Scottish Information Commissioner
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Decision Notice 266/2026

Permitted cycle length limits on specific trains

Authority: ScotRail Trains Ltd
Case Ref: 202600747

Summary

The Applicant asked the Authority for various information relating to the Authority's cycle-carriage policy, specifically the 182cm maximum permitted cycle length on Class 158 units. The Authority provided some information to the Applicant and informed him that it did not hold other information. The Commissioner investigated and found that the Authority was entitled to inform the Applicant that it did not hold the specific subset of information on which the Applicant focused in his requirement for review.

Relevant statutory provisions

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

Background

1. On 2 February 2026, the Applicant made a multi-part request for information to the Authority relating to the Authority's cycle-carriage policy, specifically the 182cm maximum permitted cycle length on Class 158 units, and the decision-making framework that underpins this rule. The full request is set out in Appendix 1.

2. The Authority responded on 26 February 2026. It disclosed information in response to parts of the request, withholding some information under the exemption in section 38(1)(b) of

FOISA and issued the Applicant with a notice, in terms of section 17(1) of FOISA, that it did not hold information for other parts of his request.

3. On 25 March 2026 the Applicant wrote to the Authority requesting a review of its decision. He stated that he was dissatisfied with the decision because a recent complaint response he had received from the Authority relied in part on "rolling stock safety evacuation certification" as the basis for enforcing the 182cm length limit on class 158 units but no such document was disclosed in response to his request. His requirement for review specifically focused on:

   - whether the Authority held "any safety certification, evacuation modelling, or rolling stock documentation" that related specifically to this class of train; and
   - if so, whether it should have been included in the Authority's initial response.

4. The Authority notified the Applicant of the outcome of its review on 21 April 2026. It informed the Applicant that it did not hold any safety certification, evacuation modelling or rolling stock documentation that related specifically to the 182cm maximum cycle length on Class 158 units. It confirmed that it was upholding its decision to issue him with a notice, in terms of section 17(1) of FOISA, with respect to that information.

5. Later the same day, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. The Applicant stated that he was dissatisfied with the outcome of the Authority's review because he did not believe the Authority had adequately addressed the discrepancy that prompted his requirement for review and because he was not satisfied that the searches undertaken by the Authority were sufficient.

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 7 July 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 how it established what information it held falling within the scope of the specific subset of information on which the Applicant focused in his requirement for review.

9. During the investigation, the Authority provided further information and explanations to the Applicant. However, it noted that none of this further information fell within the scope of the specific subset of information on which the Applicant focused in his requirement for review.

Commissioner's analysis and findings

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

Scope of the investigation

11. The right of application to the Commissioner under section 47(1) of FOISA depends on the applicant being dissatisfied with either the outcome of the public authority's review or its failure to carry one out when required to do so. Consequently, the Commissioner cannot consider matters not raised by the applicant in requiring a review.

12. In this case, the Applicant's requirement for review (as summarised in paragraph 3 above) focused on a specific subset of the information originally requested. The Commissioner's decision notice will therefore only consider whether the Authority held information falling within the scope of the specific subset of information on which the Applicant focused in his requirement for review.

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

13. 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, 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.

14. 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 lies, the Commissioner must first of all consider the interpretation and scope of the request and thereafter the quality, thoroughness and results of the searches carried out by the public authority.

15. The Commissioner also considers, where appropriate, any reason offered by the public authority to explain why it does not hold the information. Ultimately, however, the Commissioner's role is to determine what relevant recorded information is actually held by the public authority (or was, at the time it received the request).

The Applicant's submissions

16. By way of background, the Applicant explained that he had made a complaint to the Authority in relation to being denied permission to travel on a specific class of train with his bicycle. He was told that his bicycle exceeded the allowable length limit of 182cm.

17. The Applicant stated that he was dissatisfied with the Authority's review outcome because, while it confirmed that the Authority did not hold any safety certification, evacuation modelling or rolling-stock documentation relating specifically to the 182cm cycle-length limit for Class 158 units, it did not adequately address the discrepancy that prompted the review. In particular, he considered that the review outcome did not explain how the terminology "rolling stock safety and evacuation certification" came to be used in the Authority's complaint response when its position was that no recorded information of that nature was held.

