Scottish Information Commissioner
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Decision Notice 269/2026

Correspondence relating to a specific address – failure to respond

Authority: Fife Council
Case Ref: 202601722

Summary

The Applicant asked the Authority for information held in correspondence relating to a specific address. This decision finds that the Authority failed to respond to the request within the timescales allowed by the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2004 (the EIRs). The decision also finds that the Authority failed to comply with the Applicant's requirement for review within the timescale set down by FOISA/the EIRs.

Background

1. On 9 June 2026, the Applicant made an information request to the Authority.
2. The Authority did not respond to the information request.
3. On 3 August 2026, the Applicant wrote to the Authority requiring a review in respect of its failure to respond.
4. The Applicant did not receive a response to her requirement for review.
5. On 24 September 2026, the Applicant wrote to the Commissioner, 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. The enforcement provisions of FOISA apply to the enforcement of the EIRs, subject to specified modifications – see regulation 17.
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 30 September 2026.

8. The Commissioner received submissions from the Authority. These submissions are considered below.

9. The Authority accepted that it failed to respond to both the Applicant's request and her requirement for review. It explained that the team responsible for managing information requests had recently experienced significant staff turnover, placing additional pressure on workloads and contributing to further staff absences, which had resulted in capacity pressures leading to the failure to respond in this case.

10. The Authority acknowledged that these circumstances did not remove its statutory obligations under FOISA or the EIRs. It explained that these issues were being addressed and recruitment was underway to replace staff who had left.

11. The Authority stated that work was underway to prepare a response to the Applicant and that this would be issued as soon as possible.

12. It is apparent from the terms of the request that at least some of the information caught by it will be environmental information as defined by regulation 2(1) of the EIRs. In Decision 218/2007[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 EIRs.

13. 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 5(2)(a) of the EIRs.

14. 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.

15. 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.

16. 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 and regulation 16(4) of the EIRs.

17. The Authority responded to the Applicant's requirement for review on 20 October 2026, including an apology for its failure to respond, so the Commissioner does not require it to take any further action in relation to the Applicant's application.

[1] https://www.foi.scot/decision-2182007

Decision

The Commissioner finds that the Authority failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) and with the Environmental Information (Scotland) Regulations 2004 (the EIRs) 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.

Jill Walker
Deputy Head of Enforcement

5 November 2026