



Scottish Information
Commissioner
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Decision Notice 096/2023

Information Sharing Arrangement – failure to respond

Authority: City of Edinburgh Council
Case Ref: 202300785

Summary

The Applicant asked the Authority for information about the information sharing arrangement in place concerning the Authority's duties as a responsible authority under the Multi Agency Public Protection Arrangements (MAPPA). This decision finds that the Authority failed to respond to the request and 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 9 February 2023. A signed "proof of delivery" receipt dated 15 February 2023 was provided to the Commissioner, to show that the request had been received by the Authority.
2. The Authority did not respond to the information request.
3. On 5 April 2023, the Applicant wrote to the Authority, requiring a review of the failure to respond.
4. The Authority wrote to the Requester on 13 April 2023, stating there was no record of the original request and advised him to send it again to informationrights@edinburgh.gov.uk.
5. The Applicant did not receive a response to his requirement for review.
6. The Applicant wrote to the Commissioner on 16 June 2023, 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.

7. 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

8. 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 3 August 2023.
9. The Commissioner received submissions from the Authority on 30 August 2023.
10. The Authority confirmed that it received the original request of 9 February 2023 on 14 February 2023. It explained that it had been identified as a complaint, and therefore was passed to the Authority's Customer Care Service to deal with. The Authority acknowledged that the request element of the correspondence had not been identified as an information request and therefore had not been forwarded to the Information Rights Team for logging and processing. The Authority confirmed that this issue and oversight had been highlighted to Customer Care and that training had been planned to avoid this from happening again.
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. The Authority also acknowledged that when it received the Applicant's requirement for review of 5 April 2023 it should have carried out a review, instead of telling the Applicant to submit his information request again.
14. 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.
15. 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.
16. The Authority responded to the Applicant's requirement for review on 3 August 2023, so the Commissioner does not require it to take any further action in relation to the Applicant's application.
17. The Commissioner notes that the Authority apologised to the Applicant for its failure to comply.
18. The Commissioner welcomes the training that is being put in place on how to handle information requests and requirements for review correctly.

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(s). 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, 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.

Euan McCulloch
Acting Head of Enforcement

25 September 2023