

Our Ref: SL1

Your Ref

Dear

**Application for Decision by the Scottish Information Commissioner
Public Authority:**

I am writing to acknowledge receipt of your letter/email/fax of [date], applying for a decision from the Scottish Information Commissioner on the way in which [public authority] dealt with your information request.

I will now go on to consider whether the Commissioner can accept your application or whether further action is required before the Commissioner can consider your case. I will contact you again soon.

Yours sincerely

**[Name]
Validation Officer**

Our Ref: SL1a

Your Ref

Dear

Application for Decision by the Scottish Information Commissioner
Applicant:

I am writing to advise you that [name of applicant/s] has/have applied for a decision from the Scottish Information Commissioner as he is/she is/they are dissatisfied with the way in which [public authority] dealt with his/her/their request for information, dated [date of request].

[Name of applicant] asked for [brief summary of request, or subject of request]. He/She has/They have been in contact with [name and position of public authority official who has dealt with request].

I will now go on to consider whether the application is valid and will contact you again soon in relation to this. This letter is for information only and you do not need to respond to it.

Yours sincerely

[Name]
Validation Officer

Our Ref: SL1b

Your Ref

Dear

Application for Decision by the Scottish Information Commissioner

Applicant:

Department/Agency:

I am writing to advise you that [name of applicant/s] has/have applied for a decision from the Scottish Information Commissioner as he is/she is/they are dissatisfied with the way in which [public authority] dealt with his/her/their request for information, dated [date of request].

The application to the Commissioner relates to [name of applicant]'s request for [brief summary of request, or subject of request].

[Name of official] in [name of department/agency] has been dealing with this information request.

I will now go on to consider whether the application is valid and will contact you again soon in relation to this. This letter is for information only and you do not need to respond to it.

Yours sincerely

[Name]
Validation Officer

Our Ref SL2

Your Ref

Dear

**Application for Decision by the Scottish Information Commissioner
Public Authority:**

I refer to your letter/email/fax of [date] applying for a decision by the Scottish Information Commissioner about the way in which [public authority] dealt with your information request. You asked for [brief summary of request or subject of request].

OR

I refer to previous correspondence about your application for a decision by the Scottish Information Commissioner.

Having considered your application, I am writing to advise you that I cannot carry out an investigation, because the Commissioner does not have the legal authority to investigate your case. Your application relates to a request made [choose from following options:

to the Scottish Information Commissioner.

to a procurator fiscal.

for information held by the Lord Advocate as head of the systems of criminal prosecution and investigation of deaths in Scotland, including any information held by the Crown Office in connection with the investigation and/or prosecution of crime or the investigation of sudden deaths and/or fatal accidents.]

Section 48 of the Freedom of Information (Scotland) Act 2002 states that no application may be made to the Commissioner for a decision involving a request for review made to [relevant authority]. This also applies to requests for environmental information made to [relevant authority].

I know you will be disappointed with this decision, but as the Commissioner does not have the legal authority to consider your application, he cannot issue a decision on the matters you raise.

I am sorry we are unable to investigate your complaint.

Yours sincerely

[Name]
Validation Officer

Our Ref SL2a

Your Ref

Dear

**Application for Decision by the Scottish Information Commissioner
Public Authority:**

I refer to your letter/email/fax of [date] applying for a decision from the Scottish Information Commissioner about the way in which [public authority] dealt with your request for information regarding [subject matter of request].

In order for an application to the Commissioner to be legally valid, you must provide him with the following information, all set out clearly and logically and either in writing or in some other permanent form (e.g. an audio or video recording):

- Your name and address (or an address for correspondence);
- Details of your request for information;
- Why you were dissatisfied with the outcome of your information request and sought a review from the authority; and
- Why you are dissatisfied with the outcome of your request for review, or (where you have not received a response) with the authority's failure to respond to your request.

In order to make sure your application for a decision is valid, we also need to have copies of the following documents:

- Your original request for information;
- The authority's response to that request (if a response was received);
- Your request for a review; and
- The authority's response to your request for review (if a response was received).

As you have not provided [describe missing information], I cannot validate your application as it stands.

If you wish to go ahead with an application to the Commissioner, I look forward to receiving an application meeting the requirements set out above.

I will hold onto the documents you have sent for another two weeks. If you have not provided the missing information listed above by then, I will return the documents to you. You will then have to re-submit the documents, along with the missing information, if you want to make a new application to the Commissioner.

To help you in making a further application, I enclose a copy of the Commissioner's booklet "Your Right to Know". If you have any queries about this letter, please contact me [contact details].

Yours sincerely

[Name]
Validation Officer

Our Ref SL2b

Your Ref

Dear

**Application for Decision by the Scottish Information Commissioner
Public Authority:**

I refer to your letter/email/fax of [date] applying for a decision from the Scottish Information Commissioner about the way in which [public authority] dealt with your request for information regarding [subject matter of request].

For an application to the Commissioner to be legally valid, it must comply with certain requirements laid down in the Freedom of Information (Scotland) Act 2002 (FOISA) / the Environmental Information (Scotland) Regulations 2004 (the EIRs). Unfortunately, after checking through your application, I have found that it does not meet all of those requirements.

[Delete those requirements listed below which do not apply to the invalid application]

In particular, the legislation requires you to:

- Allow the authority 20 working days to respond to your request for information before asking for a review on the basis that it has failed to respond;
- Ask the authority to carry out a review, stating why you are unhappy with the response (or the failure to respond), and make this request no more than 40 working days after you receive a response to your request for information or (if you did not receive a response) no more than 60 working days after you requested the information;
- Allow the authority 20 working days to respond to your request for review; and
- Apply to the Commissioner within 6 months of receiving the authority's response to your request for review (if you simply do not receive a response, you can add 20 working days to the 6 month period).

In all cases, where letters have been sent by post, you must allow postage time for the public authority's response to reach you before moving on to the next step.

There are also various other requirements you must meet when making your information request before an application to the Commissioner can legally be accepted. In particular, you must have asked for recorded information from a Scottish public authority and [*if application made under FOISA not EIRs*] you must have done so either in writing or in some other permanent form (e.g. an audio of video recording), giving your name and an address for correspondence.

As you have not [describe steps not taken or other reason(s) why not valid], your application is not valid in terms of section 47 of FOISA and the Commissioner does not have the power to carry out an investigation into your case. [*Refer to timescales for giving notice/provision for public holidays etc, where appropriate.*]

Before you can make an application to the Commissioner, you will need to [describe steps to be taken]. In the meantime, I return your letter/email/fax and the documents enclosed with it. When applying to the Commissioner again, you must provide him with the following information, all set out clearly and logically and either in writing or in some other permanent form (e.g. an audio of video recording):

- Your name and address (or an address for correspondence);
- Details of your request for information;
- Why you were dissatisfied with the outcome of your information request and sought a review from the authority; and
- Why you are dissatisfied with the outcome of your request for review, or (where you have not received a response) with the authority's failure to respond to your request.

To help you make a further information request (and a new application to the Commissioner, if necessary), I enclose a copy of the Commissioner's booklet "Your Right to Know". If you have any queries about this letter, please contact me [contact details].

Yours sincerely

[Name]
Validation Officer

Our Ref SL2c

Your Ref

Dear

**Application for Decision from the Scottish Information Commissioner
Public Authority:**

I refer to previous correspondence in connection with your application for a decision by the Scottish Information Commissioner.

In terms of the Freedom of Information (Scotland) Act 2002/Environmental Information (Scotland) Regulations 2004, you are required to make an application to the Commissioner within 6 months of receiving [public authority]'s response to your request for review, or, where you did not receive any response to your request for review, within 6 months from the end of the statutory 20 working day period in which [public authority] should have responded.

Your application to the Commissioner has not been made within the 6 month period. The Commissioner is entitled to investigate an application made after this time if he considers that it is appropriate to do so. However, the Commissioner does not consider that it would be appropriate to investigate your application because [*insert reasons*].

I am sorry we cannot accept your application for a decision.

Yours sincerely

**[Name]
Validation Officer**

Our Ref SL2d

Your Ref

Dear

**Application for Decision by the Scottish Information Commissioner
Public Authority:**

I refer to your letter/email/fax of [date] applying for a decision from the Scottish Information Commissioner about the way in which [public authority] dealt with your request for information.

It appears from your application that the information you have requested from [public authority] is personal information about yourself. I think I should explain a little about how information of this kind is dealt with under the Freedom of Information (Scotland) Act 2002 (FOISA) and under the Data Protection Act 1998 (the DPA).

Broadly speaking, the purpose of the DPA is to regulate the way in which information about living individuals is used, largely with a view to protecting personal privacy. It gives individuals the right to access personal information which is held about them. The DPA contains safeguards protecting information held about other individuals and also certain exemptions (for example, allowing information to be withheld when disclosure would prejudice the prevention or detection of crime). The DPA is enforced throughout the United Kingdom by the Information Commissioner in Wilmslow, Cheshire. The contact details for his Office are as follows:

The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.
(01625 545 700 / www.informationcommissioner.gov.uk)

FOISA, on the other hand, provides a right of access to information held by Scottish public authorities. When information is provided under FOISA, it means that the same information will be available to anyone who asks for it. The public authority cannot provide you with information under FOISA and then withhold it from other people.

FOISA contains some 'exemptions', which allow a public authority to refuse to provide information in certain circumstances. One of the exemptions in FOISA covers the type of information you have asked for - personal data of the applicant themselves. This does not mean that you cannot get information which is your own personal data, but you should apply for it under the DPA, which protects your right to privacy, unlike FOISA.

Because information which is the personal data of the applicant is exempt from disclosure under FOISA, it is highly unlikely that the Scottish Information Commissioner would be able to order the disclosure of the information you have asked for. Therefore it may be better to ask [public authority] for the information under the DPA, and seek advice or assistance from the Information Commissioner's Office (see above) if you are dissatisfied with their response.

If I do not hear from you by [date – 2 weeks], I shall presume you have decided to ask for the information you require under the DPA and will close my file. If you do not agree that your request concerns your own personal information and you wish to go ahead with your application under FOISA, please let me know your reasons.

I have enclosed a copy of "Your Right to Know", the Commissioner's guide to freedom of information law in Scotland. I hope this letter has helped to explain the way that requests for personal information are dealt with, but please let me know [contact details] if you would like any clarification or further assistance.

Yours sincerely

[Name]
Validation Officer

Our Ref SL3

Your Ref

Dear

**Application for Decision from the Scottish Information Commissioner
Public Authority:**

I refer to your letter/email/fax of [date], applying for a decision from the Scottish Information Commissioner about the way in which [public authority] dealt with your request for information regarding [subject matter of request].

For your application to the Commissioner to be legally valid, it must comply with certain requirements laid down in the Freedom of Information (Scotland) Act 2002 (FOISA) / the Environmental Information (Scotland) Regulations 2004 (the EIRs). In order to check this I have to consider the following:

[Delete as appropriate]

- Whether your case can be considered under FOISA/the EIRs
- The correspondence which has passed between you and [public authority]
- Whether you have complied with any appropriate time limits

In order to make sure your application is legally valid, please let me have the following information/send me copies of the following documents, by [date]:

[Delete as appropriate]

- Your original request for information
- [Public authority]'s response to that request (if a response was received)
- Your request for review
- [Public authority]'s response to your review request (if a response was received)
- A brief explanation of why you are dissatisfied with the outcome of the review or (where you have not received a response) with the authority's failure to respond to your request.

If you do not have copies of the correspondence I have asked you for, please ask [public authority] to give you copies to send to me.

