

# Decision Notice



Decision 111/2009 Mrs Greta Young and Aberdeen City Council

Failure to respond to a request and request for review

Reference No: 200901291

Decision Date: 17 September 2009

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**Kevin Dunion**

Scottish Information Commissioner

Kinburn Castle  
Doubledykes Road  
St Andrews KY16 9DS  
Tel: 01334 464610



## Summary

This decision considers whether Aberdeen City Council (the Council) complied with the technical requirements of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to an information request and requirement for review made by Mrs Greta Young.

## Background

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1. On 22 March 2009, Mrs Young emailed Aberdeen City Council (the Council) requesting copies of the minutes of the Joint Future Care Planning Group or equivalent; to include copies of the last three meetings at the end of 2008.
2. No response to the request of 22 March 2009 was provided by the Council.
3. On 28 April 2009, the Council emailed Mrs Young requesting clarification of her request.
4. On 17 May 2009, Mrs Young emailed the Council requesting a review of its failure to respond and noting that she had been in telephone contact with a member of staff at the Council confirming that she was seeking the minutes of the Group (or equivalent) indicated in her request of 22 March 2009.
5. No response was provided by the Council to this requirement for review.
6. Mrs Young contacted the Commissioner on 15 July 2009, stating that she was dissatisfied with the failure of the Council to respond to her request and request for review and applying for a decision in terms of section 47(1) of FOISA.
7. The application was validated by establishing that Mrs Young had made a request for information to a Scottish public authority and had applied to the Commissioner for a decision only after asking the authority to review its response to that request. The case was then allocated to an investigating officer.



## Investigation

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8. On 24 August 2009, the Council was notified in writing that an application had been received from Mrs Young and was invited to comment on the application, as required by section 49(3)(a) of FOISA.
9. The Council responded on 4 September 2009, confirming that it had received Mrs Young's request and request for review. The Council commented that it was unclear as to which group's minutes Mrs Young sought in her request and had requested clarification on the matter. However, the Council admitted that it had failed to respond to Mrs Young's request and requirement for review within the statutory timescales laid down in FOISA and would provide a response to Mrs Young by 25 September 2009.
10. The investigating officer subsequently contacted the Council to enquire whether a response could be provided sooner to Mrs Young. On 9 September 2009, the Council provided copies of the minutes (from February 2008 to June 2009) of a group described as the Joint Future Strategic Management Group to Mrs Young.

## Commissioner's analysis and findings

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11. Section 10(1) of FOISA gives Scottish public authorities a maximum of 20 working days from the date following receipt of the request, or subsequent clarification of that request, to comply with a request for information, subject to certain exceptions which are not relevant in this case.
12. The Council did not respond to Mrs Young's request of 21 March 2009 until 28 April 2009.
13. The Commissioner therefore finds that the Council failed to respond to Mrs Young's request for information of 22 March 2009, within the 20 working days allowed under section 10(1) of FOISA.
14. Section 21(1) of FOISA gives public authorities a maximum of 20 working days from the date following receipt of the requirement to comply with a requirement for a review, again subject to exceptions which are not relevant to this case.
15. The Council has acknowledged that no response was made to Mrs Young's requirement for review.
16. The Commissioner therefore finds that the Council failed to respond to Mrs Young's requirement for review, within the 20 working days allowed under section 21(1) of FOISA.
17. The Commissioner notes that a response was provided to Mrs Young's information request on 9 September 2009. In the circumstances, he does not require any action to be taken in relation to these breaches in response to this decision.



## DECISION

The Commissioner finds that Aberdeen City Council (the Council) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in dealing with the information request made by Mrs Greta Young, in particular by failing to respond to Mrs Young's request for information and requirement for review within the respective timescales laid down by sections 10(1) and 21(1) of FOISA.

As a substantive response has now been provided to Mrs Young, the Commissioner does not require the Council to take any action in relation to these breaches in response to this decision.

## Appeal

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Should either Mrs Young or the Council wish to appeal against this decision, there is an 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 notice.

**George Will**  
**Acting Deputy Head of Enforcement**  
**17 September 2009**



## Appendix

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### Freedom of Information (Scotland) Act 2002

#### 1 General entitlement

- (1) A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority.

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#### 10 Time for compliance

- (1) Subject to subsections (2) and (3), a Scottish public authority receiving a request which requires it to comply with section 1(1) must comply promptly; and in any event by not later than the twentieth working day after-

- (a) in a case other than that mentioned in paragraph (b), the receipt by the authority of the request; or

...

#### 21 Review by Scottish public authority

- (1) Subject to subsection (2), a Scottish public authority receiving a requirement for review must (unless that requirement is withdrawn or is as mentioned in subsection (8)) comply promptly; and in any event by not later than the twentieth working day after receipt by it of the requirement.