

Decision Notice

Decision 223/2016: Mr D and Dundee City Council

Number of persons issued with a caution and related policy:

Failure to respond within statutory timescales

Reference No: 201601659

Decision Date: 20 October 2016



Scottish Information
Commissioner

Summary

On 29 June 2016, Mr D asked Dundee City Council (the Council) for information about the number of people who had been issued with a caution, along with information about the Council's policy on when cautions are destroyed or deleted. This decision finds that the Council failed to respond to the requirement for review within the timescale set down by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
29 June 2016	Mr D made an information request to the Council.
18 July 2016	The Council responded to the information request.
29 July 2016	Mr D wrote to the Council, requiring a review of its decision.
	Mr D did not receive a response to his requirement for review.
7 September 2016	Mr D 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.
16 September 2016	The Council was notified in writing that an application had been received from Mr D and was invited to comment on the application.
13 October 2016	The Commissioner received submissions from the Council. These submissions are considered below.

Commissioner's analysis and findings

1. The Council notified the Commissioner that a review response was issued to Mr D on 10 October 2016. A copy was provided to the Commissioner.
2. The Commissioner also acknowledges that the Council had written to Mr D previously, on 15 September 2016. Although not purporting to be the outcome of a review, this expanded on its initial response to Mr D.
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. 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 D's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
5. As the Council responded to Mr D's requirement for review on 10 October 2016, the Commissioner does not require it to take any further action in relation to Mr D's application.

6. The Commissioner notes that the Council apologised in its review outcome for its failure to comply within the required timescale.

Decision

The Commissioner finds that Dundee 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 D. In particular, the Council failed to respond to Mr D's requirement for review within the timescale laid down by sections 21(1) of FOISA.

The Commissioner does not require the Council to take any action in respect of this failure, in response to Mr D's application, given that a response has now been issued.

Appeal

Should either Mr D or Dundee City Council (the 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

20 October 2016

Scottish Information Commissioner

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