You should be aware that if you have made your application to the Commissioner using a pseudonym, your application will be invalid and the Commissioner will be unable to enforce any decision that he issues. If you have used a pseudonym, please let me know as soon as possible in order that we can discuss the way forward.

[As you are a solicitor/firm of solicitors, you may wish to advise me of the name of your client. In the absence of a client's name, the Commissioner will issue any decision following on from your application in your/your firm's name: you will appreciate that only those parties named in the decision have a right of appeal against it.]

Please contact me if you have any questions about this letter.

Yours sincerely

[Name]
Validation Officer

Our Ref SL4

Your Ref

RECORDED DELIVERY

Dear

**Application for Decision by the Scottish Information Commissioner
Public Authority:**

I refer to my letter of [date] requesting further details to allow me to consider your application for a decision in terms of the Freedom of Information (Scotland) Act 2002/Environmental Information (Scotland) Regulations 2004.

As I have not yet received the information I need from you, I cannot proceed with this investigation. Please let me have the information I asked for in my letter of [date] within 10 working days. If I do not receive this information I will have to treat your application as abandoned and I will close your file.

Please do not hesitate to contact me if you have any questions about this letter [contact details].

Yours sincerely

**[Name]
Validation Officer**

Our Ref SL5

Your Ref

RECORDED DELIVERY

Dear

**Application for Decision by the Scottish Information Commissioner
Public Authority:**

I refer to my letter(s) of [date(s)] asking you for further details to allow me to consider your application for a decision in terms of the Freedom of Information (Scotland) Act 2002/Environmental Information (Scotland) Regulations 2004. As I have not received the requested information, I have not been able to proceed with this investigation.

As a result, the Commissioner has determined that your application to him for a decision has been abandoned. This means that he is not required to make a decision in relation to your application, and I will now close your case file.

If you want to contest the Commissioner's determination that no decision falls to be made, you 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 from the date of intimation (i.e. the date of posting) of this letter.

Yours sincerely

**[Name]
Validation Officer**

Our Ref SL5a

Your Ref

RECORDED DELIVERY

Dear

**Application for Decision by the Scottish Information Commissioner
Public Authority:**

Thank you for your letter/email/telephone call of [date], in which you informed me that you wanted to withdraw your application to the Scottish Information Commissioner for a decision. As a result, the Commissioner has determined that no decision falls to be made in relation to the application. I will now close /have now closed your case file.

I am required to let you know that you have the right to appeal to the Court of Session against the Commissioner's determination, on a point of law only. Any such appeal must be made within 42 days of the date of intimation (i.e. date of posting) of this letter.

[While the file has now been closed, [public authority]'s apparent failure to comply with certain requirements of the Freedom of Information (Scotland) Act 2002/Environmental Information (Scotland) Regulations 2004 may be taken into account for the purposes of future action under the Commissioner's Enforcement Strategy.]

Yours sincerely

**[Name]
Validation Officer**

Our Ref SL5b

Your Ref

Dear

Application for Decision by the Scottish Information Commissioner
Applicant:

As you are aware, the Scottish Information Commissioner received an application from [applicant] on [date], asking him for a decision about the way in which [public authority] dealt with his/her/their request for information.

[Applicant] has/have now withdrawn his/her/their application to the Commissioner. As a result, the Commissioner has determined that no decision falls to be made in relation to the application and has closed the case.

Or

The Commissioner has determined that [applicant] has abandoned his/her/their application to the Commissioner and that no decision falls to be made in relation to the application. He has therefore closed the case.

If [applicant] wants to contest the Commissioner's determination that no decision falls to be made, he/she/they has/have the right to appeal to the Court of Session on a point of law only. [Applicant] has 42 days to appeal against the Commissioner's determination to the Court of Session. I will let you know if an appeal is made.

[While the case has now been closed, [public authority]'s apparent failure to comply with certain requirements of the Freedom of Information (Scotland) Act 2002/Environmental Information (Scotland) Regulations 2004 may be taken into account for the purposes of future action under the Commissioner's Enforcement Strategy.]

[Thank you for your assistance with this matter.]

Yours sincerely

[Name]
Validation Officer

Our Ref SL6

Your Ref

Dear

**Application for Decision from the Scottish Information Commissioner
Applicant:**

I refer to my letter of [date] in connection with [applicant]'s request for [environmental] information relating to [subject matter of request]. I now enclose a copy of [applicant]'s application to the Commissioner for your information.

I have now received all the information I need to confirm that [applicant]'s application is valid for the purposes of section 47 of the Freedom of Information (Scotland) Act 2002. Therefore, I can confirm that an investigation of your authority's handling of his/her/its/their information request will be required.

To begin the investigation, I need copies of all of the information withheld from the applicant. Please try to ensure that you send copies rather than originals wherever possible, as whatever you do provide will be retained by this Office for the duration of the investigation and for at least the period allowed for an appeal after the Commissioner's decision has been issued.

When you forward this information to me, please also include a Schedule of Documents listing the information you have sent. All documents must be named and numbered. If you have released any of the information requested, two copies of the information should be provided - one unedited and one showing what was released. Where exemptions have been applied, it should be clear from the Schedule of Documents or from marked up copies of the documents exactly which information has been withheld under each exemption.

If possible, please let me have an electronic version of the Schedule of Documents. My email address is: [email address].

At the end of the investigation, we usually destroy any information supplied by the public authority. Please let me know if you would like any of it to be returned to you:

if you have not asked for its return within the period of 3 months from the date of the Commissioner's decision, it will be destroyed here (unless an appeal is subsequently made to the Court of Session, in which case the information will be retained pending the outcome of the appeal).

If the Commissioner retains the information following the investigation, he will contact you to let you know.

I would be grateful if you would let me have the information I have asked for by [date – normally 2 weeks from date of letter]. If I do not receive it by that date, the Commissioner may give your authority a formal Information Notice requiring the authority to provide it. Failure to comply with an Information Notice can be referred to the Court of Session by the Commissioner and the Court can treat the failure as contempt of court.

After I have received the information I have asked for, the case will be allocated to an investigating officer, who will then contact you to give you with an opportunity to comment on the application, and to seek detailed submissions in relation to your authority's handling of [applicant]'s request. If you have any queries about the investigation in the meantime, please do not hesitate to contact me [contact details].

[Finally, the Commissioner has compiled a guide for Scottish Public Authorities which should help you in making your submissions to the Commissioner. The guide is available on our website from the following page:

www.itspublicknowledge.info/briefings. I can provide a printed copy if you prefer. Please note, in particular, the section on exemptions [exceptions] and the standard of submissions required by the Commissioner.]

OR

Finally, I enclose a copy of a leaflet entitled, "The Scottish Information Commissioner's Investigations: A Guide for Scottish Public Authorities", which explains the investigation process in some detail and should help you in making your submissions to the Commissioner.

Yours sincerely

[Name]
Validation Officer

Our Ref SL7

Your Ref

Dear

**Application for Decision by the Scottish Information Commissioner
Public Authority:**

I refer to my letter of [date] acknowledging receipt of your application for a decision from the Commissioner relating to [details of request]. I can now confirm that it is valid in terms of the Freedom of Information (Scotland) Act 2002 (FOISA)/Environmental Information (Scotland) Regulations 2004 (the EIRs) and that the Commissioner will investigate your complaint and issue a decision on your case.

I have enclosed a copy of the Commissioner's guidance for applicants, entitled "What Happens Next?", which gives you some information about the way your case will be investigated, what information we might need from you and how long the investigation is likely to take. Please read it carefully.

I will contact [public authority] to let it know that your application to the Commissioner will now be investigated, and to ask it to forward all information relating to your request. Once I have this information, the case will be allocated to an investigating officer, who will then contact you.

If you become aware of any change in circumstances, or anything else which you think might affect the course of the investigation or the need for a decision from the Commissioner, it would be helpful if you could let me or the investigating officer know as soon as possible.

[You made your application to the Commissioner by email, but I will need you to provide me with a postal address. This is because the Decision Notice is a formal legal document which must be 'served' on you and on [public authority]. A document will not be properly served if it is only sent by email and this may affect your rights of appeal against the Decision Notice. Please let me have a postal address within the next 3 weeks. If you refuse to give me an address, the Commissioner may not be able to proceed with the investigation.]

You should be aware that if you have made your application to the Commissioner using a pseudonym, your application will be invalid and the Commissioner will be unable to enforce any decision that he issues. If you have used a pseudonym, please let me know as soon as possible in order that we can discuss the way forward.

Details about the investigation (i.e. the case number, the name of the public authority involved and the type of information requested) will be made available on the Commissioner's website. Once a decision has been reached, a copy of the Decision Notice will be made available on the website. The Decision Notice will name you as the applicant. In some cases, the Commissioner may agree to withhold an applicant's name from the version of the decision which appears on the website.

The Commissioner is also a Scottish public authority for the purposes of FOISA, and he has a duty to respond to information requests made under FOISA or the EIRs for information that he holds. This means it is possible that he will receive a request asking him to release your name. If this happens, the Commissioner will usually have to release this information unless there are good reasons for withholding it.

If you feel there are valid reasons for your name to be withheld either from the version of the Decision Notice to appear on the website or in response to a request under FOISA or the EIRs, please let me know within the next 3 weeks.

Please do not hesitate to contact me if you have any queries about anything raised in this letter [contact details]. [I look forward to receiving the information requested in this letter.]

Yours sincerely

[Name]
Validation Officer

Our Ref SL7a

Your Ref

Dear

**Application for Decision by the Scottish Information Commissioner
Public Authority:**

I refer to your letter/email/fax of [date], in which you applied for a decision by the Commissioner about the failure of [public authority] to respond to your request for information dated [date], and your subsequent request for review of [date]

or

the failure of [public authority] to respond to your request for review of [date]

or

the decision by [public authority] that your information request of [date] is vexatious/repeated/manifestly unreasonable

or

the fees notice issued by [public authority] in response to your information request of [date].

I can now confirm that your application is legally valid in terms of the Freedom of Information (Scotland) Act 2002 (FOISA)/Environmental Information (Scotland) Regulations 2004 (the EIRs).

An investigation will now be carried out into the way in which [public authority] dealt with your information request. I have been nominated by the Scottish Information Commissioner as investigating officer and will be your point of contact during the investigation.

The current investigation and the Commissioner's decision will be limited to [public authority]'s compliance with FOISA/the EIRs on the points listed above. At this stage, we cannot investigate whether or not you should have received any of the information you requested.

An Information Notice has been issued to [public authority], requiring them to explain why they failed to reply to your letters requesting information/dealt with your request for information in the way that they did. They have been told that the Commissioner

is investigating your application, and have been invited to comment. I will keep you informed of any developments.

Once the Commissioner has enough information to allow him to determine whether [public authority] failed to comply with FOISA/the EIRs, he will consider what steps need to be taken. In cases such as yours, once the Commissioner has contacted the public authority, it is common for the authority to issue a response to your information request/request for review etc., without the Commissioner requiring them to do so by way of a formal Decision Notice. Please let me know if this happens as it may mean that the case can be closed without the need for a formal Decision Notice.

If you become aware of anything which might affect the course of the investigation, or the need for a decision from the Commissioner, please let me know as soon as possible.

Once the Commissioner has issued his decision, there is a right to appeal to the Court of Session on a point of law only.

[delete if not appropriate]

If the Commissioner's decision requires [public authority] to respond to your information request, and [public authority] then refuses to provide the information you requested, you must ask [public authority] to review this decision and allow time for their response before re-applying to the Commissioner.

