Scottish Information Commissioner
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Decision Notice 294/2026

Information about complaints handling – failure to respond

Authority: Commissioner for Ethical Standards in Public Life in Scotland
Case Ref: 202601622

Summary

The Applicant asked the Authority for information about the Authority's complaint handling. This decision finds that the Authority failed to respond to the Applicant's request and requirement for review within the timescales allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

1. On 13 August 2025, the Applicant made two separate and distinct information requests to the Authority.

   In FOI 270, she asked for:

   (i) All documents (including but not limited to emails, manuals, training materials, meeting minutes, and internal memos) since 1 January 2020 that:

   - Define what constitutes a "complaint" versus a "representation," "query," "concern", or "service feedback."

   - Provide instructions on how to categorise, reclassify, or dismiss complaints at any stage of the process.

   - Discuss strategies to reduce recorded complaint statistics (e.g., verbal resolutions, informal handling).

   (ii) A list of all staff (by job title - no personal data) authorised to reclassify or dismiss complaints, including any changes to this authority since 2020.

   In FOI 271, she asked for:

   (i) A breakdown of all complaints received by the ESC that were:

- Reclassified (e.g., as "representations," "feedback," or "not a complaint").

- Closed at Stage 1 without escalation.

- Dismissed for procedural reasons (e.g., "not in remit," "insufficient evidence").

For each category above, provide:

- The total number of cases.

- The reasons given for dismissal/reclassification (exact wording used).

- The job title of the person (no personal data) who made the decision.

(ii) Any audits, reviews, or internal correspondence evaluating the fairness of these dismissals. If no central record exists, I require a search of all staff emails containing these phrases and similar phrases to:- "Just close it"- "Not a real complaint"- "Downgrade this"- "De-escalate"- "Re-categorise"

2. The Authority did not respond to the information request. However, on 1 September 2025 the Authority wrote to the Applicant in relation to wider issues and informed her that both of her FOI requests were “suspended”.

3. On 5 October 2025, the Applicant wrote to the Authority requiring a review in respect of its failure to respond to her information requests.

4. The Applicant did not receive a response to her requirement for review.

5. On 3 September 2026, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. The Applicant stated that she was dissatisfied with the Authority’s failure to respond to her requirement for review. (The Commissioner exercised his discretion to accept the late application.)

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 14 September 2026, and in line with section 49(3)(a) of FOISA, the Commissioner gave the Authority notice in writing of the application and invited its comments. The Commissioner received submissions from the Authority. These submissions are considered below.

8. The Authority did not dispute the facts set out in the Applicant’s application regarding its handling of FOI 270 and FOI 271, and it acknowledged that there were no provisions under FOISA which enabled it to “suspend” an information request.

9. The Authority provided information regarding the context of the Applicant’s requests for information and its previous correspondence with the Applicant regarding other matters.

10. The Authority confirmed that it was in the process of responded to both requests and it intended to this by 5 October 2026.

11. 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.

12. 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.

13. 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.

14. 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.

15. The Authority responded to the Applicant's requirement for review for FOI 270 on 28 September 2026 and for FOI 271 on 29 September 2026. Given this, the Commissioner does not require it to take any further action in relation to the Applicant's application.

Decision

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

Jennifer Ross
Deputy Head of Enforcement

27 November 2026