

Decision Notice

Decision 047/2017: Mr H and Glasgow City Council

Complaints about a specified café: failure to respond within statutory timescales

Reference No: 201700370

Decision Date: 28 March 2017



Scottish Information
Commissioner

Summary

On 5 December 2016, Mr H asked Glasgow City Council (the Council) for information relating to complaints made to the Council about a specified Café. This decision finds that the Council failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that the Council failed to comply with Mr H's requirement for review within the timescale set down by FOISA.

Background

Date	Action
5 December 2016	Mr H made an information request to the Council.
6 December 2016	Although the Council acknowledged the request, it did not respond to the information request.
12 January 2017	Mr H wrote to the Council, requiring a review of its failure to respond.
12 January 2017	Again, although Mr H received an acknowledgement, he did not receive a response to his requirement for review.
24 February 2017	Mr H 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.
9 March 2017	The Council was notified in writing that an application had been received from Mr H and was invited to comment on the application.
23 March 2017	The Commissioner received submissions from the Council. These submissions are considered below.

Commissioner's analysis and findings

1. The Council confirmed that it had received Mr H's request and requirement for review, but due to an administrative oversight it had failed to respond. It explained that a number of factors led to the delay in responding, including the need to respond to related correspondence at the same time.
2. The Council also explained there was confusion on which department would respond to the requirement for review, but stated that guidance had since been issued to prevent this happening again. The department most directly involved was also reviewing its own guidance, with a view to improving its responses. The Commissioner welcomes this.
3. The Council accepted that it had failed to respond as required by FOISA and confirmed that a response was issued to Mr H on 23 March 2017. A copy was provided to the Commissioner.

4. 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.
5. It is a matter of fact that the Council did not provide a response to Mr H's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
6. 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.
7. It is a matter of fact that the Council did not provide a response to Mr H's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
8. As the Council responded to Mr H's requirement for review on 23 March 2017, the Commissioner does not require it to take any further action in relation to Mr H's application.
9. The Commissioner notes that the Council has apologised to Mr H for its failure to comply.

Decision

The Commissioner finds that Glasgow City 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 H. In particular, the Council failed to respond to Mr H 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 H's application, given that a response has now been issued.

Appeal

Should either Mr H or Glasgow City 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.

Euan McCulloch
Deputy Head of Enforcement

28 March 2017

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