

FREEDOM OF INFORMATION (JERSEY) LAW 2011

DECISION NOTICE

JOIC Reference	CAS-05656-Z8R6T6
Date of Decision Notice	25/06/2026
Scheduled Public Authority	Infrastructure and Environment
Address	Ministerial Offices Government of Jersey Union Street St Helier Jersey JE2 3DN

Summary

1. The Complainant requested information from Infrastructure and Environment (the **SPA**) about an incident that occurred on 18 December 2024 relating to a burst water main. The Complainant asked for information held by the SPA about:
 - a. The maintenance history of the water main (including risk assessments) for the five-year period immediately prior to the incident
 - b. Investigations undertaken following the failure of the water main
 - c. The nature and extent of any works to the water main following the incident; and
 - d. Any previous leaks from the water main in the five-year period immediately prior to the Incident and any remedial works undertaken to address such leaks (the **Request**).
2. The SPA responded (the **Request Response**) stating that none of the information requested was held by the SPA, but that it may be held by Jersey Water, citing Art.3 of the Freedom of Information (Jersey) Law 2011 (the **FOI Law**). The Complainant did not agree with the Response and requested an internal review (the **IR Request**). The SPA upheld the previous decision that had been made (the **IR Response**).
3. The Complainant issued an appeal to the Information Commissioner (the **Commissioner**) on 3 November 2025 (the **Appeal**).
4. The Commissioner investigated and found that the SPA had failed to comply with the FOI Law in responding to the Complainant's Request. The Commissioner's decision is that the appeal is upheld. The steps the SPA needs to take are as set out at the end of this Decision Notice.

The Request

5. The Complainant's Request dated 7 August 2025 was in the following terms:

"1 The maintenance history of the Water Main (including risk assessments) for the five-year period immediately prior to the Incident.

2 Investigations undertaken following the failure of the Water Main.

3 The nature and extent of any repair works to the Water Main following the Incident; and

4 Any previous leaks from the Water Main in the five-year period immediately prior to the Incident and any remedial works undertaken to address such leaks."

6. On 28 August 2025, the SPA provided its Response in the following terms:

"1 to 4

Jersey Water are responsible for mains water, therefore, the information requested is not held by the Scheduled Public Authority, therefore, Article 3 of the Freedom of Information (Jersey) Law 2011 applies, however, it may be held by Jersey Water so you might wish to send your request in writing to:

Jersey Water, St Helier, Jersey, JE1 1JW

It should be noted that Jersey Water is not a Scheduled Public Authority under the Freedom of Information (Jersey) Law 2011, therefore, they are not required to respond.

Article applied

Article 3 - Meaning of "information held by a public authority

For the purposes of this Law, information is held by a public authority if –

(a) it is held by the authority, otherwise than on behalf of another person; or

(b) it is held by another person on behalf of the authority"

7. The SPA declined to provide the information requested, citing Art.3 of the FOI Law.

8. The Complainant issued their IR Request on 8 September 2025 indicating that they did not agree with the SPA's reliance on Art.3 of the FOI Law. Specifically, in their IR Request, the Complainant set out the following reasons why they did not consider that the Response had been provided in compliance with the FOI Law.

"Your response asserts that either the Minister for Infrastructure (or, of course, by extension the Infrastructure Department) (the "Minister"):

1. Holds no information relevant to my freedom of information request; or

2. That any information held by the Minister is either held on behalf of someone else.

As provided for by Article 3 of the Freedom of Information (Jersey) Law 2011 (the "Law").

Our request sought information held by the Minister in respect of any documents concerning:

1. The maintenance history of the Water Main (including risk assessments) for the five-year period immediately prior to the Incident;

2. Investigations undertaken following the failure of the Water Main;

3. The nature and extent of any repair works to the Water Main following the Incident; and

4. Any previous leaks from the Water Main in the five-year period immediately prior to the Incident and any remedial works undertaken to address such leaks.

