Scottish Information Commissioner
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Decision Notice 259/2026

Information relating to Showpeople's yards

Authority: Glasgow City Council
Case Ref: 202600405

Summary

The Applicant asked the Authority for information relating to individuals or families residing in Showpeople's yards in various specified locations. The Authority informed the Applicant that it did not hold any information falling within the scope of the request. The Commissioner investigated and found that the Authority was not entitled to advise the Applicant that it did not hold any information falling within the scope of the request. He required the Authority to issue a revised review outcome.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2), (4) and (6) (General entitlement); 12 (Excessive cost of compliance); 17(1) (Notice that information is not held); 47(1) and (2) (Application for decision by Commissioner).

The Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004 (the Fees Regulations) regulations 3 (Projected costs) and 5 (Excessive cost – prescribed amount).

Background

1. On 30 July 2025, the Applicant made a request for information to the Authority. Among other things, he asked the Authority for:

   (i) "Internal communications, briefing notes, or reports from 2000 to 2024 concerning access to social services, housing assessments, or public health interventions for individuals or families residing in Showpeople's yards located in Govan, Dalmarnock,

Carntyne, Shettleston, Cowcaddens, Whiteinch, and the Cuningar Loop / Downiebrae Road area of Rutherglen".

2. On 13 January 2026, the Commissioner issued Decision 003/2026[1] which considered the Authority's handling of the request. As the chronology of the Authority's handling of the request is set out in Decision 003/2026, the Commissioner will not repeat the full detail in this decision notice.

3. The Authority responded on 26 August 2025.

4. Later that same day, the Applicant wrote to the Authority requesting a review of its decision.

5. The Authority notified the Applicant of the outcome of its review on 1 September 2025.

6. Later that same day, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA because he was dissatisfied with the outcome of the Authority's review.

7. As stated above, the Commissioner issued Decision 003/2026 in response to this application. Decision 003/2026 required the Authority to issue a response otherwise than in terms of section 14(2) of FOISA.

8. The Authority notified the Applicant of its revised review response on 27 February 2026. In relation to request (i), the Authority issued the Applicant with a notice, in terms of section 17(1)(b) of FOISA, that it did not hold any information falling within the scope of the request.

9. On 3 March 2026, 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 revised review because he did not agree that the Authority did not hold any information falling within the scope of part (i) of his request.

Investigation

10. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.

11. On 4 March 2026, the Authority was notified in writing that the Applicant had made a valid application. The case was allocated to an investigating officer.

12. 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 how it interpreted part (i) of the request and how it established that it did not hold any information falling within the scope of the request.

13. While the Applicant's original request contained two parts, the Applicant only applied to the Commissioner for a decision in terms of section 47(1) of FOISA in respect of part (i) of the request. This decision notice will therefore only consider part (i) of the request (hereafter referred to as "the request").

[1] https://www.foi.scot/sites/default/files/2026-02/Decision003-2026.pdf

Commissioner's analysis and findings

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

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

15. 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) are not applicable in this case.

16. 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.

17. 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.

18. 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) actually held by the public authority.

The Applicant's submissions

19. The Applicant did not accept that the Authority conducted reasonable and proportionate searches in response to the request. He commented that the revised review outcome described searches primarily directed toward operational case management systems within Social Work Services and Health and Social Care Partnership functions. However, he stated that the request expressly concerned "policy-level, coordination-level, and strategic documentation".

20. The Applicant submitted that the review outcome did not demonstrate that searches were conducted for corporate or cross-departmental material, including equality impact assessments, community planning documentation, housing strategy papers, Integration Joint Board records or geographically organised service documentation.

21. The Applicant noted that the Authority stated that it did not produce reporting organised by reference to "Showpeople's yards". However, he stated that the request did not require documents to be indexed by community descriptor. Rather, it sought documentation concerning service access in specified residential locations.

22. During the investigation, the Applicant clarified the point in the preceding paragraph as follows:

    - The request did not depend on the Authority holding or indexing information under a specific community descriptor such as "Showpeople"

- In practical terms, he expected any relevant information would be identifiable through standard organisational routes, such as geographic references (the locations specified in the request), relevant service areas (housing, social work, public health, community planning), programme or project work (regeneration or relocation activity), and corporate or strategic documentation (briefings, reports, or coordination-level material)
- The key point was that the request was framed around place and service interaction, rather than classification by group, and therefore should not depend on whether records are explicitly labelled by community identity.

23. Given the Authority's statutory duties under equality, housing, and community planning legislation, the Applicant considered that "the asserted absence" of any strategic or coordination-level material across the 24-year period specified in the request meant that examination of the adequacy and scope of the searches undertaken was warranted.

The Authority's submissions

24. In its initial submissions, the Authority provided details of the searches it carried out to establish whether it held any information falling within the scope of the request. It provided data search forms detailing search terms, locations searched and details of staff involved in carrying out those searches.

25. At this stage, the Authority maintained that it was correct to inform the Applicant, in terms of section 17(1) of FOISA, that it did not hold any information falling within the scope of the request.

26. In response to its initial submissions, the Commissioner asked the Authority a number of questions querying its position that it held no information falling within the scope of the request.

27. In its second set of submissions, the Authority acknowledged that it had not made the Applicant aware of some information in the public domain that fell within the scope of the request, that a digital file path contained in a footer to the information in the public domain that appeared likely to contain relevant information had not been searched and that not all potential information holders were identified and contacted prior to the investigation.

