



Scottish Information  
Commissioner

**Decision 024/2008 Ms Avril McDonald and West Lothian Council**

*Failure to respond to a request for review*

**Applicant: Ms Avril McDonald  
Authority: West Lothian Council  
Case No: 200701383  
Decision Date: 14 February 2008**

**Kevin Dunion  
Scottish Information Commissioner**

Kinburn Castle  
Doubledykes Road  
St Andrews  
Fife  
KY16 9DS



## Decision 024/2008 Ms Avril McDonald and West Lothian Council

### *Failure of West Lothian Council to respond to a request for review within the statutory timescale set out in the Freedom of Information (Scotland) Act 2002*

#### Facts

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1. Ms McDonald wrote to West Lothian Council (the Council) on 14 June 2007, requesting copies of any notes, drawings, reports, letters, e-mails or instructions with regards to her purchase of a property.
2. The Council acknowledged receipt of Ms McDonald's request on 21 June 2007. Ms McDonald was advised that her request had been forwarded to the relevant service officer, who would provide a response to her request as soon as possible and not later than 20 working days following receipt of her request. She was advised of her right to seek a review if she did not receive a response by the end of that period.
3. On 27 June 2007, the Council provided Ms McDonald with information in response to her request.
4. On 24 July 2007, following a telephone conversation with a representative of the Council, Ms McDonald sent an e-mail to the Council in which she asked for an internal review of her request to be carried out. Ms McDonald did not believe that she had been provided with all the information held by the Council that fell within the scope of her request, referring to documents she held copies of already as examples of items the Council should hold but had not provided.
5. Ms McDonald received an acknowledgement from the Council to her request for review on 24 July 2007. In its e-mail the Council informed Ms McDonald that she would receive a response no later than 20 working days following receipt of her request for an internal review and advised her to allow postal time for receipt of the response.
6. On 28 August 2007, Ms McDonald sent an e-mail to the Council complaining that she had not received a response to her request for review.



7. Ms McDonald received no response to her e-mail and, on 14 October 2007, applied to me for decision on the Council's failure to respond to her request for review. The application was validated by establishing that Ms McDonald had made a request for information to a Scottish public authority and had applied to me for a decision only after asking the authority to review its response to her request. The case was then allocated to an investigating officer.
8. On 4 December 2007, the Council was notified of the application that had been made by Ms McDonald. The Council's comments were invited in terms of section 49(3)(a) of FOISA, by means of an information notice under section 50(1)(a) of FOISA.
9. A response was received from the Council on 7 December 2007. The Council advised my Office that an internal review had now been conducted concerning Ms McDonald's original request and it confirmed that she had been given all of the information relating to her purchase of the aforementioned property.
10. There followed further correspondence with the Council, in the course of which the Council provided Ms McDonald with further information in relation to her request. Although asked to do so by my investigating officer it did not, however, inform Ms McDonald of the outcome of its review and provide her with details of her right to apply to me for a decision if she was dissatisfied with the outcome of the review.

## Decision

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I find that West Lothian Council did not deal with Ms McDonald's request for review in accordance with the requirements of Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in that it failed to comply with that request within the 20 working days allowed by section 21(1) of FOISA.

I understand that West Lothian Council has now conducted a review and provided further information to Ms McDonald. I require West Lothian Council to convey to Ms McDonald the outcome of its review and to advise her of her right to apply to me for a decision if she is dissatisfied with the outcome of the review, as required by section 21(5) and (10) of FOISA. I require this to be done within 45 days after the date of intimation of this decision notice.



## **Appeal**

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Should Ms McDonald or West Lothian Council wish to appeal against my decision, there is a 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 notice.

**Euan McCulloch**  
**Deputy Head of Investigations**  
**14 February 2008**