

# Decision Notice

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**Decision 010/2017: Professor Iain Baikie and Highland Council**

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**Wick High School Finances: failure to respond within statutory timescales**

Reference No: 201602270

Decision Date: 24 January 2017



Scottish Information  
Commissioner

## Summary

On 7 October 2016, Professor Baikie asked Highland Council (the Council) for information about Wick High School finances relating to staffing, Wick High School Fund and educational resources. 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 Professor Baikie's requirement for review within the timescale set down by FOISA.

The Commissioner has ordered the Council to comply with the requirement for review.

## Background

Date	Action
7 October 2016	Professor Baikie made an information request to the Council.
	The Council did not respond to the information request.
8 November 2016	Professor Baikie wrote to the Council requiring a review in respect of its failure to respond.
	Professor Baikie did not receive a response to his requirement for review.
13 December 2016	Professor Baikie 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.
11 January 2017	The Council was notified in writing that an application had been received from Professor Baikie and was invited to comment on the application.
20 January 2017	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 Professor Baikie'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 Professor Baikie'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 acknowledged that it had received Professor Baikie's request and requirement for review and accepted that it had failed to respond. It explained that this failure was due to work pressures within the relevant Service. It stated that a new Customer Services Officer has been recruited to ensure requests are complied with.
6. The Council confirmed that it will contact Professor Baikie to apologise for the lack of a response. The Commissioner has not yet been informed if this has been done.
7. The remainder of section 21 of FOISA sets out the requirements to be followed by a Scottish public authority in carrying out a review. As no review has been carried out in this case, the Commissioner finds that the Council failed to discharge these requirements: she now requires a review to be carried out in accordance with section 21.

## Decision

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The Commissioner finds that Highland 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 Professor Baikie. In particular, the Council failed to respond to Professor Baikie's request for information and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA.

The Commissioner requires the Council to provide a response to Professor Baikie's requirement for review, by **Friday 10 March 2017**.

## Appeal

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Should either Professor Baikie or Highland 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.

## Enforcement

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If Highland Council (the Council) fails to comply with this decision, the Commissioner has the right to certify to the Court of Session that the Council has failed to comply. The Court has the right to inquire into the matter and may deal with the Council as if it had committed a contempt of court.

**Alison Davies**  
**Deputy Head of Enforcement**

**24 January 2017**

**Scottish Information Commissioner**

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