It is difficult to envisage circumstances in which the Minister holds no information in relation to the above, in circumstances whereby it was reported on 12th May 2025 that:

"The Infrastructure Department had previously described the subsequent schedule of repairs as "highly complex", with some structures having been left "unsafe and severely cracked". Work to fill the voids caused by the burst water main was completed last week. In an update on Monday morning the Infrastructure Department confirmed Rouge Bouillon had been reopened. "A huge thank you to the Infrastructure and Environment team for co-ordinating all efforts between Jersey Water, JDC, engineers, surveyors, insurers and contractors," the update added."
[Rouge Bouillon reopened after "complex" repairs completed - Jersey Evening Post](#)

The incident occurred in December 2024. The road was reopened in May 2025. It is (at the very least) suggested that during this period, the Minister engaged with at least six entities in order to understand what had happened, and what was required to ensure that the public road could safely be returned to regular use. In light of this, one would expect the Minister to have, at the very least (this list being non-exhaustive):

1. Recorded minutes of meetings in respect of the various ongoing matters at the time;
2. Exchanged emails with a number of entities and individuals;
3. Created internal reports or memos;
4. Updated the wider Government of ongoing issues; and
5. Received ongoing updates from the relevant involved entities.

To suggest that the Minister simply holds no information relevant to my request, for the purposes of the Law, seems inconceivable. We should be grateful for confirmation on:

- 1) What searches have been conducted to enable you to reach the conclusion that there is no information held; and
- 2) That our freedom of information request will be reconsidered."

9. The IR Response was communicated to the Complainant on 24 September 2025 as follows:

"This internal review has been conducted by an official of appropriate seniority who has not been involved in the original decision. As part of their review, they will be expected to understand the reasons behind the original response, impartially determine whether the response should be revised, and how so, considering the request and the information held, any relevant exemptions, or other relevant matters under the Law.

The Internal Review Panel was asked to review the original response and confirm the following: Does the FOI request relate to a body to which the Law applies, or information held by a body covered by the Law?

If the answer is no, all the other questions are not applicable. Further questions if above is a yes:

i. Was the right information searched for and reviewed?

ii. Was the information supplied appropriately?

iii. Was information appropriately withheld in accordance with the articles applied and were the public interest test/ prejudice test properly applied?

Following discussion, it was agreed by the Panel that the decision was upheld."

The Investigation

Scope of the case

10. On 3 November 2025, the Complainant contacted the Commissioner to appeal against the IR Response. The Complainant asked the Commissioner to review the Complainant's Request and the responses received from the SPA to ascertain whether what had been provided was in accordance with the FOI Law.

11. The relevant statutory provision is Art.3 of the FOI Law.

Role of the Information Commissioner

12. It is the duty of the Commissioner to decide whether a request for information made to a SPA has been dealt with in accordance with the requirements of Part 1 of the FOI Law.

13. The Commissioner has set out in this Notice the issues he has had to consider in respect of the SPA's response and sets out his decision.

14. In coming to a decision on this matter, the Commissioner has considered all the relevant submissions, or parts of submissions, made to him by both the Complainant and the SPA. He is satisfied that no matter of relevance has been overlooked.

Chronology

15. On 11 November 2025, the Commissioner wrote to the SPA to advise that the Complainant had made an Appeal to the Commissioner, pursuant to Art.46 of the FOI Law. The SPA was asked to provide their written submissions in response to the complaint made by the Complainant.

16. The SPA responded to that letter on 27 November 2025. Further questions were raised by the Commissioner on 10 December 2025 to which the SPA responded on 12 January 2026. Additional queries were raised by the Commissioner on 30 January 2026 which the SPA responded to on 20 March 2026.

Commissioner's Analysis and Findings

ACCESS TO INFORMATION HELD BY A SCHEDULED PUBLIC AUTHORITY

Art.8 – General right to be supplied with information held by a scheduled public authority

17. Art.8 of the FOI Law provides that:

"If a person makes a request for information held by a scheduled public authority –

- (a) *the person has a general right to be supplied with the information by that authority; and*
- (b) *except as otherwise provided by this Law, the authority has a duty to supply the person with the information."*

18. As to the meaning of "*information held by a public authority*", Art.3 provided that:

"For the purposes of this Law, information is held by a public authority if –

- (a) *it is held by the authority, otherwise than on behalf of another person; or*
- (b) *it is held by another person on behalf of the authority."*

The Complainant's Position

19. The Complainant's position was simply articulated in its appeal to the Commissioner, which is that they do not accept the SPA's position that no information is held at all which is in scope of the Request.

