

Decision Notice

Decision 039/2019: Mr P and Fife Council

Child Protection Log Procedures in Schools: failure to respond within statutory timescales

Reference No: 201900272

Decision Date: 11 March 2019



Scottish Information
Commissioner

Summary

Fife Council (the Council) was asked to provide a copy of the Council's Child Protection Procedures in Schools. This decision finds that the Council failed to respond to the request and request for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
7 December 2018	Mr P made an information request to the Council.
12 December 2018	Although the Council sent an acknowledgement, it did not respond to the information request.
14 January 2019	Mr P wrote to the Council requiring a review of its failure to respond.
	Mr P did not receive a response to his requirement for review.
13 February 2019	Mr P wrote to the Commissioner's Office, stating that he was dissatisfied with the Council's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
20 February 2019	Fife Council was notified in writing that an application had been received from Mr P and was invited to comment on the application.
6 March 2019	The Commissioner received submissions from the Council. These submissions are considered below.

Commissioner's analysis and findings

1. 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.
2. It is a matter of fact that the Council did not provide a response to Mr P's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
3. 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.
4. It is a matter of fact that the Council did not provide a response to Mr P's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.

5. The Council acknowledged that it had not responded to Mr P's request and request for review in time and that it had failed to comply with FOISA.
6. The Council confirmed that its Information Management and Request Team (IMRT) have been reminded of the procedure to be followed when receiving requests and requests for review: in particular, to be vigilant in checking request received dates; and to pass all requests for review to the Legal Team as soon as possible. It submitted that Mr P's request for review (received on 14 January 2019) had been missed by IMRT because of workload.
7. As the Council responded to Mr P's requirement for review on 22 February 2019, the Commissioner does not require it to take any further action in relation to his application.
8. The Commissioner recommends that the Council considers whether it would be appropriate to apologise to Mr P for the delay in providing a response to his request (unless an apology was included in the response of 22 February 2019).

Decision

The Commissioner finds that Fife Council (the Council) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mr P. In particular, the Council failed to respond to Mr P'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 the Council to take any action in respect of these failures, in response to Mr P's application, given that a response has been issued.

Appeal

Should either Mr P or Fife Council (the Council) 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

11 March 2019

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews, Fife
KY16 9DS

t 01334 464610

f 01334 464611

enquiries@itspublicknowledge.info

www.itspublicknowledge.info