

Decision Notice

Decision 119/2017: Mr G and the Scottish Further and Higher Education Funding Council

Financial correspondence involving Edinburgh College: failure to respond within statutory timescales

Reference No: 201701071

Decision Date: 31 July 2017



Scottish Information
Commissioner

Summary

On 14 March 2017, Mr G asked the Scottish Further and Higher Education Funding Council (SFHEFC) for information about financial correspondence involving Edinburgh College. This decision finds that SFHEFC failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that SFHEFC failed to comply with Mr G's requirement for review within the timescale set down by FOISA.

Background

Date	Action
14 March 2017	Mr G made an information request to SFHEFC.
14 March 2017	SFHEFC acknowledged the information request, but did not respond.
30 April 2017	Mr G wrote to SFHEFC, requiring a review in respect of its failure to respond.
24 May 2017	SFHEFC acknowledged the requirement for review, but did not respond.
	Mr G did not receive a response to his requirement for review.
19 June 2017	Mr G wrote to the Commissioner's Office, stating that he was dissatisfied with SFHEFC's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
27 June 2017	SFHEFC was notified in writing that an application had been received from Mr G and was invited to comment on the application.
10 July 2017	The Commissioner received submissions from SFHEFC. These submissions are considered below.

Commissioner's analysis and findings

1. When contacted by the Commissioner, SFHEFC acknowledged that it had failed to provide responses to Mr G's information request and requirement for review. It explained that significant delays in responding to the request and requirement for review were attributable to an unprecedented increase in requests received since the beginning of the year.
2. SFHEFC notified the Commissioner that a review outcome was issued to Mr G on 28 June 2017. A copy was provided to the Commissioner.
3. 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.
4. It is a matter of fact that SFHEFC did not provide a response to Mr G's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.

5. 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.
6. It is a matter of fact that SFHEFC did not provide a response to Mr G's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
7. SFHEFC responded to Mr G's requirement for review on 28 June 2017, so the Commissioner does not require it to take any further action in relation to Mr G's application. In terms of section 21(4)(c) of FOISA, that response constitutes a review outcome and Mr G is not required to seek a further review if he is dissatisfied with the decision.
8. The Commissioner notes that SFHEFC has apologised to Mr G for its delay in responding.

Decision

The Commissioner finds that the Scottish Further and Higher Education Funding Council (SFHEFC) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mr G. In particular, SFHEFC failed to respond to Mr G'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 SFHEFC to take any action in respect of these failures, in response to Mr G's application, given that it has now issued a response.

Appeal

Should either Mr G or the Scottish Further and Higher Education Funding 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

31 July 2017

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