

Decision 059/2005 –Ms X and Scottish Borders Council

Request for information relating to an employee's training record made to Scottish Borders Council

Applicant: Ms X
Authority: Scottish Borders Council
Case No: 200502189
Decision Date: 29 November 2005

Kevin Dunion
Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS

Decision 059/2005

Failure of Scottish Borders Council to respond to an information request and subsequent request for review within the statutory timescales set out in the Freedom of Information (Scotland) Act 2002

Facts

1. On 26 April 2005, Ms X made an information request to Scottish Borders Council (the Council) under section 1 of the Freedom of Information (Scotland) Act 2002 (FOISA). In her e mail, Ms X requested the dates of project management training undertaken by an employee of the Council.
2. The Council did not respond to Ms X's information request.
3. Ms X then e mailed the Council on 30 May 2005 requesting that it reviewed its decision to withhold the information. Again, she did not receive a response from the Council.
4. On 1 July 2005, Ms X applied to the Scottish Information Commissioner, requesting that he investigate the Council's refusal to respond to her request for information and to her subsequent request for review.
5. This Office notified the Council of the application made by Ms X and invited its comments on 10 August 2005. The Council responded on 26 August 2005, stating that it accepted that it had not responded to Ms X's request for information in the manner required by part 1 of FOISA and detailed measures which it had taken to ensure that this situation would not occur again.

Decision

Under section 49(1) of FOISA, except where an application is frivolous or vexatious or where an application has been withdrawn or abandoned, I must consider whether the request for information has been dealt with in accordance with the requirements of Part 1 of FOISA and must issue a Decision Notice to both the applicant and the public authority.

I am satisfied that Ms X made a request for information to the Council on 26 April 2005 which was valid under the terms of section 1(1) of FOISA, followed by a valid requirement for review (in terms of section 20 of FOISA) on 30 May 2005.

Section 10(1) of FOISA gives Scottish public authorities a maximum of 20 working days from receipt of the request to comply with a request for information.

Additionally, section 21(1) of FOISA gives authorities a maximum of 20 working days from receipt of the requirement to comply a requirement for review.

The Council did not respond either to Ms X's request for information or to her requirement for review within the respective timescales specified in FOISA.

I therefore find that the Council did not deal with Ms X's request for information in accordance with the requirements of Part 1 of FOISA in that it failed to comply with section 10(1) and section 21(1).

I require Scottish Borders Council to respond to Ms X's request for information, by either providing the information requested or giving notice in terms of section 16 (refusal of request) or section 17 (notice that information is not held) of FOISA (as appropriate), within 42 days of receipt of this decision notice.

Appeal

Should either party wish to appeal against this decision, there is an appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days of receipt of this notice.

Kevin Dunion
Scottish Information Commissioner