

Decision Notice 093/2022

Twinning Edinburgh with Gaza City petition – failure to respond

Applicant: The Applicant

Authority: City of Edinburgh Council

Case Ref: 202200694

Summary

The Applicant asked the Authority for information about the removal of a “Twinning Edinburgh with Gaza City” petition from its website and an alleged approach to the Authority, by “Israeli Authorities”, about the petition. This decision finds that the Authority failed to respond to the Applicant’s requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

1. The Applicant made an information request to the Authority on 31 March 2022.
2. The Authority responded to the information request on 29 April 2022.
3. On 16 May 2022, the Applicant wrote to the Authority requiring a review of its decision.
4. The Applicant did not receive a response to his requirement for review.
5. The Applicant wrote to the Commissioner, 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 22 June 2022.
8. The Commissioner received submissions from the Authority on 22 June 2022. These submissions are considered below.
9. The Authority acknowledged that it had failed to respond to the requirement for review within the statutory timescale.
10. 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. This is subject to qualifications which are not relevant in this case.
11. 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.
12. The Authority responded to the Applicant's requirement for review on 1 August 2022, so the Commissioner does not require it to take any further action in relation to the Applicant's application.
13. The Commissioner notes that the Authority has apologised to the Applicant for its failure to respond to the requirement for review in time.

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 requirement for review within the timescales laid down by section 21(1) of FOISA. Given that the Authority has now responded to the Applicant's requirement for review, he does not require the Authority to take any action.

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.

Jill Walker
Freedom of Information Officer

17 August 2022