[You made your application to the Commissioner by email, but I will need you to provide me with a postal address. This is because the Decision Notice is a formal legal document which must be 'served' on you and on [name of public authority]. A document will not be properly served if it is only sent by email and this may affect your rights of appeal against the Decision Notice. Please let me have a postal address within the next 2 weeks. If you refuse to give me an address, the Commissioner may not be able to proceed with the investigation.]

You should be aware that if you have made your application to the Commissioner using a pseudonym, your application will be invalid and the Commissioner will be unable to enforce any decision that he issues. If you have used a pseudonym, please let me know as soon as possible in order that we can discuss the way forward.

Details about the investigation (i.e. the case number, the name of the public authority involved and the type of information requested) will be made available on the Commissioner's website. Once a decision has been reached, a copy of the decision notice will be made available on the website. The decision notice will name you as the applicant. In some limited cases, the Commissioner may agree to withhold your name from the version of the decision which appears on the website.

The Commissioner is also a Scottish Public authority for the purposes of FOISA or the EIRs and he had a duty to responds to requests for information that he holds. This means it is possible that he will receive a request asking him to release your name. If this happens, the Commissioner will usually have to release this information, unless there are good reasons for withholding it.

If you feel there are valid reasons for your name to be withheld either from the version of the decision notice to appear on the website or in response to a request under FOISA or the EIRs, please let me know within the next 2 weeks.

Please do not hesitate to contact me if you have any questions about this letter [contact details].

Yours sincerely

[Name]
Freedom of Information Officer

Our Ref SL8

Your Ref

Dear

Application for Decision by the Scottish Information Commissioner

Applicant:

Department/Agency: [If Scottish Government]

I refer to previous correspondence between you and our Validation Officer in connection with [applicant's name]'s request for [environmental] information relating to [brief description of information requested]. This case has now been allocated to me as investigating officer and I will be your point of contact for the duration of the investigation. If you have any queries at any point during the investigation, please do not hesitate to contact me on 01334 464[xxx] or xxxxxxx@xxxxxxxxxxxxxxxxxxxxx.xxx [insert contact details].

The information you provided in response to the Validation Officer's letter of [insert date of SL35] has been passed to me. I would be grateful if you would now provide me with any comments you would like to make on [name of applicant]'s application, and also provide the following information or answers to enable me to make progress with the investigation.

[Detail further information required. IO should include questions from appendix 4 of the investigation procedures. IO should always ask what searches were carried out to establish whether information is held, unless it is obvious that all information has been retrieved, e.g. the request was for a particular report. IO may also wish to ask for copies of the PA's internal correspondence relating to the request.]

Please let me have your response by **[date – normally 15 working days should be allowed for response]**.

If I do not receive the information by that date, the Commissioner may send a formal Information Notice requiring your authority to provide it. Failure to comply with an Information Notice can be referred to the Court of Session by the Commissioner and the Court can treat the failure as contempt of court.

I should expect to be able to complete the investigation and make detailed recommendations to the Commissioner on the basis of your response to this letter.

If, at any point during the investigation, you believe there may be an opportunity to reach settlement with the applicant without a decision from the Commissioner being required, please let me know.

[The Commissioner has compiled a guide for Scottish Public Authorities which should help you make your submissions to the Commissioner. The guide is available on our website from the following page: www.itspublicknowledge.info/briefings. If you would prefer a printed copy, please let me know. Please note, in particular, the section on exemptions [exceptions] and the standard of submissions required by the Commissioner.]

OR

[For information on what the Commissioner expects in your submissions, please see the leaflet entitled, 'The Scottish Information Commissioner's Investigations: A Guide for Scottish Public Authorities', which was sent to you by our Validation Officer when s/he wrote to you asking for the information you withheld from the applicant. Please note, in particular, the sections on exemptions [exceptions] and the standard of submissions required by the Commissioner.]

Please note: it is the responsibility of the public authority to justify why it has decided to withhold information. If your submissions are inadequate or fail to adequately justify the refusal of a request in terms of section(s) [9, 12, 14 or 16] of FOISA [exceptions under Regulation 10 of the EIRs], the Commissioner may order you to release the information.

You should therefore provide comprehensive and detailed responses to the points raised above and ensure that you alert me now to any other information you would like the Commissioner to consider in reaching his decision.

While the Commissioner accepts that other relevant information may come to light in the course of the investigation, the onus is on your authority to let me know of any such information at the earliest opportunity. If changes in circumstances create an opportunity for the case to be settled, or otherwise affect the need for a decision, please let me know as soon as possible.

I would be grateful if you could provide me with your email address and direct telephone number for future contact, and if you could quote my reference number in any future correspondence.

Yours sincerely

[Name]
Freedom of Information Officer

Our Ref SL8a

Your Ref

Dear

Application for Decision by the Scottish Information Commissioner

Applicant:

Department/Agency: [if Scottish Government]

The Scottish Information Commissioner has received an application for a decision from [applicant], in relation to an information request made to [name of authority] on [date of request]. A copy of [applicant]'s application to the Commissioner is enclosed. [Applicant]'s application is valid for the purposes of section 47 of the Freedom of Information (Scotland) Act 2002 (FOISA), and an investigation of your authority's handling of his/her/its/their information request will be required.

I have been asked to investigate this case on behalf of the Scottish Information Commissioner. I would be grateful if you would now let me have any comments you would like to make on [applicant]'s application, and also provide the following information or answers to enable me to make progress with the investigation.

[Detail further information required. IO should include questions from appendix 4 of the investigation procedures. IO should always ask what searches were carried out to establish whether information is held, unless it is obvious that all information has been retrieved, e.g. the request was for a particular report. Depending on the case, IO may also wish to ask for copies of the PA's internal correspondence relating to the request.]

Please let me have your response by **[date – normally 15 working days should be allowed for response]**.

If I do not receive the information by that date, the Commissioner may send a formal Information Notice requiring your authority to provide it. Failure to comply with an Information Notice can be referred to the Court of Session by the Commissioner and the Court can treat the failure as contempt of court.

I should expect to be able to complete the investigation and make detailed recommendations to the Commissioner on the basis of your response to this letter.

If, at any point during the investigation, you believe there may be an opportunity to reach settlement with the applicant without a decision from the Commissioner being required, please let me know.

[The Commissioner has compiled a guide for Scottish Public Authorities which should help you make your submissions to the Commissioner. The guide is available on our website from the following page: www.itspublicknowledge.info/briefings. If you would prefer a printed copy please let me know. Please note, in particular, the section on exemptions [exceptions] and the standard of submissions required by the Commissioner.]

OR

[For information on what the Commissioner expects in your submissions, please see the leaflet entitled, 'The Scottish Information Commissioner's Investigations: A Guide for Scottish Public Authorities', which was sent to you by our Validation Officer when s/he wrote to you asking for information you withheld from the applicant. Please note, in particular, the sections on exemptions [exceptions] and the standard of submissions required by the Commissioner.]

Please note: it is the responsibility of the public authority to justify refusing to provide information. If your submissions are inadequate or fail to adequately justify the refusal of a request in terms of section(s) [9, 12, 14 or 16] of FOISA [exceptions under Regulation 10 of the EIRs], the Commissioner may order the release of the information.

You should therefore provide comprehensive and detailed responses to the points raised above and ensure that you alert me now to any other information you would like the Commissioner to consider in reaching his decision.

While the Commissioner accepts that other relevant information may come to light in the course of the investigation, the onus is on your authority to let me know of any such information at the earliest opportunity. If changes in circumstances create an opportunity for the case to be settled, or otherwise affect the need for a decision, please let me know as soon as possible.

I would be grateful if you could provide me with your email address and direct telephone number, for future contact, and if you could quote my reference number if any future correspondence.

Yours sincerely

[Name]
Freedom of Information Officer

Our Ref: SL8b

Your Ref

RECORDED DELIVERY

Dear

INFORMATION NOTICE

**Application to Scottish Information Commissioner
Applicant:**

[Applicant] has/have applied to the Scottish Information Commissioner for a decision as to whether [name of public authority] has dealt with an information request made by him/her/them in accordance with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2004 (the EIRs). The application appears to be valid under section 47(1) of FOISA.

Please note that this is a formal Information Notice under section 50 of FOISA. If [public authority] fails to comply with this notice within the specified time limit, the Commissioner has the right to certify to the Court of Session that [public authority] has failed to comply with the Notice. The Court has the right to inquire into the matter and may deal with [public authority] as if it had committed a contempt of court.

(NO RESPONSE TO REQUEST OR TO REQUEST FOR REVIEW)

I understand from [applicant] that he/she/they made an information request to [public authority] by letter/email/fax on [date] but that he/she/they did not receive a response. I also understand that he/she/they subsequently submitted a request for review on [date] but that, again, no response was received. A copy of the initial request, together with a copy of the request for review, is enclosed. FOISA/the EIRs allow(s) public authorities 20 working days to respond to a request for information and to respond to a request for review.

OR

(NO RESPONSE TO REQUEST FOR REVIEW)

I understand from [applicant] that he/she/they wrote to/emailed/faxed [public authority] on [date] to ask for a review to be carried out as he/she/they was/were

dissatisfied with the way in which [public authority] had responded to the information request he/she/they made on [date]. [A copy of the request for review, together with the initial letter from [public authority], is enclosed.] FOISA/the EIRs allow(s) public authorities 20 working days to carry out a request for review from the date of receipt of the request.

OR

(VEXATIOUS/REPEATED/MANIFESTLY UNREASONABLE)

I understand from [applicant] that you have refused to deal with his/her/their request on the basis that the request from [applicant] of [date] is a vexatious request in terms of section 14(1) of FOISA/is a repeat request in terms of section 14(2) of FOISA/is manifestly unreasonable in terms of regulation 10(4)(b) of the EIRs.

OR

(FEES NOTICE)

I understand from [applicant] that you have issued a fees notice in response to an information request made by [applicant] on [date]. [Applicant] contend(s) that the fees notice has been wrongly calculated by [public authority] in that [explain – e.g. costs too high].

I am therefore inviting [public authority] to comment on the matters raised by the application, a copy of which is enclosed. **Please note that this application relates to an alleged procedural breach by [public authority]. This investigation will consider only the alleged procedural breach.** As such, I do not require you to comment on whether the information requested by [applicant] should have been disclosed by [public authority].

However, I do require you to explain why [public authority] has not responded to the information request and/or has failed to carry out a review/has refused to deal with the request on the basis that it is vexatious/repeat/manifestly unreasonable/how the fees notice was calculated and, where applicable, to provide me with evidence to support the position taken by [public authority].

I require you to provide me with this information by [date – 2 weeks from date of notice].

If [public authority] wants to contest the matter contained in this notice, there is a right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days of the date of intimation (i.e. date of posting) of this letter.

Should you wish to discuss any aspect of this Information Notice, please contact [name of IO] on [contact details].

Yours sincerely

[Name]
[Deputy] Head of Investigations

Our Ref: SL9

Your Ref

Dear

**Application for Decision by the Scottish Information Commissioner
Public Authority:**

I refer to previous correspondence between you and our Validation Officer regarding your application to the Commissioner for a decision in connection with your request for [environmental] information relating to [subject matter of request]. This case has now been allocated to me as investigating officer and I will be your point of contact during the investigation.

During the investigation I may be in touch to verify key facts and seek your response to points made by the authority. If you have any queries at any point during the investigation, or would like a progress report, please do not hesitate to contact me [contact details].

It is important that you let me know about any additional information or changes in circumstances which may be relevant to the investigation. If [public authority] contacts you again in relation to your information request, or if you later find you no longer need a decision from the Commissioner, please let me know immediately.

