



How to make a valid application to the Scottish Information Commissioner

Guidance for requesters

This guidance will help you to complete the application form and make a valid application (sometimes called an appeal) to the Commissioner.

What does valid mean?

A valid application is one that meets all the legal requirements of the Freedom of Information (Scotland) Act 2002 (FOISA) or the Environmental Information (Scotland) Regulations 2004 (the EIRs).

Why does it need to be valid?

The Commissioner is not allowed to investigate an application that does not meet all the legal requirements. If she did, she would have no power to enforce her decisions. This means we need to check your application is valid before we start to investigate.

What you need to do before making an application.

You must have:

1. made a request for information in writing (or in some other permanent form) to a **Scottish public authority**¹.
2. given the public authority your full name. You cannot use a fake name and your request mustn't be anonymous. If you made the request on behalf of someone else, you must have told the public authority the name of the person you made the request for.
3. given the public authority an address for correspondence. This can be a postal or email address.
4. asked the public authority to review its response to your information request. This is the case even if the public authority did not reply to your information request. (Remember a public authority has 20 **working** days to reply.)

¹ If your request was for environmental information, you can make it verbally. Contact us if you're unsure.

Timescales

Your application must be made to the Commissioner within 6 months of receiving the response to your request for a review. If the public authority didn't respond to your request for review, you must make your application within 6 months of the date you were due to receive a response.

The Commissioner's investigation: what to expect?

The Commissioner can only investigate how the public authority handled your information request in line with FOISA and/or the EIRs. Investigations can look at things like whether a public authority

1. was entitled to refuse to disclose information to you
2. gave you all of the information falling within the scope of your request
3. was right to tell you that it didn't hold the information you asked for
4. charged the correct fee for providing the information
5. didn't have to comply with your request because it cost too much, was vexatious or was a repeated request.

The Commissioner **cannot**:

1. tell a public authority to create information to respond to an information request, even if it's information the authority might be expected to hold.
2. comment on the accuracy of the content of the information held by a public authority.
3. comment on the actions of the authority unless it relates specifically to the handling of your information request.

If your request is not valid we will contact you to explain why. We will help you make a valid application.

If your application is valid, it will be passed to an Investigating Officer who will give you more information about what will happen.

What you need to do now

Complete the form and send it to us with copies of the following essential documents:

1. Your original request for information
2. The public authority's response to your information request (if one was received)
3. Your request for review
4. The public authority's response to your review request (if one was received)

If you do not have copies of these documents, ask the public authority to give you copies before making an application.

Send the completed application form and copies of key documents to the address below.

If you need help on how to make an application to the Commissioner, contact our office:

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews
KY16 9DS

Phone: 01334 464 610

Email: enquiries@itspublicknowledge.info

Fax: 01334 464611

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