

# Decision Notice

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## Decision 216/2014: Mrs Margaret Scott and East Dunbartonshire Council

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**Report/survey: failure to respond within statutory timescales**

Reference No: 201402234

Decision Date: 8 October 2014



Scottish Information  
Commissioner

## Summary

On 28 April 2014, Mrs Scott asked East Dunbartonshire Council (the Council) for information about a report. 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), and that the Council failed to comply with Mrs Scott's requirement for review within the timescale set down by FOISA.

The Commissioner required the Council to respond to Mrs Scott's request for review.

## Background

Date	Event
April 2014	Mrs Scott made an information request to the Council.
	The Council did not respond to the information request.
June 2014	Mrs Scott wrote to the Council requiring a review of its failure to respond.
	Mrs Scott did not receive a response to her requirement for review.
September 2014	Mrs Scott wrote to the Commissioner's Office, stating that she 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. The enforcement provisions of FOISA apply to the enforcement of the EIRs, subject to specified modifications – see regulation 17.
September 2014	The Council was notified in writing that an application had been received from Mrs Scott and was invited to comment on the application.
October 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 Scott'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 Scott'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 remainder of section 21 sets out the requirements to be followed by a Scottish public authority in carrying out a review.
6. The Council explained that it had experienced difficulties due to the volume of requests being received by it. The Council explained that it had implemented a wide-scale revision of its processes, in particular in regard to meeting its statutory deadlines. Additional staffing resources had been allocated to its Freedom of Information function and it was hoped that this would improve the service the Council provides.
7. As no review has been carried out in this case, the Commissioner finds that the Council failed to discharge the requirements in section 21 of FOISA: she now requires a review to be carried out in accordance with these requirements, by **21 November 2014**.

## Decision

The Commissioner finds that East Dunbartonshire 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 Scott. In particular, the Council failed to respond to Mrs Scott'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 provide Mrs Scott with a response to her requirement for review, by **21 November 2014**.

## Appeal

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Should either Mrs Scott or the East Dunbartonshire 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.

## Enforcement

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If the Council fails to comply with this decision, the Commissioner has the right to certify to the Court of Session that the Council has failed to comply. The Court has the right to inquire into the matter and may deal with the Council as if it had committed a contempt of court.

**Margaret Keyse**  
**Head of Enforcement**  
**8 October 2014**

**Scottish Information Commissioner**

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