(IF NOT ALREADY SENT)

I enclose a copy of our guidance for applicants, entitled "What Happens Next?" which provides information about the way in which your application will be investigated. I hope you find it useful.

Yours sincerely

[Name]
Freedom of Information Officer

Our Ref: SL10a

Your Ref

RECORDED DELIVERY

Dear

**Application for Decision by the Scottish Information Commissioner
Public Authority:**

I refer to your letter/email/fax of [date] applying for a decision by the Scottish Information Commissioner about the way in which [public authority] dealt with your request for information.

Having considered your application, the Commissioner has determined that he is not required to issue a decision, as it appears to him that your application is frivolous/vexatious/manifestly unreasonable /has been withdrawn/abandoned. [Provide reasons for decision – these need to be as detailed as possible given that this may be appealed to the Court of Session.]

If you would like to contest the Commissioner's determination that no decision is required, you 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 of the date of intimation (i.e. the date of posting) of this letter.

Yours sincerely

[Name]
Freedom of Information Officer

Our Ref: SL10b

Your Ref

Dear

**Application for Decision by the Scottish Information Commissioner
Applicant:**

As you are aware, the Scottish Information Commissioner received an application from [applicant] on [date], requesting a decision from him about the way in which [name of authority] dealt with his/her/their request for information.

Having considered the application, the Commissioner has determined that it is frivolous/vexatious/has been withdrawn/abandoned. This is because [reasons for decision]. Accordingly, no decision falls to be made by the Commissioner in relation to the application, and I have closed the case file.

If [applicant] wants to contest the Commissioner's determination that no decision falls to be made, he/she has the right to appeal to the Court of Session on a point of law only. The applicant has 42 days to appeal. I will let you know if an appeal is made.

Thank you for your help with this matter.

Yours sincerely

**[Name]
Freedom of Information Officer**

Our Ref SL11a

Your Ref

RECORDED DELIVERY

Dear

Application for a decision by the Scottish Information Commissioner

I refer to previous correspondence regarding your application to the Commissioner for a decision in relation to the information request you made to [name of authority].

[Public authority] has suggested that it may be possible to settle your case without requiring a Decision Notice from the Commissioner. Settlement is a process by which both parties agree to a course of action which results in the applicant withdrawing their application for a decision from the Commissioner. It often requires some compromise between the two parties, and can only take the place of a decision from the Commissioner if both parties agree on the terms of settlement.

[Public authority] has proposed that [add details of proposal: e.g. information which the authority is willing to disclose; other information which could be provided instead; or proposal for private access to information without disclosure to general public].

I would be grateful for your views on this proposal.

If you decide to accept/are interested in pursuing this settlement offer, I will go back to [public authority] to make arrangements for you to be provided with the information they are offering. Once this information has been made available to you, I will then ask you to withdraw your formal application to the Commissioner.

If we consider settlement options but do not reach an acceptable agreement, the Commissioner will issue a Decision Notice in relation to your application. You do not have to consider settlement, but our past experience has shown that there are clear advantages in resolving some cases through settlement rather than by a decision from the Commissioner. [choose/adapt one of following options or list other advantages of settlement relating to case]

- Any information disclosed to you is not made available to the public at large - as it would be if it was released under FOISA. It will not enter the public domain. This may mean that a public authority is able to provide you with access to the information under certain conditions, and so avoid the harm that might be caused if the information was made generally available.
- Settlement may enable the public authority to work with you towards providing information which may not be exactly as you specified but which meets your needs.
- A public authority may agree to provide some of the information requested in return for the withdrawal of an application to the Commissioner: this may mean that you get information without waiting for a Decision Notice which may turn out to be in favour of the public authority.

I would be grateful if you could consider the possibility of settlement, and let me know your views by [date]. I would be happy to discuss the proposal and the implications of settlement, if that would be helpful – my number is 01334 4646XX.

Yours sincerely

Name
Freedom of Information Officer

Our Ref SL11b

Your Ref

Dear

**Application for a decision by the Scottish Information Commissioner –
settlement proposal**

I refer to our previous discussions about the possibility of reaching settlement on [name of applicant]'s case without requiring a decision from the Scottish Information Commissioner.

Please confirm that [public authority] is willing to settle the case by providing the following information / taking the following steps:

List information to be provided / steps to be taken

Once I have your confirmation on the terms of the proposed settlement, I will ask [name of applicant] to confirm their acceptance.

Please reply by [date].

Yours sincerely

Name
Freedom of Information Officer

Our Ref: SL11c

Your Ref

Dear

Application for a decision by the Scottish Information Commissioner – settlement proposal

I refer to our previous correspondence regarding the proposal that your case be settled without requiring a decision from the Scottish Information Commissioner.

[Public authority] has confirmed that it would be willing to [provide the following information to you OR take the following steps], in order to settle your case:

List information to be provided / steps to be taken

I would be grateful if you could confirm that you are willing to settle your case, and withdraw your application for a decision from the Commissioner, if the information listed above is provided / if the actions listed above are taken.

Please reply by [date].

Yours sincerely

Name
Freedom of Information Officer

Our Ref: SL11d

Your Ref

Dear

Settlement of application to the Scottish Information Commissioner

I understand that [public authority] has now provided the information /[other steps carried out] agreed as the basis for the settlement of your application to the Scottish Information Commissioner.

I would be grateful if you could now confirm that you have withdrawn your application for a decision by the Commissioner, as agreed as one of the conditions of settlement.

Yours sincerely

Name
Freedom of Information Officer

Our Ref SL12

Your Ref

Dear

Application for Decision by the Scottish Information Commissioner

I refer to your application for a decision about the way in which [name of public authority] dealt with your request for information [*include short summary of information request*].

I understand that [public authority] has now provided [some of] the information you requested, which had previously been withheld.

Following the disclosure of this information, I am writing to ask whether you still require a decision from the Scottish Information Commissioner. I would be grateful if you could let me know by [date – 10 days] whether you are content to withdraw your application for a decision.

[May be useful to add paragraph to encourage withdrawal, perhaps explaining why remaining information has not been released, e.g. personal data, and (if relevant) warning that the Commissioner's decision might not lead to any further information being released. For example:

Much of the remaining information has been withheld under the exemption in section 36(1) of the Freedom of Information (Scotland) Act 2002 (FOISA). This exemption protects information about which a claim of confidentiality of communications could be upheld in legal proceedings, such as communications between a legal advisor and their client. This exemption can only be upheld if it is not outweighed by the public interest in disclosure of the information. The Commissioner has, in the vast majority of cases, accepted that there is a significant public interest in preserving the confidentiality of such communications.

Or explain why the investigation indicates that the information does not appear to be held.

If this type of content is added to the letter, it must be approved by DHOI or HOI before being sent (see Investigation Procedures).]

If you feel that you would still like a decision from the Commissioner we will investigate your application, but the Commissioner's decision will consider only whether the information which is still withheld should have been provided at the time of your request.

I should explain that if you decide to withdraw your application for a decision, the Commissioner will still take note of any procedural and technical breaches, such as a failure to comply with the timescales for response laid down in the legislation. These will be recorded and may provide a basis for further enforcement action by the Commissioner against [public authority] at a future date.

I would be grateful if you could let me know by [date – 10 days] whether you are content to withdraw your application for a decision by the Commissioner.

Yours sincerely

Name
Freedom of Information Officer

Our Ref: SL13a

Your Ref

RECORDED DELIVERY

Dear

**Scottish Information Commissioner Decision xxx/200x
Public Authority:**

I refer to your application for a decision about the way in which [name of public authority] dealt with your request for information [*include short summary of information request*].

[Name of IO] has investigated your application on my behalf. I have found that in some respects [public authority] failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2004 (the EIRs) in dealing with your request.]

OR

[Name of IO] has investigated your application on my behalf. I have found that [public authority] generally complied with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2004 (the EIRs) in dealing with your request, but failed to comply with certain procedural requirements laid down in FOISA/the EIRs.]

A copy of my Decision Notice is enclosed, but in summary I found that [summarise conclusions, with aim of explaining the points on which public authority failed to comply, and why].

I require [public authority] to [detail any steps to be taken] by [insert date at least 45 days from date of posting of letter]. If [public authority] fails to take the required steps to comply with the terms of the Decision Notice I have the right to certify to the Court of Session that [public authority] has failed to comply. The Court of Session can treat this failure as a contempt of court.

OR

On this occasion I have not required [public authority] to take any action following my decision, but I have noted that there has been a failure to comply with procedural requirements in FOISA/EIRs. If similar breaches are committed in future, I may take further action against [public authority].

If either you or [public authority] would like to contest my decision, there is a right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days from the date of intimation (i.e. date of posting) of this letter.

[I should be grateful if you would contact [name of IO] to let her/him know when [public authority] has provided you with the information.]

A copy of the enclosed Decision Notice will be made available on my website after 5 working days. [As you have asked to remain anonymous, your name will not appear in the published version of the Decision Notice.]

Yours sincerely

Kevin Dunion
Scottish Information Commissioner

Our Ref: SL13b

Your Ref

RECORDED DELIVERY

Dear

**Scottish Information Commissioner Decision xxx/200x
Public Authority:**

I refer to your application to the Scottish Information Commissioner for a decision about the way in which [name of public authority] dealt with your request for information [*may be helpful to include short summary of information request*].

[Name of IO] has investigated your application on behalf of the Commissioner. The Commissioner has decided that in some respects [public authority] failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2004 (the EIRs) in dealing with your request.

OR

[Name of IO] has investigated your application on behalf of the Commissioner. The Commissioner has decided that [public authority] generally complied with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2004 (the EIRs) in dealing with your request, but failed to comply with certain procedural requirements laid down in FOISA/the EIRs.

A copy of the Commissioner's Decision Notice is enclosed, but in summary the Commissioner found that [*summarise conclusions, with aim of explaining the points on which public authority failed to comply, and why*].

The Commissioner requires [public authority] to [detail any steps to be taken] by [insert date at least 45 days from date of posting of letter]. If [public authority] fails to take the required steps to comply with the terms of the decision notice the Commissioner has the right to certify to the Court of Session that [public authority]

has failed to comply. The Court of Session can treat this failure as a contempt of court.

OR

On this occasion the Commissioner has not required [public authority] to take any action following his decision, but he has noted that there has been a failure to comply with procedural requirements in FOISA/EIRs. If similar breaches are committed in future, he may take further action against [public authority].

If either you or [public authority] would like to contest the Commissioner's decision, there is a right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days of the date of intimation (i.e. date of posting) of this letter.

[I should be grateful if you would contact [name of IO] to let her/him know when [public authority] has provided you with the information.]

A copy of the enclosed Decision Notice will be made available on the Commissioner's website after 5 working days. [As you have asked to remain anonymous, your name will not appear in the published version of the decision notice.]

Yours sincerely

**Margaret Keyse/Claire Sigsworth/Euan McCulloch
(Deputy) Head of Investigations**

Our Ref: SL13c

Your Ref

RECORDED DELIVERY

Dear

**Scottish Information Commissioner Decision xxx/200x
Applicant:**

[Name of applicant] applied to me for a decision as to whether [public authority] breached Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2004 (the EIRs) in dealing with his/her/their request for information. The request was for [insert summary of request]. [Name of IO] carried out an investigation on my behalf. He/she has been in contact with [name of contact in public authority] during the investigation.

[I am writing to advise you that I have decided that in some respects [public authority] failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2004 (the EIRs) in dealing with [applicant]'s request.]

OR

[I am writing to advise you that I have decided that [public authority] generally complied with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2004 (the EIRs) in dealing with [applicant]'s request, but failed to comply with certain procedural requirements laid down in FOISA/the EIRs.]

