Scottish Information Commissioner
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Decision Notice 271/2026

Mandatory training compliance

Applicant: The Applicant
Authority: Aberdeen City Council
Case Ref: 202501857

Summary

The Applicant asked the Authority for email communication from an individual occupying a specified role (or other individuals deputising for, or acting in the capacity of, that role) on mandatory training for a specified period. The Authority informed the Applicant that it did not hold the information requested. The Commissioner investigated and found that the Authority was entitled to inform the Applicant that it did not hold the information requested.

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 27 July 2025, the Applicant made a request for information to the Authority. She asked for the following information held by the Human Resource function of the Authority:

   (i) Anonymised team/division/group/sector data showing employee/councillor compliance or non-compliance with the completion of Authority required mandatory training courses. To include (where applicable and available) the last date of successful completion of each named course per employee or date of expiry of validity (or similar)

   (ii) E-mail(s) from the last three years issued by Chief Officer - People and Citizen Services (including anyone deputising formally or informally, substitutes, and other persons acting in that capacity, or predecessor equivalent position) to directors, chief

executive, senior officers, chief officers, service managers and councillors commenting on the Authority's employees or councillors (or division, team or group of the Authority's employees or councillors) level of compliance or non-compliance with the Authority's mandatory training courses. To include any data, reports or comments incorporated in those e-mail(s).

2. On 28 July 2025, the Authority sought clarification from the Applicant on the time frame for part (i) of the request. The Applicant responded later the same day to confirm that she sought compliance or non-compliance as at 1 July 2025.

3. The Authority did not respond to the information request.

4. On 29 August 2025, the Applicant wrote to the Authority requiring a review in respect of its failure to respond.

5. The Authority notified the Applicant of the outcome of its review on 10 October 2025, in the following terms:

   - it apologised for its failure to respond to the request and its delay in responding to the requirement for review
   - for part (i) of the request, it provided her with the information requested
   - for part (ii) of the request, it issued her with a notice, in terms of section 17(1) of FOISA, that it did not hold the information requested.

6. On 12 October 2025, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. She stated that she was dissatisfied with the outcome of the Authority's review because:

   - for part (i) of the request, she was not satisfied that the information provided was the information she requested
   - for part (ii) of the request, she believed that the Authority held the information requested and had failed to disclose it.

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 15 October 2025, the Authority was notified in writing that the Applicant had made a valid application. The case was subsequently allocated to an investigating officer.

9. On 4 December 2025, the Authority provided the Applicant with a revised review response in relation to part (i) of the request. The Applicant subsequently confirmed that she no longer required a decision from the Commissioner on part (i) of the request, but that she still required a decision on part (ii).

10. 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 had established that it held no information falling within the scope of part (ii) of the request.

Commissioner's analysis and findings

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

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

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, 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.

13. The information to be given is that held by the authority at the time the request is received, as defined in section 1(4) of FOISA. This is not necessarily to be equated with information an applicant believes the authority should hold. If no such information is held by the authority, section 17(1) of FOISA requires it to give the applicant notice in writing to that effect.

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. Given what she described as the poor level of compliance with completion of mandatory training courses, the Applicant stated that she did not accept that the Chief Officer – People and Citizen Services had at no point in the last three years communicated with senior officers of the Authority to comment on the level of compliance with mandatory training courses.

The Authority's submissions

17. The Authority stated that it had carefully considered the wording and scope of part (ii) of the request and had interpreted it to cover emails issued within the previous three years by the Chief Officer – People and Citizen Services, or by anyone acting in that capacity, to senior officers and/or councillors which commented on the level of compliance or non-compliance with the Authority's mandatory training courses, including any associated data, reports, comments or attachments.

18. The Authority allocated the request to the service area most likely to hold any relevant information, namely the People and Organisational service. This was because that service had responsibility for corporate learning and development arrangements, including oversight of mandatory training and related communications to managers and senior officers.

19. The People and Organisational service undertook relevant searches, taking account of the wording of the request, the date range specified and the posts and recipients identified. In doing so, the service considered whether there were records of emails issued by the Chief Officer – People and Citizen Services, or by anyone formally or informally deputising or

acting in that role, which commented on employees' or councillors' levels of compliance or non-compliance with mandatory training courses.

20. The Authority explained that the searches undertaken were focused on the records and systems where emails falling within the scope of part (ii) of the request would reasonably be expected to be held (if they existed). The relevant searches were undertaken within Outlook email systems because part (ii) of the request specifically sought emails and any such communications, attachments, reports or comments incorporated into emails would ordinarily be expected to be retained within sent items, mailboxes or related email records if they had been issued and retained.

21. In addition to those Outlook searches, the service's knowledge of the process for advising on and monitoring mandatory training compliance was taken into account. As managers already had direct access to the relevant mandatory training data through a separate portal, and because the normal route for reminders was through broader People and Organisational Development communications, it was considered unlikely that separate emails of the type described in the request would have been issued by the Chief Officer – People and Citizen Services, or by anyone formally or informally acting in that role.

22. Following relevant searches, the Authority submitted that no emails falling within the specific terms of part (ii) of the request were identified. It therefore stated that it did not hold the information requested and considered it appropriate that it had issued a notice, in terms of section 17(1) of FOISA, to that effect.

23. The Authority explained that it considered it had provided advice and assistance to the Applicant by explaining that relevant officers had access to mandatory training reporting through a separate system to email and that People and Organisational Development may issue broader corporate communications reminding managers to review mandatory training completion, but that those communications were not emails of the specific type sought in the request.

24. The Authority explained that broader reminders about mandatory training were generally issued as corporate communications by People and Organisational Development (usually via its Intranet), rather than as emails from the Chief Officer – People and Citizen Services commenting on compliance or non-compliance levels.

The Commissioner's view

25. The Commissioner has carefully considered the submissions from the Applicant and the Authority, together with the terms of the request (as set out in paragraph 1 above).

26. Given the explanations and submissions provided, the Commissioner accepts that the Authority took adequate and proportionate steps in the circumstances to establish if the information was held and he is satisfied, on balance, that it does not (and did not, on receipt of the request) hold the information requested by the Applicant in part (ii) of the request.

27. The Commissioner considers that the Authority's searches were reasonable in terms of the service asked to carry out the searches and the locations searched. He finds that they would be capable of locating the information requested in part (ii) of the request, if it were held.

28. While the Applicant believed and expected the specified information to be held by the Authority, the Commissioner is satisfied, on balance, that this was not the case. Whether a public authority should hold information which it does not hold is not a matter for the Commissioner to decide. His remit is limited to considering whether the Authority complied

with FOI law in responding to the Applicant's request: in this case, this required him to consider the information actually held by the Authority.

29. In the circumstances, the Commissioner is satisfied, on balance, that the Authority does not (and did not, on receipt of the request) hold information falling within part (ii) of the request.

30. The Commissioner therefore concludes that the Authority was correct to give the Applicant notice, in terms of section 17(1) of FOISA, that it did not hold the information requested in part (ii) of the request.

Decision

The Commissioner finds that the Authority complied with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) by giving the Applicant notice, in terms of section 17(1) of FOISA, that it did not hold the information requested in part (ii) of the request.

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

6 November 2026