18. The Applicant also noted that the Authority had provided him with a risk assessment which did not identify a cycle-length limit for Class 158 unit, nor did it describe such a limit as a risk mitigation measure. As a result, it remained unclear "which recorded information, if any" supported the explanation given to him by the Authority.

19. In terms of searches undertaken by the Authority for information held, the Applicant submitted that it was unclear whether these were sufficient to establish the evidential basis for the explanation relied upon elsewhere and whether the Authority had accurately described the information it held in relation to that explanation.

20. In terms of the further information provided to him by the Authority during the investigation, the Applicant, while acknowledging that this information was helpful, did not consider that it fully resolved the concerns raised in his application to the Commissioner. In particular, he considered that the additional disclosure itself suggested that relevant recorded information falling within the scope of his request was not identified by the Authority during the original request process or the subsequent review process.

The Authority's submissions

21. In response to specific subset of information on which the Applicant focused in his requirement for review, the Authority confirmed that it reviewed the documentation collated by the FOI team as part of the response to the original request.

22. The Authority also carried out searches of email archives using the following search terms: evacuation certification; rolling stock safety and evacuation certification; safety certification/ 158/ bicycle; evacuation modelling/ 158/ bicycle; rolling stock/ 158/ bicycle; rolling stock documentation/ 158/ bicycle; maximum cycle length/ 158/ bicycle; 158/ 182cm/ bicycle.

23. In addition, the Authority contacted the following staff members/teams: Active Travel team; Engineering department; Operational Safety team; Head of Conductors; Contracts and Policy Manager and their team; and the Accessibility Continuous Improvement Manager. These staff members/teams were asked to search their inboxes and files for information falling within the scope of the information specified in the Applicant's requirement for review.

24. The Authority explained that it also asked these staff members/teams to provide any additional background information from their prior knowledge and experience. Although this background information was not recorded information (and therefore not subject to FOISA), it provided it to the Applicant as advice and assistance in line with its duty under section 15 of FOISA.

25. The Commissioner asked the Authority to comment on the Applicant's point that its reliance on section 17(1) of FOISA in respect of the specified information was inconsistent with aspects of the content of its response to a complaint he had made.

26. The Authority explained that the complaint response was intended as a general explanation of the safety framework in which it operated and provided contextual background information as to why safety considerations were relevant when determining bicycle carriage arrangements. It was not intended to refer to, nor suggest the existence of, any specific recorded information underpinning the 182cm cycle-length limit.

27. The Commissioner also asked the Authority to comment on information available on its website detailing which bikes were permitted on which trains and to explain the source of that information.

28. The Authority explained that, following customer complaints regarding the types of cycles that could be carried on the Authority's ten classes of trains, it established that it did not hold details showing the maximum sizes of cycles allowed on board each class of unit. It subsequently carried out a review in 2021 which confirmed the previous position in relation to the maximum length of bicycle that could be taken onto each specific fleet.

29. The Authority confirmed that it had provided the Applicant with all of the recorded information held falling within the scope of his original request. It reiterated that it did not hold the subset of information specified in the Applicant's requirement for review and that, accordingly, it was correct to have issued him with a notice, in terms of section 17(1) of FOISA, to that effect.

The Commissioner's view

30. The Commissioner has taken account of all the relevant submissions provided by both the Applicant and the Authority, together with the further information the Authority provided to the Applicant during the investigation.

31. As stated above, the Commissioner's decision notice considers only whether the Authority held information falling within the scope of the specific subset of information on which the Applicant focused in his requirement for review.

32. The Commissioner acknowledges the Applicant's dissatisfaction with elements of the content of the Authority's response to a complaint he had made. However, the Commissioner's remit is not to determine whether the Authority's response to the Applicant's complaint was factually correct or consistent with its response to his FOISA request. The relevance of the content of the Authority's response to the Applicant's complaint is limited to the extent that it may suggest the Authority holds further recorded information falling within the scope of the specific subset of information on which the Applicant focused in his requirement for review.

33. The Commissioner agrees with the Authority that the further information it provided to the Applicant during the investigation does not fall within the scope of the specific subset of information on which the Applicant focused in in his requirement for review.

