

Decision Notice

Decision 080/2018: Mr D and North Ayrshire Council

Health care provision: failure to respond within statutory timescales

Reference No: 201800674

Decision Date: 13 June 2018



Scottish Information
Commissioner

Summary

North Ayrshire Council (the Council) was asked for information relating to health care provision in a specified area. This decision finds that the Council failed to respond to the request and requirement for review within the timescales allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
18 December 2017	Mr D made an information request to the Council.
22 January 2018	The Council responded to the information request.
26 January 2018	Mr D wrote to the Council, requiring a review of its decision.
15 March 2018	Mr D received a response, but on the basis that the 26 January communication was a new information request rather than a requirement for review. He did not receive a formal response to his requirement for review until 10 April 2018.
15 April 2018	Mr D wrote to the Commissioner's Office, stating that he was were dissatisfied with the Council's failures to respond in time and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
22 May 2018	The Council was notified in writing that an application had been received from Mr D and was invited to comment on the application.
6 June 2018	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 Mr Higgin'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 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. The Council acknowledged that it had not complied with the relevant timescales in FOISA. It explained that the delay caused in responding to the initial request was due to the Council Office being closed over the festive period. The Council further explained that the delay in responding to the requirement for review late was due to it not being recognised and handled as such at that time.
6. The Council confirmed that refresher training would be arranged for staff in the following areas:
 - (i) Responding to requests and requirements for review within the statutory timescales;
 - (ii) Recognising requirements for review;
 - (iii) Ensuring that information disclosed to requesters can easily be accessed by them.
7. The Commissioner recommends that the Council considers whether it would be appropriate to apologise to Mr D for its failure to comply, but does note the apology in the Council submissions for this case. The Commissioner welcomes the recommendations that the Council proposes to take.

Decision

The Commissioner finds that North Ayrshire 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' 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 D' application, given that the required responses have been issued.

Appeal

Should either Mr D or North Ayrshire 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

13 June 2018

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