20. In support of this belief, the Complainant relied on certain press articles from around the time of the incident which appeared to confirm that the SPA had been involved in coordinating works to repair damage caused by the leak of water from the burst water main. Specifically, the Complainant provided the Commissioner with a Bailiwick Express article dated 10 February 2025 which the Complainant noted:

*"... quotes another representative of the Department as saying: **"Multiple parties are involved, including Infrastructure and Environment**, Jersey Water, structure engineers, building surveyors, loss adjusters and insurance companies... we continue to monitor progress and review timelines for the safe reopening of Rouge Bouillon...Parish representatives recently received an update on the situation from lead Infrastructure officer Rob Cabot'. (Emphasis supplied.)*

21. The Complainant also provided an article from the Jersey Evening Post dated 4 April 2025 which quoted a spokesperson for the SPA as saying that a *"four-step plan"* had been put in place to stabilise the Property and that *"the [Road] will only reopen once the buildings are stabilised and all risks of structural collapse have been mitigated"* together with an article from Channel 103 dated 3 February 2025 where a spokesperson for Jersey Water is quoted as saying:

*"We fully understand the frustrations and inconvenience caused by the circumstances of this incident. **We have been actively working with the [Department]**, property owners and insurance companies to resolve the issues posed by the unstable building as quickly as possible'..." (Emphasis supplied.)*

22. That same article also said that: *"the government said it was 'monitoring and facilitating' ongoing meetings with relevant stakeholders"*.

23. The Complainant further sought to rely on the fact that the Minister has overall responsibility for managing and maintaining the public highway (referring to Art.9 of the Road Works and Events (Jersey) Law 2016, in this regard) noting that in order to comply with this statutory duty, the Minister must have received some information about the burst water main, including what caused it and any repair work that needed to be undertaken.

24. Accordingly, the Complainant explained that they simply did not believe that the SPA has no information in relation to the water main, that it is clear that the Department was heavily involved in repairs to the road and certain properties and that it is accordingly inconceivable that no information is held relevant to the Request.

The SPA's Position

25. As noted above, the SPA's original position (set out in both its Request Response and IR Response) was that it considered that the information requested by the Complainant was not held by the SPA because it was Jersey Water (and not the SPA) that was responsible for the water main.
26. As part of its submissions to the Commissioner dated 27 November 2025, it expanded on the above and submitted that:

"The SPA can confirm that it does not hold the information requested for the specified five-year period. The data sought is not, and has never been, retained by the SPA; it sits entirely with another data controller, Jersey Water, which is solely responsible for compiling, maintaining, and managing those records. The SPA's involvement in the incident was limited to coordinating the third-party operational teams required to ensure the affected highway was reopened to the public as quickly and safely as possible. The SPA's principal accountability was the restoration of access to the public highway and the resumption of public transport services, and as such it did not generate, receive, or retain the historical or present data requested. Consequently, the SPA does not hold or have statutory requirements to hold or retain the information for the purposes of the Freedom of Information (Jersey) Law 2011."

Analysis

27. The Commissioner has sought to determine whether, on the balance of probabilities, the SPA holds any information potentially within the scope of the Request, including the extent of any searches carried out by the SPA in response to the Request. In this regard, the Commissioner considers it appropriate to set out fully the correspondence that passed between the Commissioner and the SPA about how the SPA approached responding to the Request, and how and on what basis it had concluded that the requested information was not held.
28. As noted above, the Commissioner wrote to the SPA on 11 November 2025, seeking information in the usual way about the steps it had taken to respond to the Request:

"We require you to make a full written submission to this office setting out the basis for your decision and you must answer the questions below:

- 1. What searches have been carried out to check no information was held within the scope of the request and why would these searches have been likely to retrieve any relevant information?*
- 2. Please describe thoroughly any searches of relevant paper/electronic records and include details of any staff consultations.*
- 3. If searches included electronic data, which search terms were used and please explain whether the search included information held locally on personal computers used by key officials (including laptop computers) and on networked resources and emails.*
- 4. If no or inadequate searches were done at the time, please rectify this now and let me know what you have done.*
- 5. If the information were held, would it be held as manual or electronic records?*
- 6. Was any recorded information ever held relevant to the scope of the complainant's request but deleted/destroyed?*
- 7. If recorded information was held but is no longer held, when did the SPA cease to retain this information?*
- 8. Does the SPA have a record of the document's destruction?*

