

Decision Notice

Decision 013/2015: Mr Calum Liddle and Live Active Leisure

Handling of Freedom of Information Requests: failure to respond within statutory timescales

Reference No: 201500022

Decision Date: 23 January 2015



Scottish Information
Commissioner

Summary

On 7 September 2014, Mr Liddle asked Live Active Leisure for information about how it handles freedom of information requests and whether any of its staff had attended training delivered by the Scottish Information Commissioner. This decision finds that Live Active Leisure failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that Live Active Leisure failed to comply with Mr Liddle's requirement for review within the timescale set down by FOISA.

Background

Date	Action
7 September 2014	Mr Liddle made an information request to Live Active Leisure.
	Live Active Leisure did not respond to the information request.
20 November 2014	Mr Liddle wrote to Live Active Leisure requiring a review of its failure to respond.
	Mr Liddle did not receive a response to his requirement for review.
4 January 2015	Mr Liddle wrote to the Commissioner's Office, stating that he was dissatisfied with Live Active Leisure's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
21 January 2015	Live Active Leisure was notified in writing that an application had been received from Mr Liddle and was invited to comment on the application.
21 January 2015	The Commissioner received submissions from Live Active Leisure. These submissions are considered below.

Commissioner's analysis and findings

1. On 21 January 2015, Live Active Leisure explained that there had been a technical fault with its generic freedom of information email address and that Live Active Leisure was not aware of this problem until contact had been made by the Commissioner's office.
2. Live Active Leisure confirmed this matter has now been addressed, with measures put in place to avoid this happening again. It apologised for any inconvenience caused to Mr Liddle.
3. 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.
4. It is a matter of fact that Live Active Leisure did not provide a response to Mr Liddle's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.

5. 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.
6. It is a matter of fact that Live Active Leisure did not provide a response to Mr Liddle's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
7. Live Active Leisure responded to Mr Liddle's requirement for review on 21 January 2015, so the Commissioner does not require it to take any further action in relation to Mr Liddle's application.

Decision

The Commissioner finds that Live Active Leisure failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mr Liddle. In particular, Live Active Leisure failed to respond to Mr Liddle's request for information and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA.

The Commissioner does not require Live Active Leisure to take any action in respect of these failures, in response to Mr Liddle's application, given that a response has now been provided to him.

Appeal

Should either Mr Liddle or Live Active Leisure 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.

Alison Davies
Deputy Head of Enforcement

23 January 2015

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