

Decision Notice

Decision 065/2018: Mr Peterson and Glasgow City Council

Handling of FOI request: failure to respond within statutory timescales

Reference No: 201800410

Decision Date: 03 May 2018



Scottish Information
Commissioner

Summary

The Council was asked for information about its handling of an information request. 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 the requirement for review within the timescale set down by FOISA.

Background

Date	Action
17 December 2017	Mr Peterson made an information request to the Council.
	The Council did not respond to the information request.
2 February 2018	Mr Peterson wrote to the Council, requiring a review in respect of its failure to respond.
	Mr Peterson did not receive a response to his requirement for review.
4 March 2018	Mr Peterson 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.
12 April 2018	The Council was notified in writing that an application had been received from Mr Peterson and was invited to comment on the application.
26 April 2018	The Commissioner received submissions from the Council. These submissions are considered below.

Commissioner's analysis and findings

1. When contacted by the Commissioner, Glasgow City Council (the Council) acknowledged that it had not responded to Mr Peterson's request. It explained that due to human error, the correspondence went unanswered.
2. 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.
3. It is a matter of fact that the Council did not provide a response to Mr Peterson's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
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. Again, this is subject to qualifications which are not relevant in this case.

5. It is a matter of fact that the Council did not provide a response to Mr Peterson's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
6. The Council responded to Mr Peterson's requirement for review on 27 April 2018 so the Commissioner does not require it to take any further action in relation to Mr Peterson's application.
7. The Commissioner notes that the Council has apologised to Mr Peterson for its failings and levels of engagement to date, as described above.

Decision

The Commissioner finds that Glasgow 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 Peterson. In particular, the Council failed to respond to Mr Peterson'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 Council to take any action in respect of these failures, in response to Mr Peterson's application, given that a review outcome has now been issued.

Appeal

Should either Mr Peterson or 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.

Enforcement

If 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.

Euan McCulloch
Deputy Head of Enforcement

03 May 2018

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