9. *What does the SPA formal records management policy say about the retention and deletion of records of this type? If there is no relevant policy, can the SPA describe the way in which it has handled comparable records of a similar age?*
10. *If the information is electronic data which has been deleted, might copies have been made and held in other locations?*
11. *Is there a business purpose for which the requested information should be held? If so, what is this purpose?*
12. *Are there any statutory requirements upon the SPA to retain the requested information?*

You should answer the questions above bearing in mind and with reference to the four separate questions asked in the initial request. This is your opportunity to explain to us how you came to the decisions made. This includes fully explaining your decision-making process (including why you decided to apply any exemption) and providing us with any evidence available that supports your decision. You must provide us with the information we are asking for and you must provide it by the deadline we give you. If you fail to give us the information we ask for there is a risk that we will go on to decide the appeal on the information we currently hold. We therefore encourage you to respond to our questions as fully as possible and ask that you clearly set out your position so that we have all relevant information available when determining the appeal. For further information on how we deal with appeals and what is expected from scheduled public authorities as part of this process please see our guidance note "How we deal with appeals".

29. The SPA's response to that letter is as set out at para.26 of this Decision Notice and is not repeated.
30. In light of the response received, the Commissioner raised further queries on 10 December 2025, as follows:

"In our letter dated 11 November 2025, we detailed 12 specific questions that we would ordinarily expect a reply to. Whilst we note that you have provided a single response purportedly in response to each of those 12 items, that is not what we requested. Please can you provide a full response to each of those questions as set out in our original letter. If any of those questions are not applicable, then that needs to be documented, and an explanation provided.

In addition, it is unclear if your submission was intended to be a response in respect of each of the four areas of the initial request (IR) made by the applicant as set out below, for your ease of reference:

1. *The maintenance history of the Water Main (including risk assessments) for the five-year period immediately prior to the Incident;*
2. *Investigations undertaken following the failure of the Water Main;*
3. *The nature and extent of any repair works to the Water Main following the Incident; and*
4. *Any previous leaks from the Water Main in the five-year period immediately prior to the Incident and any remedial works undertaken to address such leaks.*

When responding to our questions, you will need to do so for each of the elements of the applicant's request for information. For example, we need to understand what searches were conducted for each aspect of the request or, alternatively, why you were satisfied that information would not be held. Specifically, it is currently unclear how you determined that information was not held for each separate aspect of the applicant's request, particularly in concluding that "the SPA does not hold or have statutory requirements to hold or retain the information for the purposes of the Freedom of Information (Jersey) Law 2011. "

We further note in your response to us, that you refer to the SPA 's involvement being limited to "coordinating the third-party operational teams" in relation to managing the aftermath of the incident. This suggests that information connected to such coordination could exist, and be relevant to/fall within scope of, parts 2 and 3 of the Request. In your further response, please clarify who these third parties were and whether any searches were conducted to identify records of this coordination that might fall within the scope of parts 2 and 3 of the request.

Additionally, please explain what specific duties does Jersey Water have in reporting to Infrastructure on any maintenance, repair or other issues arising from this incident? We note the applicant 's reference to certain Jersey legislation relating to highway maintenance etc, particularly with reference to the Road Works and Events (Jersey) Law 2018, and we note that Articles 23 and 24 address emergency and urgent works. In the context of this incident, were those circumstances applicable here and if so, please explain who held responsibility, how coordination was managed and what information was provided. If those provisions are not applicable to this request, you need to explain why.

More generally, we would appreciate a clearer understanding of this incident so your response should fully set out the interaction between Infrastructure and Jersey Water in terms of reporting, dealing and investigating this incident".

