

UPDATE FOR SCOTTISH PUBLIC AUTHORITIES FROM THE OFFICE OF THE SCOTTISH INFORMATION COMMISSIONER

Emailed: 25 MAY 2020

Changes to FOI duties for Scottish Public Authorities:

Last week the Scottish Parliament passed the Coronavirus (Scotland) (No.2) Act 2020. It affects several of the emergency changes made to the Freedom of Information (Scotland) Act 2002 by the Coronavirus (Scotland) Act in April 2020.

It will receive Royal Assent this week and will come in to force the following day. The key changes it makes are [summarised on our website](#), and we will publish detailed guidance shortly.

Please note that:

- As a result of the new changes, all requests for information and requests for review must still be **responded to promptly, and within a maximum timescale of 20 working days**. This applies to all requests (including those made between 7 April - the day the first Coronavirus (Scotland) Act came into force - and when the new law comes in to force).

 - The Scottish Information Commissioner has discretion to find that a public authority complied with FOISA despite missing the 20 working day deadline if the missed deadline was:
 - Due to the effect of coronavirus OR the public authority was working to the 60 working day deadline while it was in force (7 April to date the new law comes in to force);
- AND
- Reasonable in all the circumstances. In deciding whether a delay was reasonable, the Commissioner's primary consideration must be the public interest in authorities complying promptly with information requests.

During this time it will continue to be important for authorities to keep records of their request handling, and reasons for their FOI decisions. This will be for the purposes of both statistics collection and in case of reviews and appeals to the Commissioner.

Detailed guidance and further information

We will send a further update once all our detailed guidance and the FOI and Covid-19 information hub has been updated to reflect the changes brought about by the Coronavirus (Scotland) (No.2) Act 2020. If you have any urgent queries in the meantime, please contact us at enquiries@itspublicknowledge.info.

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