

Decision Notice 104/2020

Job descriptions: failure to respond

Applicant: The Applicant

Public authority: Service Glasgow LLP

Case Ref: 202000729



Scottish Information
Commissioner

Summary

On 21 February 2020, the Applicant asked Service Glasgow LLP for information about job descriptions. This decision finds that Service Glasgow LLP failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that Service Glasgow LLP failed to comply with the Applicant's requirement for review within the timescale set down by FOISA.

Background

Date	Action
21 February 2020	The Applicant, via the website WhatDoTheyKnow.com, emailed an information request to Service Glasgow LLP.
	Service Glasgow LLP did not respond to the information request.
20 May 2020	The Applicant wrote to the Chief Executive of Service Glasgow LLP (who is also the Chief Executive of Glasgow City Council), explaining that the above request and requirement for review had not been answered and requiring a review in respect of its failure to respond.
	Service Glasgow LLP did not respond to the requirement for review.
2 July 2020	The Applicant wrote to the Commissioner's Office, stating that he was dissatisfied with Service Glasgow LLP's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
28 July 2020	Service Glasgow LLP was notified in writing that an application had been received from the Applicant and was invited to comment on the application.
31 July 2020	Service Glasgow LLP responded to the Applicant's requirement for review.
3 August 2020	The Applicant acknowledged the response provided by Service Glasgow LLP, but intimated that he wished to response to be provided via the WhatDoTheyKnow platform.
11 August 2020	Service Glasgow sent the Applicant a further copy of the review outcome via the WhatDoTheyKnow website.
11 August 2020	The Commissioner received submissions from Service Glasgow LLP. These submissions are considered below.

Commissioner's analysis and findings

1. Service Glasgow LLP is wholly owned by Glasgow City Council and as such is a Scottish public authority in its own right, by virtue of section 6(1)(b) of FOISA.
2. In its submissions to the Commissioner, and in its response to the Applicant, Service Glasgow LLP explained that Service Glasgow LLP stopped actively trading on 31 March 2018 and that an application was made in May 2020 to voluntarily wind up the LLP, after a

number of legal matters were completed. The notice to wind up the LLP was published on 20 June 2020 and required to be advertised for a period of two months: thereafter, the LLP would formally be wound up (scheduled for 30 August 2020).

3. Service Glasgow LLP advised that, since 1 April 2018, it had remained a dormant LLP, with no staff or assets. However, it acknowledged that I was still a public authority for the purpose of the FOISA, as it had been at the time of the Applicant's request and requirement for review.
4. In its submissions to the Commissioner, Service Glasgow LLP accepted that the request and requirement for review had been received by Service Glasgow LLP. It explained that while the mailbox to which the request was submitted was an active mailbox, it was not being monitored due to the dormant nature of the LLP. Service Glasgow LLP explained that this has been rectified and the mailbox was now being monitored.
5. Service Glasgow LLP accepted that it had not responded to the Applicant's request of 21 February 2020. In relation to the letter of 20 May 2020, it was submitted that due to the lockdown rules, there was no one in the Chief Executive's Office to forward it to the person providing the submissions to the Commissioner. It did not dispute that the letter was received, however and, taking account of section 74(2)(a) of FOISA, the letter can be presumed to have been received by Service Glasgow LLP on the third day after posting (i.e. 23 May 2020).
6. 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.
7. The Coronavirus (Scotland) Act 2020 (the Coronavirus Act) , which came into force on 7 April 2020, extended the maximum timescales for responding to requests under FOISA from 20 to 60 working days. The Coronavirus Act was amended by the Coronavirus (Scotland) (No.2) Act 2020 (Coronavirus No.2 Act), which came into force on 27 May 2020: among other things, it removed these extended timescales, taking the time for response back to 20 working days.
8. The Coronavirus Act changes applied to requests outstanding as at 7 April 2020. Therefore, Service Glasgow LLP was obliged to respond to the Applicant's request of 21 February 2020 by 18 May 2020.
9. It is a matter of fact that Service Glasgow LLP did not provide a response to the Applicant's request for information within 60 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA, as amended by the Coronavirus Act.
10. 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. The changes in the Coronavirus Act and the Coronavirus No.2 Act also applied to requirement for review, with the result that this timescale was extended to 60 working days on 7 April 2020 and reverted to 20 working days on 27 May 2020.
11. The Commissioner considers the letter of 20 May 2020, addressed to the CEO of Service Glasgow, to have been a valid requirement for review. As mentioned above, the timescale for response reverted to 20 working days on 27 May 2020, so Service Glasgow LLP was required to respond to the Applicant's requirement for review by 19 June 2020 (allowing for three days postage time in line with section 74(2)(a) of FOISA).

12. It is a matter of fact that Service Glasgow LLP did not provide a response to the Applicant's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
13. As explained above, during the investigation Service Glasgow LLP responded to the Applicant's requirement for review, so the Commissioner does not require it to take any further action in relation to the Applicant's application.

Decision

The Commissioner finds that Service Glasgow LLP failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by the Applicant. In particular, Service Glasgow LLP failed to respond to the Applicant's request for information and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA.

As Service Glasgow LLP responded to the Applicant's requirement for review during the investigation, the Commissioner does not require it to take any action in respect of these failures, in response to the Applicant's application.

Appeal

Should either the Applicant or Service Glasgow LLP 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

16 September 2020

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