31. The Commissioner chased for a response on 19 December 2025 and on 5 January 2026 the Commissioner spoke with the SPA who indicated that a response was being worked on and that such would be provided by 9 January 2026. A response was ultimately provided on 12 January 2026.
32. It was clear from that response provided by the SPA that no searches had, in fact, been carried at the time of the Request, and that it was only as a result of the Commissioner's intervention and in light of the Commissioner's questions posed in the letter of 11 November 2025 that new searches were then undertaken by the SPA. Specifically, the SPA confirmed that it had carried out two fresh searches covering a date period 17 December 2019 – 17 December 2024, and 18 December 2024 – 11 August 2025, against Cryoserver, Live Inboxes and Computer Drive and after "Discussions [were] held with the Subject Matter Experts (SME) to understand the scope of the SPA's duties and responsibilities within the incident and where any recorded form would likely to be held..." The SPA also confirmed that it had reviewed a "Teams Channel, EVENT-Rouge Bouillon Unsafe Building (Chat and Filing Folder)".
33. The SPA provided details of the search terms deployed for each of the four (4) questions posed by the Commissioner:

"Electronic data was searched as referenced above in question 1 and 2 and the terms used / searched for were;

- **Search terms re Applicant Q1 & Q4**

- Water Main Rouge Bouillon
- Remedial work Rouge Bouillon
- Main's water leak Rouge Bouillon

- **Search terms re Applicant Q2 & Q3**

- Remedial work Rouge Bouillon
- Investigation water leak Rouge Bouillon
- Water main's repair Rouge Bouillon
- Rouge Bouillon Sink Hole
- DS/2024/1234

- **Teams Channel EVENT-Rouge Bouillon Unsafe Building re Applicant Q2 & Q3**

○ **Folders searched within the Teams' channel**

- Agenda and Minutes
- Data Collected by GOJ
- File Sharing
- Programme
- Reports"

34. As to its rationale for not conducting searches at the time, the SPA said that:

"We interpreted all the Applicant's questions as somewhat interrelated queries for information upon the Water Main / Water Leak.

[Looked at in the round we consider this a reasonable interpretation of the requests]. The Applicant's Q3 not asking about the nature and scope of any / all repair works carried out following the incident, but only as regards the extent of the repairs to the Water Main itself.

However, the extent of the Searches undertaken were expanded following the receipt of the appeal follow up questions i.e. [principally to include a [planning matter and] Teams channel.

Some information has been retrieved on [this Teams channel] which relates the impact of the leak on certain buildings and certain works to be carried out regarding such buildings as a result of the leak.

Whilst this information seems outside the scope of question 1, 3 and 4, if question 2 is more widely interpreted as a request for details on any/ all investigations conducted after the incident- i.e. to include investigations into surrounding property / buildings, revisions to the earlier FOI response will be required.

[Various meetings regarding the property damage investigations were held and further to the same:

[a] a property based investigative report prepared by a third-party consultant (Hartigans) [appointed by / for insurers of one of the properties?] was shared with I&E;

[b] email following an initial onsite meeting with Jersey Water and Planning Department regarding a Dangerous Structure Appraisal

[list any other relevant documents]

in a meeting of 17 February it was agreed all documentation to do with Unsafe Buildings could be shared with all parties present at that meeting.

We anticipate this information would be absolutely exempt from disclosure under Article 26 as the meetings were held and documents shared on an understanding they would otherwise be kept confidential]

[to consider what other "investigation" related documents may need to be referenced provided and if all of the information within the scope of Q2 was confidential]." (Emphasis supplied.)

35. And in response to whether the SPA had any statutory requirements as alleged by the Complainant, the SPA said that:

"No [not in respect of repairs to the water main as this is the responsibility of Jersey Water and not of the SPA. However, there are obligations to retain records in respect of the activities the SPA actually undertook, including as regards its assistance with managing the aftermath of the water leak and the connected property damage

which arose as a result of the same. This information has been retained].” (Emphasis supplied)

36. Further queries about the setup of a Teams channel and its use by various parties were sent by the Commissioner on 30 January 2026. Various extensions were sought by the SPA and agreed by the Commissioner, with a final response to the Commissioner’s original queries provided in a letter dated 19 March 2026.
37. In addition to the above, that most recent letter further detailed searches carried out by the SPA during the course of the appeal process, which covered a dated range 17 December 2019 to 11 August 2025, and across Cryoserver, Live boxes, Group Teams Channel, Z Drive and TrafficWorx. Details of the search terms used were also provided together with a document detailing the results of those searches.

