. In considering whether a Scottish public authority has complied with the requirements of FOISA or the EIRs in any given case, the Commissioner must be satisfied that the authority has carried out adequate, proportionate searches in the circumstances, taking account of the terms of the request and all other relevant circumstances.
15. The Commissioner will consider the scope, quality, thoroughness and results of those searches, applying the civil standard of proof (the balance of probabilities). Where appropriate, he will also consider any reasons offered by the public authority to explain why it does not, or could not reasonably be expected to, hold the information.
16. In all cases, it falls to the public authority to persuade the Commissioner, with reference to adequate, relevant descriptions and evidence, that it does not hold the information (or holds no more information than it has identified and located in response to the request).
17. In part (i) of his request for information, the Applicant asked for the number of days when the Authority office in Tam Dalyell House in Linlithgow was manned during the years 2019, 2020, 2022, 2023 and 2024. In part (ii) of his request, the Applicant asked for the figure covered by part (i) to be broken down by days per year. In part (iii) of his request, the Applicant asked for the weekly manned hours per month, per year if the office was only manned for a period during the day.

The Applicant's submissions

18. In his application to the Commissioner, the Applicant stated that, having examined the building access log, he was unable to identify any record of an Authority officer or agent signing into the building during 2025. The Applicant submitted that this appeared to be inconsistent with the information provided by the Authority, which indicated that the office had been staffed for approximately 40–50% of the time. The Applicant further provided the Commissioner with an extract of the building access log in support of his position.
19. The Applicant submitted that it was possible the Authority had provided information relating to the wrong building. He noted that the Authority had acknowledged that the SCOPE system used to respond to his request could inaccurately record an employee as being

present at the office when they had in fact been redeployed elsewhere. The Applicant argued that this raised concerns about the reliability of the information provided in response to his request.

20. The Applicant submitted that the significant discrepancy between the staffing figures provided by the Authority and the attendance of an Authority officer or agent at the building, as observed by both himself and library staff, suggested that the Authority's data was inaccurate. The Applicant argued that this discrepancy indicated that the Authority should review the information on which it had relied in responding to his request.

The Authority's submissions

21. As mentioned, in paragraph 10, it became apparent during the Commissioner's investigation that the information disclosed by the Authority in response to Part I of the Applicant's request only covered the time period 2020-2024, when in fact the Applicant had asked for data going back to 2019.
22. The Authority explained to the Commissioner that it was unable to advise why the information from 2019 was not included in the response issued to the Applicant following Decision Notice 110/2025.
23. The Authority advised that it had now disclosed this information to the Applicant and the Commissioner received confirmation from the Applicant that this had been received.
24. In its submissions to the Commissioner the Authority defined the term "staffed on a permanent basis", as the post holder being employed on a permanent contract; it stated that this definition was not documented in any policy or guidance but written in the employee's contract.
25. The Authority provided the Commissioner with an excel duty roster and key sheet which records the reasons why the office was not staffed on particular dates between 2020 -24 June 2025.
26. The Authority submitted that, although there had been extended periods during which the public front counter had been closed, its officers and staff continued to use the office facilities located behind the front counter on a regular basis.
27. The Authority further explained that all of its officers and staff are required to complete mandatory fire safety training. Consequently, there is no requirement for them to sign in or out using the building's visitor log when accessing the premises.
28. The Authority commented that the permanent member of staff assigned to the office accessed the premises using an electronic fob. As a result, there was no requirement for that member of staff to sign the building access log.
29. The Authority submitted that its officers did not staff the public front counter in the absence of the permanent member of staff. When officers attended the office to use the facilities, they also gained access using an electronic fob. Accordingly, they were likewise not required to sign the building access log.
30. The Authority reconfirmed that the information provided in response to the request was extracted from its SCOPE system. It explained that, while SCOPE recorded when an individual was allocated or redeployed to another office, it did not provide the level of detail requested by the Applicant. In particular, although the system recorded that an officer had

been assigned to Tam Dalyell House, it did not record the length of time, or the number of hours, that the officer spent either at that location or at their base post.

31. The Authority further explained that SCOPE was the only duty management system used by it and recorded only the rostered duty hours of its officers and staff for any given day.
32. The Authority also stated that the electronic fob access system used to enter the premises was neither owned nor operated by it. Consequently, it did not own or have access to any data that might be recorded by that system.

The Commissioner's view

33. The Commissioner has carefully considered the terms of parts (i) and (ii) of the Applicant's request, and he has considered all of the submissions made to him by the Applicant and the Authority.
34. While the Commissioner recognises that the Applicant has concerns over whether the information provided to him by the Authority was accurate, the Commissioner cannot consider whether the information held by the Authority is accurate or correct. However, he can consider whether the Authority disclosed all of the relevant information it held at the time of receiving the Applicant's request.
35. The Commissioner is satisfied, on the basis of the submissions he has received from the Authority, that it conducted appropriate searches within SCOPE, including the generation of individual duty reports and the extraction of data showing amendments to duty allocations. The subsequent collation of this information into a spreadsheet was a reasonable method of presenting the data held.
36. Given the explanations and submissions provided, the Commissioner accepts that the Authority took adequate and proportionate steps in the circumstances to establish what information was held.
37. The Commissioner notes that the Authority did fail to disclose information to the Applicant covering 2019 in its response to Decision Notice 110/2025. However, he is satisfied that this has now been made available to the Applicant.
38. On balance, he is satisfied that the Authority does not hold any further (or different) information falling within the scope of the Applicant's request.
39. Taking all of the above into account, the Commissioner is satisfied that the Authority has provided a credible and reasonable explanation of the information it held and the searches undertaken, and has demonstrated that it did not hold recorded information beyond that identified and now provided to the Applicant.
40. However, given the Authority failed to disclose information to the Applicant which covered the full time period asked for in part (i) of the request in its response and it was not relying on any exemption to withhold this information from 2019, the Commissioner must conclude that the Authority failed to comply with section 1(1) of FOISA in respect of that information.

