

Decision Notice

Decision 111/2015: Mr X and South Lanarkshire Council

Neighbourhood Dispute: failure to respond within statutory timescales

Reference No: 201501181
Decision Date: 13 July 2015



Scottish Information
Commissioner

Summary

On 23 April 2015, Mr X asked South Lanarkshire Council for information about a neighbour's dog entering his garden. This decision finds that South Lanarkshire Council responded to Mr X's requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
23 April 2015	Mr X made an information request to the Council.
20 May 2015	The Council responded to the information request.
21 May 2015	Mr X wrote to the Council requiring a review of its decision.
26 May 2015	Mr X received an acknowledgement to his request for review.
20 June 2015	Mr X wrote to the Commissioner's Office, stating that he had not received a response to his request for review. He was dissatisfied with the Council's failure to respond and applied to the Commissioner for a decision in terms of section 47(1) of FOISA.
8 July 2015	The Council was notified in writing that an application had been received from Mr X and was invited to comment on the application.
8 July 2015	The Commissioner received submissions from the council. These submissions are considered below.

Commissioner's analysis and findings

1. Mr X requested a review of the Council's response to his request on 21 May 2015. The Council submitted that it sent Mr X a response to his requirement for review on 9 June 2015, by email. The Council provided the Commissioner with documentary evidence that the email was sent to Mr X at 15:58 on 9 June 2015.
2. The Council explained that, on 9 June 2015, two letters were sent to Mr X by email and that there was no indication that these emails were not delivered to him. The Council assured the Commissioner that the review response was emailed to Mr X on the date shown on the email.
3. The Commissioner is required to come to a conclusion, on the balance of probabilities, as to whether the letter was emailed on 9 June 2015. She accepts that the time shown on the email is created when the email is sent to the recipient. She accepts that the metadata created with the email shows that it was sent on 9 June 2015 at 15:58. She has confirmed that the email was sent to the email address which Mr X uses, and which the Council has previously used to communicate with him. In the light of the information provided by the Council, she is satisfied that the Council's review response was sent to Mr X on 9 June 2015.

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. The Commissioner has concluded that the Council complied with section 21(1) in responding to Mr X's requirement for review.
5. Given that the Council has responded to Mr X's requirement for review, the Commissioner does not require it to take any further action in relation to Mr X's application.

Decision

The Commissioner finds that South Lanarkshire Council complied with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in dealing with the information request made by Mr X.

Appeal

Should either Mr X or South Lanarkshire 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

13 July 2015

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