

Decision Notice

Decision 098/2014 Mrs P and Stirling Council

Information relating to a named Councillor: failure to respond within statutory timescales

Reference No: 201400704

Decision Date: 5 May 2014



Scottish Information
Commissioner

Summary

On 5 October 2013, Mrs P asked Stirling Council (the Council) for information about the activities of a named Councillor. 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 P's requirement for review within the timescale set down by FOISA.

Background

Date	Action
5 October 2013	Mrs P made an information request to the Council.
	The Council did not respond to the information request.
4 January 2014	Mrs P wrote to the Council, requiring a review in respect of its failure to respond.
	Mrs P did not receive a response to her requirement for review.
21 March 2013	Mrs P wrote to the Commissioner's Office, stating that she was dissatisfied with these failures and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
15 April 2014	The Council was notified in writing that an application had been received from Mrs P and was invited to comment on the application.
30 April 2014	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 Mrs 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 Mrs 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 responded to Mrs P's requirement for review on 30 April 2014, having acknowledged the above failures. In the circumstances, the Commissioner does not require it to take any further action in relation to this case, in response to Mrs P's application.

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

Given that the Council has now responded to Mrs P's requirement for review, the Commissioner does not require the Council to take any action in respect of these failures, in response to Mrs P's application.

Appeal

Should either Mrs P 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
5 May 2014

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