A copy of my Decision Notice is enclosed with this letter, but in summary I have found that [summary of conclusions].

In order for them to comply fully with the terms of my decision, I require [public authority] to [details of steps to be taken]. I require [public authority] to take these steps by [insert date at least 45 days from date of posting of letter]. If [public

authority] fails to take the required steps to comply with the terms of the Decision Notice, I have the right to certify to the Court of Session that [public authority] has failed to comply. The Court has the right to inquire into the matter and may deal with [public authority] as if it had committed a contempt of court.

Please contact [name of IO] to let him/her know when these steps have been carried out.

OR

As stated in the Decision Notice, I do not require [public authority] to take any action in relation to these failures on this occasion. Please be aware that if similar breaches occur in future I may take further action against [public authority].

If either [public authority] or [applicant] wish to contest my findings, there is a right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days from the date of intimation (i.e. date of posting) of this letter.

A copy of this Decision Notice will be made available on my website after 5 working days.

Yours sincerely

Kevin Dunion
Scottish Information Commissioner

Our Ref: SL13d

Your Ref

RECORDED DELIVERY

Dear

**Scottish Information Commissioner Decision xxx/200x
Applicant:**

[Name of applicant] applied to the Scottish Information Commissioner for a decision as to whether [public authority] breached Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2004 (the EIRs) in dealing with his/her/their request for information. The request was for [insert summary of request]. [Name of IO] carried out an investigation on behalf of the Commissioner. He/she has been in contact with [name of contact in public authority] during the investigation.

[I am writing to advise you that the Commissioner decided that in some respects [public authority] failed to comply with Part 1 of the FOISA/the EIRs in dealing with [applicant]'s request.]

OR

[I am writing to advise you that the Commissioner decided that [public authority] generally complied with Part 1 of the FOISA/the EIRs in dealing with [applicant]'s request, but failed to comply with certain procedural requirements laid down in FOISA/the EIRs.]

A copy of the Commissioner's Decision Notice is enclosed with this letter, but in summary he found that [summary of conclusions].

In order to comply fully with the terms of the Commissioner's decision, [public authority] is required to [details of steps to be taken]. These steps must be taken by [insert date at least 45 days from date of posting of letter]. If [public authority] fails to take the required steps to comply with the terms of the Decision Notice, the

Commissioner has the right to certify to the Court of Session that [public authority] has failed to comply. The Court has the right to inquire into the matter and may deal with [public authority] as if it had committed a contempt of court.

Please contact [name of IO] to let him/her know when these steps have been carried out.

OR

As stated in the Decision Notice, [public authority] is not required to take any action in relation to these failures on this occasion. Please be aware that if similar breaches occur in future the Commissioner may take further action against [public authority].

If either [public authority] or [applicant] would like to contest the Commissioner's findings, there is a right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days from the date of intimation (i.e. date of posting) of this letter.

A copy of this Decision Notice will be made available on the Commissioner's website after 5 working days.

Yours sincerely

**Margaret Keyse/Claire Sigsworth/Euan McCulloch
(Deputy) Head of Investigations**

Our Ref: SL14a

Your Ref

RECORDED DELIVERY

Dear

**Scottish Information Commissioner Decision xxx/200x
Public Authority:**

I refer to your correspondence with [name of IO] in connection with your application for a decision about the way in which [name of public authority] dealt with your request for information [*may be helpful to include short summary of information request*].

I have investigated your application and have decided that [public authority] failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2004 (the EIRs) in dealing with your request. A copy of my Decision Notice is enclosed, but in summary I found that [*summarise conclusions, with aim of explaining the points on which public authority failed to comply, and why*].

I require [public authority] to [detail any steps to be taken] by [insert date at least 45 days from date of posting of letter]. If [public authority] fails to take the required steps to comply with the terms of the Decision Notice I have the right to certify to the Court of Session that [public authority] has failed to comply. The Court of Session can treat this failure as a contempt of court.

If either you or [public authority] would like to contest my findings, there is a right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days from the date of intimation (i.e. date of posting) of this letter.

[I should be grateful if you would contact [name of IO] to let her/him know when [public authority] has provided you with the information.]

A copy of the enclosed Decision Notice will be made available on my website after 5 working days. [As you have asked to remain anonymous, your name will not appear in the published version of the decision notice.]

Yours sincerely

Kevin Dunion
Scottish Information Commissioner

Our Ref: SL14b

Your Ref

RECORDED DELIVERY

Dear

**Scottish Information Commissioner Decision xxx/200x
Public Authority:**

I refer to your application for a decision from the Scottish Information Commissioner about the way in which [name of public authority] dealt with your request for information [*may be helpful to include short summary of information request*].

[Name of IO] has investigated your application on behalf of the Commissioner. The Commissioner has decided that [public authority] failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2004 (the EIRs) in dealing with your request. A copy of the Commissioner's Decision Notice is enclosed, but in summary he found that [*summarise conclusions, with aim of explaining the points on which public authority failed to comply, and why*].

[Name of public authority] is required to [detail any steps to be taken] by [insert date at least 45 days from date of posting of letter]. If [public authority] fails to take the required steps to comply with the terms of the Decision Notice, the Commissioner has the right to certify to the Court of Session that [public authority] has failed to comply. The Court of Session can treat this failure as a contempt of court.

If either you or [public authority] would like to contest the Commissioner's findings, there is a right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days of the date of posting of this letter.

[I should be grateful if you would contact [name of IO] to let her/him know when [public authority] has provided you with the information.]

A copy of the enclosed Decision Notice will be made available on the Commissioner's website after 5 working days. [As you have asked to remain

anonymous, your name will not appear in the published version of the decision notice.]

Yours sincerely

**Margaret Keyse/Claire Sigsworth/Euan McCulloch
(Deputy) Head of Investigations**

Our Ref SL14c

Your Ref

RECORDED DELIVERY

Dear

**Scottish Information Commissioner Decision xxx/200x
Applicant:**

[Name of applicant] applied to me for a decision as to whether [public authority] breached Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2004 (the EIRs) in dealing with his/her/their request for information. The request was for [insert summary of information request.] [Name of IO] carried out an investigation on my behalf. He/she has been in contact with [name of contact in public authority] during the investigation.

I am writing to advise you that I have decided that [public authority] failed to comply with FOISA)/the EIRs in dealing with [applicant]'s request for information. A copy of my Decision Notice is enclosed with this letter, but in summary I have found that [summary of conclusions].

In order for them to comply fully with the terms of my decision, I require [public authority] to [details of steps to be taken]. I require [public authority] to take these steps by [insert date at least 45 days from date of posting of letter]. If [public authority] fails to take the required steps to comply with the terms of the decision notice, I have the right to certify to the Court of Session that [public authority] has failed to comply. The Court has the right to inquire into the matter and may deal with [public authority] as if it had committed a contempt of court.

Please contact [name of IO] to let him/her know when these steps have been carried out.

OR

As stated in the Decision Notice, I do not require [public authority] to take any action in relation to these failures on this occasion. Please be aware that if similar breaches occur in future I may take further action against [public authority].

If either [public authority] or [applicant] would like to contest my findings, there is a right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days of the date of intimation (i.e. date of posting) of this letter.

A copy of this Decision Notice will be made available on my website after 5 working days.

Yours sincerely

Kevin Dunion
Scottish Information Commissioner

Our Ref SL14d

Your Ref

RECORDED DELIVERY

Dear

**Scottish Information Commissioner Decision xxx/200x
Applicant:**

[Name of applicant] applied to the Scottish Information Commissioner for a decision as to whether [public authority] breached Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2004 (the EIRs) in dealing with his/her/their request for information. The request was for [insert summary of information request.] [Name of IO] carried out an investigation on behalf of the Commissioner. He/she has been in contact with [name of contact in public authority] during the investigation.

The Commissioner has decided that [public authority] failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2004 (the EIRs) in dealing with your request. A copy of the Commissioner's Decision Notice is enclosed, but in summary he found that [*summarise conclusions, with aim of explaining the points on which public authority failed to comply, and why*].

[Name of public authority] is required to [detail any steps to be taken] by [insert date at least 45 days from date of posting of letter]. If [public authority] fails to take the required steps to comply with the terms of the Decision Notice, the Commissioner has the right to certify to the Court of Session that [public authority] has failed to comply. The Court has the right to inquire into the matter and may deal with [public authority] as if it had committed a contempt of court.

Please contact [name of IO] to let him/her know when these steps have been carried out.

OR

As stated in the Decision Notice, [public authority] is not required to take any action in relation to these failures on this occasion. Please be aware that if similar breaches occur in future the Commissioner may take further action against [public authority].

If either [public authority] or [applicant] would like to contest the Commissioner's findings, there is a right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days of the date of intimation (i.e. date of posting) of this letter.

A copy of this Decision Notice will be made available on the Commissioner's website after 5 working days.

Yours sincerely

**Margaret Keyse/Claire Sigsworth/Euan McCulloch
(Deputy) Head of Investigations**

Our Ref SL15a

Your Ref

RECORDED DELIVERY

Dear

**SCOTTISH INFORMATION COMMISSIONER DECISION XXX/200X
PUBLIC AUTHORITY:**

I refer to your previous correspondence with [name of IO] in connection with your application to me for a decision [*may be helpful to include short summary of request*]. I am writing to let you know that I have decided that [public authority] complied fully with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2002 (the EIRs) in dealing with your request for information.

A copy of my Decision Notice is enclosed with this letter, but in summary I found that [*summarise conclusions, with aim of explaining why public authority is considered to have complied*]. As a result I do not require [public authority] to take any action / provide you with the information you asked for.

Whilst this outcome may be disappointing for you, I hope you will see from my Decision Notice that your application has been considered carefully. If you want to contest my findings, you have a right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days of the date of intimation (i.e. date of posting) of this letter.

A copy of the Decision Notice will be made available on my website after 5 working days. [As you have asked to remain anonymous, your name will not appear in the published version of the decision notice.]

Yours sincerely

**Kevin Dunion
Scottish Information Commissioner**

Our Ref SL15b

Your Ref

RECORDED DELIVERY

Dear

Scottish Information Commissioner Decision xxx/200x

Public Authority:

I refer to your application for a decision from the Scottish Information Commissioner about the way in which [name of public authority] dealt with your request for information [*may be helpful to include short summary of information request*].

[Name of IO] has investigated your application on behalf of the Commissioner. The Commissioner has decided that [public authority] complied fully with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2002 (the EIRs) in dealing with your request for information.

A copy of the Commissioner's Decision Notice is enclosed with this letter, but in summary he found that [*summarise conclusions, with aim of explaining why the public authority is considered to have complied*]. As a result he does not require [public authority] to take any action / provide you with the information you asked for.

Whilst this outcome may be disappointing for you, I hope you will see from the Decision Notice that your application has been considered carefully. If you want to contest the Commissioner's findings, you have a right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days from the date of intimation (i.e. date of posting) of this letter.

A copy of the Decision Notice will be made available on the Commissioner's website after 5 working days. [As you have asked to remain anonymous, your name will not appear in the published version of the decision notice.]

Yours sincerely

**Margaret Keyse/Claire Sigsworth/Euan McCulloch
(Deputy) Head of Investigations**

Our Ref SL15c

Your Ref

RECORDED DELIVERY

Dear

Scottish Information Commissioner Decision xxx/200x
Applicant:

[Name of applicant] applied to me for a decision as to whether [public authority] breached Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2004 (the EIRs) in dealing with his/her/their request for information. The request was for [*insert summary of information request.*] [[Name] of IO] has carried out an investigation on my behalf. He/she has been in contact with [name of contact in public authority] during the investigation.

