

What to do if you are not satisfied with Scottish Water's handling of a request for information under the Freedom of Information (Scotland) Act or the Environmental Information (Scotland) Regulations

An applicant who is dissatisfied with the way that Scottish Water has dealt with a request for information is entitled to ask Scottish Water to review its decision.

A request for a review must be made no later than 40 working days following:

- the end of the period that Scottish Water has for responding to a request for information; or
- the date on which Scottish Water complied with the request, sent a fees notice or a refusal notice or a notice that the information is not held.

Scottish Water may, at its discretion, comply with a request for review received after this period has elapsed if it considers it appropriate to do so.

Your request for a review should be sent to:

Freedom of Information Unit
Scottish Water
PO Box 8855
Edinburgh
EH10 6YQ
e-mail: FOI@scottishwater.co.uk

Please include details of your original request and any reference contained in Scottish Water's correspondence to you. You should also contain within your request for review details of why you want Scottish Water to review your original request for information.

Scottish Water has put in place procedures for handling reviews by senior staff who, wherever possible, have not taken part in the initial decision. They will consider the original request afresh. The result will be given to you within 20 working days of receipt of the request for the review.

Scottish Water does not have to comply with a request for a review if it has decided that it did not have to answer the request because it was vexatious or the repeat of a request that it had already dealt with.

If, as a result of a review, Scottish Water decides that information previously withheld should be disclosed the information will be provided to you within the 20 working day period permitted for the review.

If you are still not satisfied that Scottish Water has dealt with your request for information properly you can then (and only then) appeal to the Scottish Information Commissioner for a decision as to whether Scottish Water has complied with the legal requirements. You must first have used Scottish Water's review procedure and either be dissatisfied with the response or have had no response.

His address is:

Daren Fitzhenry (Commissioner)
Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS

Telephone: 01334 464610
Fax: 01334 464611

Alternately the Scottish Information Commissioner offers an online appeal service.
e-mail: www.itspublicknowledge.info/Appeal.

You have 6 months from the date you receive, or should have received, Scottish Water's decision following your request for a review in which to make an application to the Commissioner. She can deal with complaints lodged outside that period if she chooses to do so. You can withdraw the complaint at any time.

You should describe:

- the request for information that you made and what you want the Commissioner to review;
- the reason you are dissatisfied with the response received from Scottish Water; and
- the reason you are dissatisfied with the outcome of the review or the failure to conduct a review by Scottish Water.

If the Commissioner decides to investigate, she has powers to require Scottish Water to provide information to her to allow her to come to a decision. If she then decides that the appeal is valid she will try to achieve a settlement between the applicant and Scottish Water. If this is not possible the Commissioner can issue a Decision Notice. She generally has four months from the time she received the complaint to do this.

The Commissioner may decide that Scottish Water did not have to provide the information requested or that it should have done so or should have handled the application differently. If she decides that the complaint was justified the decision notice will say how the authority has failed in its obligations under the Act, what it must do to set that right, the length of time allowed it to do so, and Scottish Water's rights to appeal to the Court of Session against the ruling on a point of law. If the notice finds in favour of Scottish Water the applicant has a right of appeal to the Court of Session, on a point of law.

The Commissioner also has a general power to serve an Enforcement Notice if she is satisfied that Scottish Water has not complied with the Act.

If Scottish Water fails to comply with a notice the Commissioner can bring Scottish Water before the Court of Session. The Court has the power to hold an inquiry and hear witnesses and if Scottish Water fails to comply with its decision it may deal with it as contempt of court.