34. The Commissioner accepts that the provision of this information at that stage does not, of itself, undermine the Authority's reliance on section 17(1) of FOISA in relation to the specified subset of considered in this decision notice. However, he considers it relevant to his assessment of the adequacy and proportionality of the searches for the specified information in respect of which the Authority relied on section 17(1) of FOISA on the basis it was not held.

35. Given the explanations and submissions provided, the Commissioner considers that the Authority took adequate and proportionate steps in the circumstances to establish if the specified information was held. In his view, the Authority's searches were reasonable in terms of who it asked to carry out the searches and the locations searched; he finds that they would be capable of locating the specified information, if it was held.

36. Having considered the submissions provided, and having taken account of the reasons why the specified information was not (and is not) held, the Commissioner is satisfied, on balance, that the Authority does not (and did not, on receipt of the request) hold the specified information.

37. While the Applicant believed and expected the specified information to be held by the Authority, the Commissioner is satisfied that this was not the case. He has no locus, in this context, to determine what information an authority ought to record, or how: he is concerned with what information the authority actually holds.

38. In all the circumstances, the Commissioner is satisfied, on balance, that the Authority does not (and did not, on receipt of the request) hold the specific subset of information on which the Applicant focused in his requirement for review. He therefore 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 in question.

Decision

The Commissioner finds that the Authority complied with Part 1 of the Freedom of Information (Scotland) Act 2002 by correctly giving notice, in terms of section 17(1), that it did not hold the specific subset of information on which the Applicant focused in his requirement for review.

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

3 November 2026

Appendix 1: Information request of 2 February 2026

“I seek the following recorded information relating to [the Authority’s] cycle-carriage policy, specifically the 182 cm maximum permitted cycle length on Class 158 units, and the decision-making framework that underpins this rule.

To reduce the burden of processing, I have grouped my request into clear categories. Please provide any documents held in these areas.

1. Safety and Risk Assessments Underpinning the 182 cm Limit
Please provide:
1.1 The health and safety risk assessment(s) used to determine the 182 cm maximum permitted length for cycles and e-bikes on Class 158 trains.
1.2 Any engineering analyses, technical evidence, or internal reports identifying specific hazards associated with carrying cycles longer than 182 cm (e.g. evacuation, obstruction, door clearances).
1.3 Any supporting material referenced during the creation or review of this limit, including extracts from manufacturer documentation, if relied upon.

2. Internal Policy and Staff Guidance
Please provide:
2.1 The current internal cycle-carriage policy or instruction documents issued to staff relating to the 182 cm limit.
2.2 Any internal guidance describing how staff should measure cycles, manage discretion, or communicate with passengers regarding non-standard cycles.
2.3 Any documents explaining how this policy should be applied when a cycle fits fully within the designated rack on the Class 158.

3. Equality, Accessibility, and Reasonable Adjustment Considerations
Please provide:
3.1 Any Equality Impact Assessment (EqIA), disability-related assessment, or internal accessibility review relating to [the Authority’s] cycle-carriage policy, including the 182 cm limit.
3.2 Any documents discussing how the 182 cm policy interacts with [the Authority’s] Accessible Travel Policy, Public Sector Equality Duty, or obligations to consider reasonable adjustments for disabled passengers.

4. Documents and Communications Relating to My Case
For the journey and interactions on 28–29 January 2026, please provide:
4.1 The internal brief, report, or summary prepared by staff for [the Authority’s] Active Travel Team regarding my case.
4.2 The response or decision document issued by the Active Travel Team.
4.3 Any internal emails, notes, or communications between station staff, managers, or the Active Travel Team discussing:
the handling of my journey,
the measurement of my cycle, or
the decision to refuse future carriage.
4.4 The photographs taken of my bicycle by [Authority] staff.

I understand that personal information may require redaction. I am only seeking the factual and

policy-related parts of any correspondence.

5. Change History / Review History
Please provide:
5.1 Any documentation showing when the 182 cm limit was introduced or last reviewed.
5.2 Any discussion papers about whether discretion may be exercised under the policy.

…

I am seeking to understand the basis of the decision regarding the application of the 182 cm cycle-length limit on Class 158 services on 28–29 January 2026, including the safety rationale and any consideration of accessibility or reasonable adjustments. This information will help me understand the policy context and reduce ongoing uncertainty about my ability to travel to and from work.”