Section 17(1) of FOISA – Notice that information is not held

41. Section 1(1) of FOISA provides that a person who requests information from a Scottish public authority which holds it is entitled to be given that information by the public authority, subject to qualifications which, by virtue of section 1(6) of FOISA, allow Scottish public authorities to withhold information or charge a fee for it. The qualifications contained in section 1(6) of FOISA are not applicable in this case.

42. The information to be given is that held by the Authority at the time the request is received, as defined by section 1(4) of FOISA. This is not necessarily to be equated with information that an applicant believes the public authority should hold. If no such information is held by the public authority, section 17(1) of FOISA requires the authority to give the applicant notice in writing to that effect.
43. The standard of proof to determine whether a Scottish public authority holds information is the civil standard of the balance of probabilities. In determining where the balance of probabilities lies, the Commissioner considers the scope, quality, thoroughness and results of the searches carried out by the public authority.
44. The Commissioner also considers, where appropriate, any reason offered by the public authority to explain why it does not hold the information. While it may be relevant as part of this exercise to explore expectations about what information the authority should hold, ultimately the Commissioner's role is to determine what relevant recorded information is (or was, at the time the request was received) held by the public authority.
45. As noted in paragraph 5, the Authority notified the Applicant, in line with section 17(1) of FOISA, that it did not hold any recorded information which would fulfil part (iii) of his request.

The Applicant's submissions

46. The Applicant did not agree with the Authority's position that it holds no recorded information which would fulfil part (iii) of his request
47. The Applicant noted that the office in question was supposedly manned from 09:00hrs to 17:00hrs on a weekday, with a closure every alternate Monday and at weekends.
48. In the Applicant's view, for the Authority to claim that it operated a station with This manning level and yet be unable to state when they had someone present in the building suggested a complete lack of management. The Applicant questioned how the Authority knew if an officer or agent had completed their work hours. The Applicant provided evidence to the Commissioner, drawn from the Authority's own website, of the hours that the office was manned.

The Authority's submissions

49. The Authority explained how it determined what information fell within the scope of the request, stating that it did not hold any information covered by part (iii) of request. It confirmed that the SCOPE system was searched, as this was the only centralised system used to record duty management, including duty rosters.
50. The Authority described the searches undertaken. It explained that an individual duty report was generated from SCOPE, which provided data showing when amendments were made. An Excel spreadsheet was subsequently collated from this report, which was provided to the Commissioner as evidence of the nature of the information held (as covered by parts I and II of the Applicant's request).
51. The Authority stated that its Human Resources and Local Policing departments confirmed the identity of the Authority staff member based at Tam Dalyell House. It explained that these departments were considered appropriate to consult for the purpose of carrying out searches, as SCOPE was managed by Human Resources and Local Policing had responsibility for police officers and staff located at Tam Dalyell House.

52. As mentioned in paragraph 28, the Authority also explained that whilst its officers and staff use an electronic key fob to gain entry to the office the fob access system is not owned or operated by it and so they do not own any data it may record.

The Commissioner's view

53. The Commissioner has carefully considered the terms of part (iii) of the Applicant's request, where he asked that if the office was only manned for a period during the day he receive the weekly manned hours per month, per year.
54. He accepts the Authority explanation for the way in which it holds, searches for, and interprets the information relevant to this part of the Applicant's request.
55. The Commissioner accepts the Authority's position that SCOPE is the sole centralised duty management system used by it. It follows that it was reasonable for the Authority to rely on searches of that system when identifying whether it held information falling within the scope of part (iii) of the Applicant's request.
56. The Commissioner accepts that SCOPE records rostered duty hours and related amendments but does not record granular detail such as the actual time spent by officers or staff at particular locations, or the duration of attendance at alternative premises. The Commissioner is therefore satisfied that there are limitations of the system which affect the scope of the recorded information held.
57. The Commissioner accepts the Authority's explanation regarding the role of Human Resources and Local Policing in confirming staffing arrangements. Given that SCOPE is managed by Human Resources and Local Policing has operational responsibility for personnel at Tam Dalyell House, it was appropriate for those departments to be consulted and asked to carry out searches to identify any recorded information falling within scope of this part of the request.
58. The Commissioner is satisfied, on the basis of the explanation provided by the Authority, that as the electronic fob access system is not owned or operated by it, the Authority does not hold or control any data generated by that system for the purposes of the request. Consequently, whilst this may record actual times at which officers or staff of the Authority are present in the office, this is not recorded information the Authority holds.
59. In all the circumstances, the Commissioner is satisfied, on balance, that the Authority did not hold recorded information that would fulfil part (iii) of the Applicant's request, either when it received the request or subsequently. This is because of the limitations of the Authority's duty management recording system. The Commissioner therefore finds that the Authority was correct to inform the Applicant, under section 17(1) of FOISA, that it did not hold the requested information.

Decision

The Commissioner finds that the Authority partially complied with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to parts (i) and (ii) of the information request made by the Applicant.

The Commissioner finds that in failing to provide the data held which covered 2019, in response to part (i) of the Applicant's request, the Authority failed to comply with section 1(1) of FOISA.

However, as the Authority has now provided this information to the Applicant, the Commissioner does not require the Authority to take any action in relation to this failure.

The Commissioner also finds that the Authority was correct to inform the Applicant, in terms of section 17(1) of FOISA, that it did not hold the information requested under part III of 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.

Euan McCulloch
Head of Enforcement

8 September 2026