

Decision Notice

Decision 145/2015: Allan Milligan and Glasgow City Council

Legal authorisation to claim additional monies:

Failure to respond within statutory timescales

Reference No: 201501297

Decision Date: 09 September 2015



Scottish Information
Commissioner

Summary

On 7 May 2015, Mr Milligan asked Glasgow City Council (the Council) for evidence of the Council's legal authority to claim what he described as "additional monies" in relation to the recovery of parking charges. 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 Glasgow City Council failed to comply with Mr Milligan's requirement for review within the timescale set down by FOISA.

Background

Date	Action
7 May 2015	Mr Milligan made an information request to the Council.
	The Council did not respond to the information request.
8 June 2015	Mr Milligan wrote to the Council, requiring a review in respect of its failure to respond.
	Mr Milligan did not receive a response to his requirement for review.
14 July 2015	Mr Milligan 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.
24 August 2015	The Council was notified in writing that an application had been received from Mr Milligan and was invited to comment on the application.
27 August 2015	The Commissioner received submissions from the Council. These submissions are considered below.

Commissioner's analysis and findings

1. The Council submitted that Mr Milligan had not made a valid information request. It considered the request to be for an explanation of the legislative basis for an arrestment of money, rather than for recorded information.
2. The Commissioner does not agree with this interpretation. Taking this request along with other, similarly worded, requests from Mr Milligan, she interprets the request as being for evidence of the Council's legal authority to recover the money. This is a request for information which could be held in recorded form.
3. 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.

4. It is a matter of fact that the Council did not provide a response to Mr Milligan's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
5. 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.
6. It is a matter of fact that the Council did not provide a response to Mr Milligan's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
7. The Council has responded to Mr Milligan's correspondence, but only on the basis that it does not contain a request for recorded information. The Commissioner now requires the Council to respond on the basis that it does contain such a request.

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

The Commissioner requires the Council to respond to Mr Milligan's requirement for review, by **Monday 26 October 2015**.

Appeal

Should either Mr Milligan or Glasgow City 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

09 September 2015

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