

Decision Notice

Decision 248/2016: Mr A Milligan and Glasgow City Council

Location of a parking ticket machine:

Failure to respond within statutory timescales

Reference No: 201601902

Decision Date: 18 November 2016



Scottish Information
Commissioner

Summary

Glasgow City Council (the Council) was asked to provide evidence of the location of the nearest parking ticket machine in relation to a parked car which had received a Penalty Charge Notice. This decision finds that the Council failed to comply with Mr Milligan's requirement for review within the timescale set down by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
2 September 2016	Mr Milligan made an information request to the Council.
15 September 2016	The Council responded to the information request
17 September 2016	Mr Milligan wrote to the Council requiring a review of its decision.
	Mr Milligan did not receive a response to his requirement for review.
17 October 2016	Mr Milligan wrote to the Commissioner's Office, stating that he was dissatisfied with the Council's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
24 October 2016	The Council was notified in writing that an application had been received from Mr Milligan and was invited to comment on the application.
7 and 16 November 2016	The Commissioner received submissions from the Council. These submissions are considered below.

Commissioner's analysis and findings

1. The Council explained that it did not receive Mr Milligan's request for review as he had used an email address that is no longer in use by the Council. It explained that an auto-forward function had been put in place to forward emails from the old email address to the new one.
2. The Council advised that it had carried out tests on the auto-forwarding function and confirmed that it continues to work. It has searched for Mr Milligan's requirement for review, but has not been able to trace it.
3. On the balance of probabilities, the Commissioner accepts that the Council received Mr Milligan's requirement for review, even though it cannot find it.
4. 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. This is subject to qualifications which are not relevant in this case.

5. 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.
6. As the Council responded to Mr Milligan's requirement for review on 16 November 2016, the Commissioner does not require it to take any further action in relation to Mr Milligan's application. The Commissioner was provided with a copy of the response.
7. The Commissioner notes that the Council apologised in its review outcome for its failure to respond.

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 requirement for review within the timescale laid down by section 21(1) of FOISA.

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.

Alison Davies
Deputy Head of Enforcement

18 November 2016

Scottish Information Commissioner

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