



Decision Notice 091/2022

Fife College contract service delivery – failure to respond

Applicant: The Applicant

Authority: Scottish Prison Service

Case Ref: 202200791

Summary

The Applicant asked the Authority for information about monthly reports and service delivery levels by Fife College. This decision finds that the Authority failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that the Authority failed to comply with the Applicant's requirement for review within the timescale set down by FOISA.

Background

1. The Applicant made an information request to the Authority on 27 April 2022.
2. The Authority did not respond to the information request.
3. On 8 June 2022, the Applicant requested a review from the Authority in respect of its failure to respond.
4. The Applicant did not receive a response to his requirement for review.
5. The Applicant wrote to the Commissioner on 14 July 2022, stating that he was dissatisfied with the Authority's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
6. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.

Investigation

7. Section 49(3)(a) of FOISA requires the Commissioner to notify public authorities of an application and to give them an opportunity to comment. The Commissioner did this on 25 July 2022.
8. The Commissioner received submissions from the Authority.
9. The Authority acknowledged that it had not responded to the Applicant's information request and requirement for review in time.
10. The Authority confirmed that it will now consider what training is needed; to ensure that staff know how to handle information requests correctly. It also confirmed that all staff will be reminded of their obligations under FOISA when an information request is received.
11. Section 10(1) of FOISA gives Scottish public authorities a maximum of 20 working days following the date of receipt of the request to comply with a request for information. This is subject to qualifications which are not relevant in this case.
12. It is a matter of fact that the Authority did not provide a response to the Applicant's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
13. Section 21(1) of FOISA gives Scottish public authorities a maximum of 20 working days following the date of receipt of the requirement to comply with a requirement for review. Again, this is subject to qualifications which are not relevant in this case.
14. It is a matter of fact that the Authority did not provide a response to the Applicant's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
15. The Authority notified the Applicant of the outcome of its review on 10 August 2022 and apologised to the Applicant for its failure to comply.

Decision

The Commissioner finds that the Authority failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in dealing with the information request made by the Applicant. In particular, the Authority failed to respond to the Applicant's request for information and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA. Given that the Authority has now responded to the Applicant's requirement for review, the Commissioner does not require it to take any action. However, he notes the Authority's comments regarding training, etc, set out in paragraph 10.

Appeal

Should either the Applicant or the Authority wish to appeal against this decision, they 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 after the date of intimation of this decision.

Margaret Keyse
Head of Enforcement

16 August 2022