I am writing to let you know I have decided that [public authority] complied fully with Part 1 of FOISA/ the EIRs in dealing with [applicant]'s request. A copy of my Decision Notice is enclosed with this letter, but in summary I have found that [summary of conclusions]. Consequently, I do not require [public authority] to take any action.

Both [applicant] and [public authority] have the right to appeal my decision to the Court of Session on a point of law only. Any such appeal must be made within 42 days of the date of intimation (i.e. date of posting) of this letter.

A copy of the Decision Notice will be made available on my website after 5 working days.

Yours sincerely

Kevin Dunion
Scottish Information Commissioner

Our Ref SL15d

Your Ref

RECORDED DELIVERY

Dear

**Scottish Information Commissioner Decision xxx/200x
Applicant:**

[Name of applicant] applied to the Scottish Information Commissioner for a decision as to whether [public authority] breached Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2004 (the EIRs) in dealing with his/her/their request for information. The request was for [*insert summary of information request*]. [[Name] of IO] has carried out an investigation on behalf of the Commissioner. He/she has been in contact with [name of contact in public authority] during the investigation.

The Commissioner has decided that [public authority] complied fully with Part 1 of FOISA/ the EIRs in dealing with [applicant]'s request. A copy of the Decision Notice is enclosed with this letter, but in summary [*summary of conclusions*]. Consequently, [public authority] is not required to take any action.

Both [applicant] and [public authority] have the right to appeal the Commissioner's decision to the Court of Session on a point of law only. Any such appeal must be made within 42 days of the date of intimation (i.e. date of posting) of this letter.

A copy of the Decision Notice will be made available on the Commissioner's website after 5 working days.

Yours sincerely

**Margaret Keyse/Claire Sigsworth/Euan McCulloch
(Deputy) Head of Investigations**

Our Ref: SL16

Your Ref

Dear

Decision from the Scottish Information Commissioner

I refer to your letter of [date], in connection with the Scottish Information Commissioner's Decision Notice [details of decision notice]. You have advised us that you are unhappy with certain aspects of the Commissioner's decision, in that [list short summary of complaint].

I have considered all the issues raised in your letter, but believe that these would not have affected the outcome of our investigation or the decision issued by the Commissioner. I should also explain that the Freedom of Information (Scotland) Act 2002 does not/the Environmental Information (Scotland) Regulations 2004 do not give the Commissioner the power to withdraw or make changes to a Decision Notice once it has been issued: the only circumstances in which this could happen would be if the decision was appealed to the Court of Session, who then required the Commissioner to re-visit the decision because he had made a legal error.

I would strongly suggest that you seek independent legal advice if you are considering an appeal to the Court of Session and that you take account of the fact that an appeal should be made within 42 days of the date of intimation of the Decision Notice.

[if relevant]

Some of the matters you mention in your letter could not be investigated/commented upon/considered by the Commissioner in his Decision Notice. The Commissioner can only consider whether a Scottish public authority has complied with the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2004 (the EIRs) in dealing with an information request. He cannot consider any other issues or complaints/[choose from following if appropriate]

whether staff in the public authority should have given you their thoughts or opinions – FOISA and the EIRs only give you rights regarding the recorded information held by the public authority.

complaints about the way in which staff in the public authority have treated you, except where these relate directly to the way in which your request for information was handled. (The Scottish Public Services Ombudsman may be able to investigate other complaints about staff conduct. If you would like me to provide you with her contact details, please let me know.)

whether the public authority should have recorded certain information, but failed to do so. FOISA and the EIRs do not require Scottish public authorities to keep records or create information. The Commissioner can only consider questions relating to recorded information which existed within the public authority at the time of your request.

whether the information held by the public authority is accurate or correct.

I am sorry that the investigation did not turn out the way you had hoped.

Yours sincerely

Name
Freedom of Information Officer

Our Ref: SL17a

Your Ref

Dear

**Compliance with Decision of Scottish Information Commissioner
Decision No:**

I refer to our letter of [date] enclosing the Scottish Information Commissioner's Decision Notice (Decision xxx/200x) in relation to your application. I should be obliged if you would confirm whether [public authority] has now carried out the steps required by the Decision Notice and, if so, when this took place.

As you will be aware, in order to comply with the Decision Notice, the public authority was expected to [insert details].

Many thanks.

Yours sincerely

[Name]
Validation Officer

Our Ref SL17b

Your Ref

Dear

**Compliance with Decision of Scottish Information Commissioner
Decision No:**

I refer to our letter of [date] enclosing the Scottish Information Commissioner's Decision Notice (Decision xxx/200x) (applicant [name]). Please confirm whether your authority has carried out the steps required in the Decision Notice and, if so, when this took place.

As you will be aware, in order to comply with the Decision Notice, your authority was expected to [insert details]. *[If information was to be released]* Please provide me with copies of the information sent to [name of applicant] / a schedule showing the documents which were sent to [name of applicant].

Yours sincerely

**[Name]
Validation Officer**

Our Ref SL18a

Your Ref

Dear

**Compliance with Decision of Scottish Information Commissioner
Decision No:**

I refer to previous correspondence in connection with the above and confirm that I have received evidence that [public authority] has complied with the requirements of the Scottish Information Commissioner's Decision [xxx/200x] of [date].

The case file has now been closed. I hope you are satisfied with this conclusion to your application.

Yours sincerely

**[Name]
Validation Officer**

Our Ref SL18b

Your Ref

Dear

**Compliance with Decision of Scottish information Commissioner
Decision No:**

I refer to previous correspondence in connection with the above and confirm that I have received evidence that [public authority] has complied with the requirements of the Scottish Information Commissioner's Decision [xx/200x] of [date].

I have confirmed your authority's compliance with [applicant] and will now close my file.

Yours sincerely

**[Name]
Validation Officer**

Our Ref SL19

Your Ref

Dear

**Investigation by Scottish Information Commissioner – Returned Documents
[Applicant] and [Public Authority]**

Following the conclusion of the investigation carried out by the Scottish Information Commissioner, I return the documents sent to this Office in relation to the investigation together with a copy of the schedule of documents.

I have now closed the case file.

Please acknowledge your receipt of the enclosed documents.

OR

Following the conclusion of the investigation carried out by the Scottish Information Commissioner, I can confirm that all documents sent to this Office in connection with the investigation have been securely destroyed.

I have now closed the case file.

Yours sincerely

[Name]
Validation Officer

Our Ref SL20

Your Ref

RECORDED DELIVERY

Dear

**Compliance with Decision of Scottish Information Commissioner
Decision No:**

I refer to the letter from the Scottish Information Commissioner of [date] enclosing his Decision Notice in relation to Decision [xxx/200x] (applicant [name]). In his letter (and the accompanying decision notice) he confirmed the steps which he required you to take in order to comply with the terms of the Freedom of Information (Scotland) Act 2002/Environmental Information (Scotland) Regulations 2004 together with the time limit for compliance. To date, I have not received evidence that you have complied with the requirements of the Decision Notice.

If you do not provide me with satisfactory evidence of compliance with the Decision Notice within 10 working days from receipt of this letter, steps will be taken to refer this matter to the Court of Session.

Yours sincerely

**Margaret Keyse
Head of Investigations**

Our Ref: SL21

Your Ref

RECORDED DELIVERY

Dear

**Compliance with Decision of Scottish Information Commissioner
Decision No:**

I refer to previous correspondence in connection with the Commissioner's Decision [xxx/200x] (applicant [name]) , most recently my letter of [date] giving [public authority] 10 working days notice to comply with the terms of the said Decision Notice. As your authority has failed to comply with the terms of the Decision Notice I have now instructed the Commissioner's solicitors to commence preparations for referral of this matter to the Court of Session.

In order to prevent this matter being referred to the Court of Session you have 5 working days from receipt of this letter to comply with the terms of the Decision Notice.

Yours sincerely

**Margaret Keyse
Head of Investigations**

Our Ref: SL22

Your Ref

RECORDED DELIVERY

Dear

**Compliance with Decision of Scottish Information Commissioner
Decision No:**

I refer again to the letter from the Scottish Information Commissioner of [date] advising you of the above decision following an application from [applicant]. In his letter (and the accompanying Decision Notice) he confirmed the steps which he required you to take in order to comply with the terms of the Freedom of Information (Scotland) Act 2002/Environmental Information (Scotland) Regulations 2004 together with the time limit for compliance.

As [public authority] has failed to comply with the terms of the decision notice within the specified time limit, this matter has now been referred to the Court of Session. A copy of the referral is enclosed for your information.

Yours sincerely

**Margaret Keyse
Head of Investigations**

Our Ref SL23a

Your Ref

RECORDED DELIVERY

Dear

INFORMATION NOTICE UNDER SECTION 50 OF THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

APPLICANT:

I refer to the letter(s) from [name of IO] dated [date(s)] and note that the Commissioner has not yet received the information required by him to investigate fully an application under section 47(1) of the Freedom of Information (Scotland) Act 2002 (FOISA)/whether [public authority] has complied or is complying with the provisions of the Freedom of Information (Scotland) Act 2002 (FOISA)/a Code of Practice under section 60/61 of the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2004 (the EIRs)/a Code of Practice under regulation 18(1) of the Environmental Information (Scotland) Regulations 2004 (the EIRs).

Please note that this is a formal Information Notice under section 50 of FOISA. If [public authority] fails to comply with this notice within the specified time limit, the Commissioner has the right to certify to the Court of Session that it has failed to comply with the notice. The Court has the right to inquire into the matter and may deal with [public authority] as if it had committed a contempt of court.

The Commissioner requires [information required]

[If s47(1) application must state that application has been received under that section]

[If other than in relation to s47(1) application detail:

- i. Purpose in s51(b) for which information is required,
- ii. Reason for regarding it as such, and
- iii. The time limit (see below)].

This information can be forwarded to me by email/in hard copy/[alternative format].

All information must be forwarded to me by no later than [date].

If you have obtained legal advice either in respect of your duties under FOISA/the EIRs or in connection with/in contemplation of legal proceedings under or arising out of FOISA/the EIRs, you are under no obligation to provide the Commissioner with a copy of that advice, although you may choose to do so. If the advice you have received supports the way in which you have dealt with the request for information from the applicant, then providing the Commissioner with a copy of the advice may assist your case.

If [public authority] would like to contest the matter contained in this Notice, there is a right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days from the date of intimation (i.e. date of posting) of this Notice.

Should you wish to discuss any aspect of this Notice, please contact [name of IO] on [contact details].

Yours sincerely

Margaret Keyse/Euan McCulloch/Claire Sigsworth
[Deputy] Head of Investigations

Our Ref SL23b

Your Ref

RECORDED DELIVERY

Dear

INFORMATION NOTICE UNDER SECTION 50 OF THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

APPLICANT:

I refer to the letter(s) from [name of IO] dated [date(s)] and note that I have not yet received the information required by me to investigate fully an application under section 47(1) of the Freedom of Information (Scotland) Act 2002 (FOISA)/whether [public authority] has complied or is complying with the provisions of the Freedom of Information (Scotland) Act 2002 (FOISA)/a Code of Practice under section 60/61 of the Freedom of Information (Scotland) Act 2002 (FOISA)/the Environmental Information (Scotland) Regulations 2004 (the EIRs)/a Code of Practice under regulation 18(1) of the Environmental Information (Scotland) Regulations 2004 (the EIRs).

Please note that this is a formal Information Notice under section 50 of FOISA. If [public authority] fails to comply with this notice within the specified time limit, I have the right to certify to the Court of Session that it has failed to comply with the notice. The Court has the right to inquire into the matter and may deal with [public authority] as if it had committed a contempt of court.