28. Following searches of the digital file path, the Authority confirmed that it had identified a number of files and folders which may contain information falling within the scope of the request. While the Authority acknowledged that it was apparent that there were potentially more officers holding information falling within the scope of the request, it considered that confirming what information it held would require a search of thousands of documents to be carried out.

29. The Authority therefore acknowledged that "perhaps a more accurate response" would be not that it held no information relevant to the request, but that in order to verify whether information was held, and what information was held, would be cost prohibitive.

The Commissioner's view

30. During the investigation, the Authority identified recorded information falling within the scope of the request. It is therefore a matter of fact that the Authority held relevant information at the time the request was received.

31. Given that the Authority's revised review outcome issued the Applicant with a notice, in terms of section 17(1) of FOISA, that it did not hold any information relevant to the request, the

Commissioner must find that the Authority failed to take adequate steps to identify and locate the information requested and thereby failed to comply with section 1(1) of FOISA.

32. The manner in which this information was identified is also a matter of concern. The information was located largely in response to specific questions from the Commissioner during the investigation. These were steps which the Authority could, and should, have taken when responding to the request and by the date of the review outcome (at the latest).

33. The Commissioner does not consider the Authority's failure to identify that it held information relevant to the request to have been wilful or intentional. However, it underlines the importance of public authorities undertaking adequate and proportionate searches when responding to requests and reviews by fully engaging with the terms of the request.

34. Public authorities must take all reasonable steps to fully comply with information requests within the statutory timescales and to ensure that their responses are based on a full assessment of the recorded information falling within the scope of the request, following adequate and proportionate searches.

Section 12(1) – Excessive cost of compliance

35. 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.

36. 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.

37. The authority may not charge for the cost of determining:

    (i) whether it actually holds the information specified in the request, or

    (ii) whether the person seeking the information is entitled to receive the requested information or not.

38. The maximum rate a Scottish public authority can charge for staff time is £15 per hour.

39. During the investigation, the Authority initially maintained that it was correct to inform the Applicant, in terms of section 17(1) of FOISA, that it did not hold the information requested. However, it submitted that where information may be held, it would be cost prohibitive to comply with the request in line with section 12(1) of FOISA.

40. As stated above, the Authority subsequently acknowledged that "perhaps a more accurate response" would be not that it held no information relevant to the request, but that in order to verify whether information was held, and what information was held, would be cost prohibitive.

41. As such, the Authority stated that it sought to rely on section 12(1) of FOISA. It submitted that thousands of documents would require to be searched in order to determine what fell within the scope of the request and it noted that searches relating to "Water Row" and a search for the term "Show People" returned 3,900 documents.

42. The Commissioner acknowledges that section 12(1) of FOISA may be relevant to the request, now that it is apparent that the Authority does hold information falling within the scope of the request. However, section 12(1) of FOISA was not the basis of the Authority's revised review outcome, and the Applicant has not been given a cost calculation or an opportunity to challenge the Authority's new reliance on section 12(1).

43. The Commissioner recognises that the Authority's revised review outcome applied section 12(1) of FOISA to part (ii) of the request. However, as stated above, this decision notice is only considering part (i) of the request.

44. The Commissioner therefore makes no finding in this decision notice as to whether the Authority would be entitled to rely on section 12(1) of FOISA. It will be for the Authority to address that question properly in its revised review outcome, which must set out the projected costs of complying with the request. The calculation must be sufficiently detailed to allow the Applicant to understand why the Authority considers that it would exceed the upper cost limit under FOISA (£600) to comply with the request.

Next steps

45. The Commissioner requires the Authority to issue a revised review outcome (otherwise than in terms of section 17(1) of FOISA) to the Applicant.

46. If the Authority relies on section 12(1) of FOISA, it must provide the Applicant with a detailed and adequately evidenced cost calculation.

47. The Commissioner acknowledges that the Authority previously informed him that it did not consider it could provide the Applicant with any further assistance than it has already given. However, this was before the Authority identified that it did in fact hold information falling within the scope of the request.

48. The Commissioner therefore requires the Authority to engage directly with the Applicant, in terms of section 15(1) of FOISA, to:

- ensure that it has reached a clear and mutually shared understanding of the scope of the request before issuing its revised review outcome in terms of section 21 of FOISA
- invite the Applicant to identify any particular locations, categories of information or search terms which he considers may assist in refining the request or locating relevant information. Any suggestions made by the Applicant should be considered by the Authority. However, responsibility for identifying and conducting adequate and proportionate searches ultimately remains with the Authority
- provide the Applicant with clear and practical advice on how he might narrow or otherwise refine the request if the Authority considers that section 12(1) of FOISA applies. This advice should be informed by the Authority's knowledge of the information it has now identified as falling within the scope of the request.

Decision

The Commissioner finds that the Authority failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by the Applicant.

Specifically, the Commissioner finds that the Authority failed to comply with Part 1 of FOISA by wrongly notifying the Applicant, in terms of section 17(1) of FOISA, that it did not hold the information requested.

The Commissioner therefore requires the Authority to issue a revised review outcome to the Applicant (otherwise than in terms of section 17(1) of FOISA), **by 20 November 2026**. The Authority's review outcome must comply with the conditions set out above in paragraphs 46-48.

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.

Enforcement

If the Authority fails to comply with this decision, the Commissioner has the right to certify to the Court of Session that the Authority has failed to comply. The Court has the right to inquire into the matter and may deal with the Authority as if it had committed a contempt of court.

David Hamilton
Scottish Information Commissioner

6 October 2026