

# Decision Notice 006/2021

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## Minutes of meeting – failure to respond

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**Applicant: The Applicant**

**Public authority: Fife Council**

**Case Ref: 202001508**



Scottish Information  
Commissioner

## Summary

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On 29 September 2020 The Applicant asked Fife Council (the Council) for minutes of a meeting that discussed closing a specified primary school, in relation to the Covid-19 pandemic. This decision finds that the Council failed to respond to the request and request for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

## Background

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1. On 29 September 2020, the Applicant made an information request to the Council
2. The Council did not respond to the information request.
3. On 30 October, 5, 10 and 15 November 2020, the Applicant wrote to the Council requiring a review of its failure to respond.
4. The Applicant did not receive a response to his requirement for review.
5. On 15 December 2020, the Applicant wrote to the Commissioner, 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.
6. On 16 December 2020, the Council was notified in writing that an application had been received from the Applicant and was invited to comment on the application.
7. The Commissioner received submissions from the Council on 8 January 2021. These submissions are considered below.

## Commissioner's analysis and findings

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8. The Council accepted that it had failed to respond to the Applicant's request and requirement for review within the timescales allowed.
9. The Council confirmed that new guidance is scheduled to be provided to all staff imminently and that the Education Management Team will be asked to ensure all staff members to read the guidance and follow the correct process on receipt of an information request.
10. 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.
11. It is a matter of fact that the Council did not provide a response to the Applicant's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
12. 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.
13. It is a matter of fact that the Council did not provide a response to the Applicant's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.

14. As the Council responded to the Applicant's requirement for review on 15 December 2020, the Commissioner does not require it to take any further action in relation to the Applicant's application.
15. The Commissioner notes that the Council has apologised to the Applicant for its failure to comply.

## **Decision**

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The Commissioner finds that Fife Council (the Council) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2000 (FOISA) in dealing with the information request made by the Applicant. In particular, the Council failed to respond to the Applicant's request for information and requirement for review within the timescales laid down by sections 10(1) of 21(1) of FOISA.

The Commissioner does not require the Council to take any action in respect of these failures in response to the Applicant's application, given that a response was issued in December 2020.

## **Appeal**

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Should either the Applicant or Fife 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.

**Claire Stephen**  
**Deputy Head of Enforcement**

**12 January 2020**

**Scottish Information Commissioner**

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