I require [information required]

[If s47(1) application must state that application has been received under that section]

[If other than in relation to s47(1) application detail:

- i. Purpose in s51(b) for which information is required,
- ii. Reason for regarding it as such, and
- iii. The time limit (see below)].

This information can be forwarded to me by email/in hard copy/[alternative format].

All information must be forwarded to me by no later than [date].

If you have obtained legal advice either in respect of your duties under FOISA/the EIRs or in connection with/in contemplation of legal proceedings under or arising out of FOISA/the EIRs, you are under no obligation to provide me with a copy of that advice, although you may choose to do so. If the advice you have received supports the way in which you have dealt with the request for information from the applicant, then providing me with a copy of the advice may assist your case.

If [public authority] would like to contest the matter contained in this notice, there is a right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days from the date of intimation (i.e. date of posting) of this notice.

Should you wish to discuss any aspect of this Notice, please contact [name of IO] on [contact details].

Yours sincerely

Kevin Dunion
Scottish Information Commissioner

Our Ref: SL24

Your Ref

Dear

**Information Notice - Reminder
Applicant:**

I refer to the Information Notice which was sent to you on [date], in which I requested information following an application for a decision under/an investigation into a suspected breach of [Part 1] of the Freedom of Information (Scotland) Act 2002//Environmental Information (Scotland) Regulations 2004. As I have not heard from you within the time limit specified in that Information Notice, I must now advise you that my intention is to contact the Commissioner's Edinburgh Agents to commence preparations for Court of Session action.

In order to avoid such action you should forward the required information within 5 working days of receipt of this letter.

Yours sincerely

**[Name]
(Deputy) Head of Investigations**

Our Ref: SL25

Your Ref

Dear

**Information Notice - Cancellation
Applicant:**

I refer to the Information Notice of [date] requesting information from [public authority] in relation to [details of request].

This letter is to advise you that I have cancelled the Information Notice in terms of section 50(8) of the Freedom of Information (Scotland) Act 2002.

.

Yours sincerely

**[Name]
(Deputy) Head of Investigations**

Our Ref: SL26

Your Ref

Dear

FAILURE TO COMPLY WITH FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 / ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2002

I refer to previous correspondence in connection with the above. My investigation is now complete and I have established that [public authority] has failed to comply with a provision of Part 1 of the Freedom of Information (Scotland) Act/the Environmental Information (Scotland) Regulations 2004. *[Give details of failure]*

[Public authority] is required to take the following steps to comply with the Act/Regulations.

[detail steps to be taken]

[Public authority] must ensure that these steps are taken by *[insert time limit]* .

If you do not comply with this Notice within the specified time limit, I have the right to issue an Enforcement Notice. If you do not comply with such a Notice, I have the right to refer the matter to the Court of Session. The Court has the right to inquire into the matter and may deal with [public authority] as if it had committed a contempt of court.

Yours sincerely

Kevin Dunion
Scottish Information Commissioner

Our Ref SL27

Your Ref

Dear

ENFORCEMENT NOTICE UNDER SECTION 51 OF THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

Despite previous requests, I have not yet received confirmation that you have complied with the terms of my letter dated [date]. As a result, I am now issuing [public authority] with a formal Enforcement Notice.

Please note that this is a formal Enforcement Notice under section 51 of the Freedom of Information (Scotland) Act 2002. If you fail to comply with this notice within the specified time limit, I have the right to certify to the Court of Session that you have failed to comply with the notice. The Court has the right to inquire into the matter and may deal with [public authority] as if it had committed a contempt of court.

[Public authority] has failed to comply with [provision of Part1/EIRs not complied with and details of failure].

[Public authority] must [details of what must be done] no later than [date].

If [public authority] wants to contest the matter contained in this Notice, there is a right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days of the date of intimation (i.e. date of posting) of this letter.

Yours sincerely

**Kevin Dunion
Scottish Information Commissioner**

Our Ref: SL28

Your Ref

Dear

ENFORCEMENT NOTICE

I refer to the letter of [*date*] from (name) asking that [public authority] comply with the terms of my Formal Request dated [*date*]. As [public authority] has not yet complied with the terms of this Notice within the specified time limit, I must now advise you that I intend to instruct the Commissioner's solicitors to commence preparations for Court of Session action.

In order to avoid such action you must comply with the terms of the said Notice within five working days.

Yours sincerely

Margaret Keyse
Head of Investigations

Our Ref SL29

Your Ref

Dear

ENFORCEMENT NOTICE – CANCELLATION

I refer to the Enforcement Notice of *[date]* requiring *[public authority]* to *[details of notice]*.

I write to advise you that the requirements set out in the Enforcement Notice need no longer be complied with and that I am therefore cancelling the Notice in terms of section 51(4) of the Freedom of Information (Scotland) Act 2002.

Yours sincerely

[Name]
[Deputy]Head of Investigations

Our Ref SL30a

Your Ref

Dear

(Name of public authority)

ASSESSMENT OF COMPLIANCE WITH GOOD PRACTICE

As you are aware, one of the functions of the Scottish Information Commissioner, as set out in section 43(3) of the Freedom of Information (Scotland) Act 2002 (FOISA), is to assess whether public authorities covered by FOISA and the Environmental Information (Scotland) Regulations 2004 (the EIRs) are following good practice. Assessments are carried out in accordance with the Commissioner's Enforcement Strategy, a copy of which was sent to you on 27 May 2008, and can be accessed via this link;

<http://www.itspublicknowledge.info/ScottishPublicAuthorities/ComplianceEnforcement.asp>.

I am writing to advise you that it is the Commissioner's intention to carry out an assessment of [name of public authority] to determine whether it is following good practice, as part of his current assessment programme. The assessment will cover all aspects of the authority's practice in relation to FOISA and the EIRs, but particular attention will be paid to the following (being matters identified by the Commissioner as being of potential concern):

[list any specific issues to be covered].

Two Freedom of Information Officers from the Commissioner's office, [names of FOIOs], will be carrying out an assessment of your authority's practice. It is intended that the on-site part of this assessment will commence at your authority's premises on [] and will thereafter take XX day(s) to complete, the projected completion date being [date]. I should be grateful if you would contact [contact details of assessor] by [date], (give authority seven working days from the date of the letter to contact officer if there is a problem with the suggested date), to arrange a preliminary meeting with yourself or a senior representative on your behalf and your

FOI Officer on [commencement date]. If the intended dates are unsuitable, it may be possible to arrange alternatives.

The assessment will involve carrying out interviews with yourself/ your representative and the officer(s) in your authority responsible for Freedom of Information at a corporate level, along with a selection of members of staff who are involved in the day to day handling of information requests and in carrying out reviews. Generally, these officers should be selected by your authority, but the assessors would in particular wish to interview [add names of any particular officers to be interviewed]. Please provide a list of the officers to be made available for interview when responding to this letter. I would also be grateful if you could confirm that they will be available when required.

The officer(s) carrying out the assessment will need to have access to the relevant policies and procedures maintained by your authority for handling and responding to information requests (including any procedures/guidance for carrying out reviews), together with the systems used to record such requests and documentation which demonstrates how requests have been handled in practice. With a view to allowing the assessors to consider documentation and request handling data in advance of the visit to your authority, the attached questionnaire has been prepared and I should be grateful if you would arrange for this to be completed and returned to [] at this Office by [not less than 20 working days]. A prepaid envelope/label is enclosed for this purpose. Alternatively this questionnaire can be completed online via this link, and should be emailed with electronic versions of the requisite documents to [] at OSIC.

At the end of the assessment, the assessors will identify any key issues arising, and there will be an opportunity for discussion.

A draft assessment report will be provided to you following the completion of the assessment. Within a specified timescale, your authority will be asked to produce an action plan to address any instances of non-conformance to good practice and further discussion may be required. At the end of this process, the final report will be approved by the Commissioner and sent to you, and followed up as required.

Any information the Commissioner receives as a result of carrying out this assessment may be used to inform his decision making as to whether any enforcement action is necessary. The Commissioner may also be required to disclose this information in response to any relevant requests for information he receives under section 1 of FOISA, although (name of public authority) will generally be provided with an opportunity to comment on whether information should be disclosed before I respond to such a request.

I look forward to your cooperation with this assessment.

Yours sincerely

Kevin Dunion
Scottish Information Commissioner

SL30b

If your authority does not hold exact figures in relation to questions 2, 3a, 3b, 4a, 4c, 5a, 5b, 8a, 8c, 15, 17, 18 and 19 asked below, please provide estimated figures and note next to your response that the figure given is an estimate, together with the basis of the estimate.

As the section 60 Code of Practice requires public authorities to gather data in relation to the areas covered by questions 3d, 4b, 5c, 7, 8b, 10, 13, 14 and 16 please provide exact figures in response to these questions.

As the section 62 Code of Practice requires public authorities to gather data in relation to the areas covered by questions 3c, 3d, 5c, 5d, 7, 11 and 13 please provide exact figures in response to these questions.

General

Q1. Please state the name of the Scottish public authority you are responding on behalf of.

Responding to requests for information

When answering questions 2, 3, 4, 5, 7, 8, 10, 11, 13, 14, 15 and 16 please do so by providing separate figures for each financial year.

Q2. How many requests for information has your authority received under FOISA and the EIRs.

| | | | |
|-------------------------------------|--|------------------------------------|--|
| FOISA April 06 – March 07 | | EIRs April 06 – March 07 | |
| April 07 – March 08 | | April 07 – March 08 | |

Q3. Of the information requests received by your authority under FOISA and the EIRs, in how many cases did the authority (*where your authority does not distinguish between FOI and EIR requests in recording, please put a cumulative total in under FOISA*)

a) Release all of the information requested?

| | | | |
|-------------------------------------|--|------------------------------------|--|
| FOISA April 06 – March 07 | | EIRs April 06 – March 07 | |
| April 07 – March 08 | | April 07 – March 08 | |

b) Partially release the information requested?

| | | | |
|-------------------------------------|--|------------------------------------|--|
| FOISA April 06 – March 07 | | EIRs April 06 – March 07 | |
| April 07 – March 08 | | April 07 – March 08 | |

c) Respond that the information requested was not held?

| | | | |
|-------------------------------------|--|------------------------------------|--|
| FOISA April 06 – March 07 | | EIRs April 06 – March 07 | |
| April 07 – March 08 | | April 07 – March 08 | |

d) Refuse to disclose the information requested?

| | | | |
|-------------------------------------|--|------------------------------------|--|
| FOISA April 06 – March 07 | | EIRs April 06 – March 07 | |
| April 07 – March 08 | | April 07 – March 08 | |

Q4. In responding to an information request under FOISA, on how many occasions did your authority

a) Respond to the applicant within 20 working days?

| | |
|---------------------|--|
| April 06 – March 07 | |
| April 07 – March 08 | |

b) Respond to the applicant after more than 20 working days?

| | |
|---------------------|--|
| April 06 – March 07 | |
| April 07 – March 08 | |

c) Fail to provide any response to the applicant?

| | |
|---------------------|--|
| April 06 – March 07 | |
| April 07 – March 08 | |

Q5. In responding to an information request under the EIRs, on how many occasions did your authority

a) Respond to the applicant within 20 working days?

| | |
|---------------------|--|
| April 06 – March 07 | |
| April 07 – March 08 | |

- b) Extend its time for response by up to 20 working days, in line with Regulation 7?

| | |
|---------------------|--|
| April 06 – March 07 | |
| April 07 – March 08 | |

- c) Respond to the applicant after more than 20 working days, where the time for response had not been extended?

| | |
|---------------------|--|
| April 06 – March 07 | |
| April 07 – March 08 | |

- d) Fail to provide any response to the applicant?

| | |
|---------------------|--|
| April 06 – March 07 | |
| April 07 – March 08 | |

Q6. Has your authority identified aspects of its handling of information requests which it might have dealt with better?

