

Decision Notice

Decision 007/2015: Stephen Tarr and East Dunbartonshire Council

Risk Assessments: failure to respond within statutory timescales

Reference No: 201402801

Decision Date: 12 January 2015



Scottish Information
Commissioner

Summary

On 30 June 2014, Digby Brown Solicitors (on behalf of Mr Stephen Tarr) asked East Dunbartonshire Council (the Council) for information regarding risk assessments for a specified School and Nursery. 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 the Council failed to comply with Mr Tarr's requirement for review within the timescale set down by FOISA.

Background

| Date | Action |
|-------------------|---|
| 30 June 2014 | Mr Tarr made an information request to the Council. The request was resent to the Council on 25 July 2014, as it did not appear to have been received by the Council when sent originally. |
| 25 July 2014 | Although the Council sent an acknowledgement, it did not respond to the information request. |
| 23 September 2014 | Mr Tarr wrote to the Council, requiring a review of its failure to respond. |
| | Mr Tarr did not receive a response to his requirement for review. |
| 5 December 2014 | Mr Tarr 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. |
| 18 December 2014 | The Council was notified in writing that an application had been received from Mr Tarr and was invited to comment on the application. |
| 7 January 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 Mr Tarr'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 Mr Tarr'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 Council responded to Mr Tarr's requirement for review on 7 January 2015, so the Commissioner does not require it to take any further action in relation to Mr Tarr's application.

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

The Commissioner does not require the Ministers to take any action in respect of these failures, in response to Mr Tarr's application, given that a response has now been issued.

Appeal

Should either Mr Tarr or 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.

Euan McCulloch
Deputy Head of Enforcement

12 January 2015

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews, Fife
KY16 9DS

t 01334 464610

f 01334 464611

enquiries@itspublicknowledge.info

www.itspublicknowledge.info