

Decision Notice

Decision 084/2014 Mrs W and Stirling Council

Significant Case Review: failure to respond within statutory timescales

Reference No: 201400392

Decision Date: 11 April 2014



Scottish Information
Commissioner

Summary

On 17 November 2013, Mrs W asked Stirling Council (the Council) for information about a Significant Case Review. 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 Mrs W's requirement for review within the timescale set down by FOISA.

The Commissioner has ordered The Council to comply with the requirement for review.

Background

Date	Action
17 November 2013	Mrs W made an information request to the Council.
	Mrs W was sent an acknowledgement on 18 November 2013, but did not receive a response to her request.
17 January 2014	Mrs W wrote to the Council, requiring a review in respect of its failure to respond.
	Again, although Mrs W was sent an acknowledgement on 20 January 2014, she did not receive a response to her requirement for review.
21 February 2014	Mrs W wrote to the Commissioner's Office, stating that she was dissatisfied with those failures and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
3 March 2014	The Council was notified in writing that an application had been received from Mrs W and was invited to comment on the application.
	The Council did not provide the Commissioner with any submissions.

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 Mrs W'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 Mrs W's requirement for review within 20 working days, so the Commissioner finds that it to comply with section 21(1) of FOISA.

5. The remainder of section 21 sets out the requirements to be followed by a Scottish public authority in carrying out a review. As no review has been carried out in this case, the Commissioner finds that the Council failed to discharge these requirements: she now requires a review to be carried out in accordance with section 21.

Decision

The Commissioner finds that Stirling 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 Mrs W. In particular, the Council failed to respond to Mrs W's request for information and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA.

The Commissioner therefore requires the Council to provide Mrs W with a response to her requirement for review, in accordance with section 21 of FOISA, by **Monday 26 May 2014**.

Appeal

Should either Mrs W or Stirling Council wish to appeal against this decision, they have the right to appeal to the Court of Session on a point of law only. The appeal must be made within 42 days after the date of intimation of this decision.

Euan McCulloch
Deputy Head of Enforcement
11 April 2014

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