Yes

No

If yes, please indicate what these were and what measures have been put in place to address them.

Responding to requirement for a review

Q7. How many of the responses your authority made to information requests under FOISA and the EIRs was it asked to review? (*where your authority does not distinguish between FOI and EIR requests in recording, please put a cumulative total in under FOISA*)

| | | | |
|-------------------------------------|--|------------------------------------|--|
| FOISA April 06 – March 07 | | EIRs April 06 – March 07 | |
| April 07 – March 08 | | April 07 – March 08 | |

Q8. In carrying out a review, on how many occasions did your authority (*in providing the answer to the questions below, please separate out requests for information dealt with under FOISA, and those dealt with under the EIRs*)

- a) Respond to the applicant within 20 working days?

| | | | |
|-------------------------------------|--|------------------------------------|--|
| FOISA April 06 – March 07 | | EIRs April 06 – March 07 | |
| April 07 – March 08 | | April 07 – March 08 | |

b) Respond to the applicant after more than 20 working days?

| | | | |
|-------------------------------------|--|------------------------------------|--|
| FOISA April 06 – March 07 | | EIRs April 06 – March 07 | |
| April 07 – March 08 | | April 07 – March 08 | |

c) Fail to respond?

| | | | |
|-------------------------------------|--|------------------------------------|--|
| FOISA April 06 – March 07 | | EIRs April 06 – March 07 | |
| April 07 – March 08 | | April 07 – March 08 | |

Q9. Please place a tick against all of the factors detailed below which apply to your authority's arrangements for carrying out reviews;

| | |
|--|--|
| <ul style="list-style-type: none"> The review is carried out by the same staff as respond to the information request | |
| <ul style="list-style-type: none"> The review is carried out by different staff from those who respond to the information request | |
| <ul style="list-style-type: none"> The information request is always considered afresh during the review process | |
| <ul style="list-style-type: none"> The review process is used as an opportunity to endorse the decision that has already been made on the information requested | |
| <ul style="list-style-type: none"> We have a written procedure/guidance which is followed when undertaking a review. | |
| <ul style="list-style-type: none"> We do not have any written procedures/guidance which are followed in undertaking reviews | |

Q10. Having carried out a review under FOISA, on how many occasions did your authority

a) Confirm its original response, with or without modification?

| | |
|---------------------|--|
| April 06 – March 07 | |
| April 07 – March 08 | |

b) Substitute for its original decision a different decision?

| | |
|---------------------|--|
| April 06 – March 07 | |
| April 07 – March 08 | |

- c) Reach a decision, where the complaint was that no decision had been reached?

| | |
|---------------------|--|
| April 06 – March 07 | |
| April 07 – March 08 | |

Q11. Having carried out a review under the EIRs, on how many occasions did your authority

- a) Consider that it had complied with the EIRs in relation to the request?

| | |
|---------------------|--|
| April 06 – March 07 | |
| April 07 – March 08 | |

- b) Decide that it had not complied with its duty under the EIRs and take steps to remedy the breach of duty?

| | |
|---------------------|--|
| April 06 – March 07 | |
| April 07 – March 08 | |

Q12. Has your authority identified aspects of its handling of reviews which it might have dealt with better?

Yes

No

If yes, please indicate what these were and what measures have been put in place to address them.

Fees notices

Q13. On how many occasions has your authority responded to a request for information by issuing a fees notice under

- a) section 9 of FOISA?

| | |
|---------------------|--|
| April 06 – March 07 | |
| April 07 – March 08 | |

- b) regulation 8 of the EIRs?

| | |
|---------------------|--|
| April 06 – March 07 | |
| April 07 – March 08 | |

Q14. On how many occasions has your authority responded to an information request by relying on section 12 of FOISA, on the basis that the cost of complying with the request would be in excess of the £600 threshold?

| | |
|---------------------|--|
| April 06 – March 07 | |
|---------------------|--|

| | |
|---------------------|--|
| April 07 – March 08 | |
|---------------------|--|

Q15. On how many occasions has your authority provided the applicant with an indication of what information can be provided below the cost threshold of £600, where the full request for information would be refused on cost grounds?

| | |
|---------------------|--|
| April 06 – March 07 | |
| April 07 – March 08 | |

Q16. On how many occasions has your authority responded to an information request by issuing a fees notice under section 13 of FOISA?

| | |
|---------------------|--|
| April 06 – March 07 | |
| April 07 – March 08 | |

Transferring requests

Q17. On how many occasions has your authority transferred a request for information to another authority under regulation 14 of the EIRs?

Q18. With regard to information requests transferred to another authority, on how many occasions did your authority establish prior to the transfer that the other authority held the requested information?

Q19. With regard to information requests transferred to another authority, on how many occasions did your authority seek and receive the agreement of the applicant to transfer the request?

Internal monitoring, assessment and review of compliance

Q20. Where not covered in the policies and procedures requested below, please describe your authority's internal arrangements for monitoring, assessing and reviewing its compliance with the requirements of FOISA, the EIRs and the associated codes of practice.

Q21. Please provide copies of any reports produced as part of your authority's governance or scrutiny arrangements in relation to compliance with the requirements of FOISA, the EIRs and the associated codes of practice.

Q22. Please provide copies of any action or improvement plans produced by your authority in relation to compliance with the requirements of FOISA, the EIRs and the associated codes of practice.

Q23. Where not covered in the policies and procedures requested below, please describe your authority's arrangements for securing appropriate training and maintaining awareness at all levels in relation to the requirements of FOISA, the EIRs and the associated codes of practice, with copies of any training and awareness materials produced.

Q24. Are there any particular aspects of your authority's handling of requests for information under FOISA and/or the EIRs you would like to highlight as good practice which might be considered by other authorities? If so, please provide details.

When returning your questionnaire please also provide copies of the following;

- Your authority's policies and procedures for dealing with information requests under FOISA and the EIRs
- A copy of any guidance produced by your authority for the conduct of reviews
- A copy of any standard letters and attachments your authority uses when responding to information requests and requests for review under both FOISA and the EIRs, including refusal notices and fees notices. In the absence of standard letters, please provide a representative sample of responses to information requests (including refusal and fees notices) and requests for review.

Thank you for your assistance. A response to this questionnaire would be appreciated by 15 August 2008.

Assessment checklist

| Audit Checklist | Information examined? Y/N | Evidence provided | Complied? Y/N | Actions required? Y/N* |
|---|--------------------------------------|--------------------------|--------------------------|-----------------------------------|
| Timescales for compliance | | | | |
| Compliance with section 10(1) of FOISA | | | | |
| Compliance with section 21(1) of FOISA | | | | |
| Compliance with timescale in regulation 5 of the EIRs | | | | |
| Compliance with timescale in regulation 7 of the EIRs (where appropriate) | | | | |
| Compliance with timescale in regulation 13 of the EIRs | | | | |
| Compliance with timescale in regulation 16 of the EIRs | | | | |
| Content of refusal etc notices | | | | |
| Compliance with section 16 of FOISA | | | | |
| Compliance with section 17 of FOISA | | | | |
| Compliance with section 18 of FOISA | | | | |
| Compliance with section 19 of FOISA | | | | |
| Compliance with regulation 13 of EIRs | | | | |
| Responding to request for a review | | | | |
| Has the authority used the opportunity of the review to properly re-consider the information that has been requested? | | | | |
| Are the staff who are involved in the review process different from those who respond to requests? | | | | |
| In response to a request for review did the authority advise the applicant of the outcome of the review in line with section 21 of FOISA? | | | | |
| In response to a request for review did the authority advise the applicant of the outcome of the review in line with regulation 16 of the EIRs? | | | | |
| Excessive cost of compliance and fees notices | | | | |
| Where an authority has relied on section 12 of FOISA regarding excessive cost of compliance has it complied with the fees regulations and section 12? | | | | |
| Where an authority has relied on section 13 of FOISA has it complied with the relevant fees regulations? | | | | |

| | | | | |
|--|--|--|--|--|
| Where an authority considers that the cost of providing the information would exceed £600, have they advised the requestor of what information is available for less than £600, and that they should narrow their request? | | | | |
| Does any fees notice issued comply with section 9 of FOISA/regulation 8 of the EIRs? | | | | |
| Means of providing information – equality issues | | | | |
| Where any applicant had special needs or a disability, did it consider how best to provide the information or any response to the applicant? | | | | |
| Has any assistance been provided to applicants unable to write? | | | | |
| In providing the information or any response, did the authority provide the information in an accessible format? | | | | |
| Transferring requests for information | | | | |
| Where the authority has transferred any information request to another authority to deal with, did it check with the other authority to ensure that it held the relevant information prior to transferring the request? | | | | |
| Where the authority has transferred a request for information, did it notify the applicant of this? | | | | |
| Adequacy of policies, procedures and other documentation | | | | |
| Adequacy of administrative arrangements (staffing etc) | | | | |
| Adequacy of monitoring/assessment/review arrangements | | | | |
| Adequacy of training/awareness arrangements | | | | |
| Existence of disclosure log | | | | |
| Provision of advice and assistance/seeking clarification | | | | |
| Meeting applicants preferences re format etc (s11/reg 6) | | | | |
| Reference to information otherwise accessible | | | | |
| Carrying out of searches - all stages | | | | |
| Consultation of third parties, where appropriate | | | | |
| Does the authority demonstrate good practice? | | | | |

| | | | | |
|---|--|--|--|--|
| Has the authority been co-operative in its dealings with the Commissioner? | | | | |
| Adequacy of active dissemination of information (EIRs) | | | | |
| Does the authority have a publication scheme in place? | | | | |
| Has the authority's organisational culture developed to take on board its responsibilities under FOISA and the EIRs? | | | | |
| Information intended for future publication | | | | |
| In circumstances where the authority has relied on section 27 of FOISA (information intended for future publication), has the authority published this information within 12 weeks? | | | | |
| Where there has been a delay in the publication of the information, did the authority notify the applicant of the delay? | | | | |
| <p>Comments on outcome of assessment and details of any actions to be taken. (*Any actions identified during the course of the assessment will be recorded here)</p> | | | | |

Our Ref: SL31

Your Ref

Dear

Practice Recommendation under section 44 of the Freedom of Information (Scotland) Act 2002

As a result of the recent investigation that two officers from my office carried out into (name of public authority) practices/ as a result of investigations that I have carried out following applications to my office concerning (name of public authority) handling of information requests/ as a result of complaints that I have received about (name of public authority) practices/ as a result of a joint investigation which two officers from my office carried out in conjunction with staff from the National Archives of Scotland in relation to (name of public authority) records management. I am issuing (name of public authority) with a Practice Recommendation.

The attached document sets out, where, in my opinion (name of public authority) has failed to comply with the Code(s) of Practice under section 60/61/62 of the Freedom of Information (Scotland) Act 2002.

The Practice Recommendation also explains the actions that I consider that (name of public authority) should take in order to comply with the section 60/61/62 Code(s) of Practice.

Although the attached Practice Recommendation is not directly enforceable by me, a failure by a public authority to comply with a Practice Recommendation may lead to a failure to comply with the Act, which in turn may result in the issuing of an Enforcement Notice.

Yours sincerely

Kevin Dunion
Scottish Information Commissioner