Commissioner’s Decision

38. Having reviewed the evidence available including the most recent response from the SPA which provided evidence of the results of recent searches undertaken, the Commissioner is wholly satisfied that the SPA failed to carry out any reasonable and proportionate searches in response to the Request and therefore failed to identify any information which may potentially fall within the scope of the Request.
39. The SPA admitted to the Commissioner that it did not carry out any searches at all at the time of the Request because it applied a narrow interpretation to the Complainant’s Request and it was not until the Complainant issued an appeal and following questioning from the Commissioner about why the SPA considered that no information was held, that the SPA carried out new searches of its systems using appropriate search terms suggested by the Commissioner, as referred to above. Those searches generated results (which the Commissioner has seen) that contained reference to the search terms used and which, on the face of matters, suggest that there may be information available which is held by the SPA that is potentially within scope of the Complainant’s Request. Those results have not, however, been reviewed by the SPA as at the date of this Decision Notice nor provided to the Commissioner. In other words, whilst searches have been carried out that may suggest relevance to the Request, the contents of that information have not been considered by the SPA to conclude whether such is actually in scope and, if so, whether there are any matters that may militate against disclosure, to which the SPA may wish to apply exemptions if appropriate.
40. Accordingly, and in light of that failure to carry out proper searches in response to the original Request, the Commissioner requires the SPA to issue the Complainant with a fresh response to their Request following searches aimed at identifying all the information held within the scope of the Request. If the SPA locates information within the scope of the Request, that information should either be disclosed to the Complainant or an adequate refusal notice should be provided (including, insofar as is possible to do so) details about any exemptions applied including the reasons for it.
41. When carrying out the fresh searches, the Commissioner also requires the SPA to appropriately document the searches carried out and which must include, as a minimum, the following information:
 - a. Details of the systems searches (name of platforms, software, etc.)
 - b. Who carried out the searches
 - c. When the searches were carried out
 - d. What search terms were used
 - e. What results were generated (including by use of screenshots or otherwise).

42. Where exemptions are applied, the SPA must be able to identify each and every circumstance where an exemption has been applied and the reasons for it and where an exemption is subject to a public interest test, the SPA must be able to show how it approached that test and any subsequent decision made.

GENERAL MATTERS

43. The Commissioner has been very clear in his guidance and in previous decision notices about the need for SPA's to conduct appropriate searches using appropriate, rational search terms and for the need to keep records of searches undertaken and results generated, and that he will call for evidence of this as part of the appeal process. It is, therefore, of general concern that certain SPAs are not apparently paying heed to the Commissioner's guidance and decisions in this regard and are still failing to contemporaneously document their decision-making process.
44. All SPA's are reminded that it is their responsibility to comply with the requirements of the FOI Law and that if they cannot produce contemporaneous evidence and adequately explain the steps taken and decisions made when responding to a request, the Commissioner will likely have no option but to determine that they have failed to comply with their legal obligations and order the SPA to revisit a request.

The Decision

45. Having reviewed the evidence available, the Commissioner's view is that the SPA did not take sufficient steps to ascertain whether any information was held in its records at the time of the Complainant's Request.
46. The Commissioner therefore requires the SPA to issue the Complainant with a fresh response to their Request following searches aimed at identifying all the information held within the scope of the Request. If the SPA locates information within the scope of the Request, that information should either be disclosed to the Complainant or an adequate refusal notice should be provided. This must be done within 35 calendar days. A copy of the SPA's response must also be provided to the Commissioner's office at the same time it is sent to the Complainant.
47. Accordingly, the Complainant's appeal is fully upheld.

Right of Appeal

48. An aggrieved person (i.e. either the Complainant or the SPA) has the right to appeal against this Decision Notice to the Royal Court of Jersey.
49. Any Notice of Appeal should be served within 28 (calendar) days of the date on which the Decision Notice is issued.
50. Information on how to appeal may be obtained from:

Judicial Greffe
Royal Court House
Royal Square
St Helier
Jersey
JE1 1JG

Enforcement

51. If the SPA fails to comply with this decision, the Commissioner has the right to certify to the Royal Court of Jersey that the SPA has failed to comply. The Court has the right to

inquire into the matter and may deal with the SPA as if it had committed a contempt of court.

Dated this 25th day of June 2026

Signed..... 

Mr Paul Vane
Information Commissioner
Office of the Information Commissioner
5 Castle Street
St Helier
Jersey