



Scottish Information
Commissioner

**Decision 023/2007 Mrs Sheila Murphy and West
Lothian Council**

*Request for information relating to a Celebrating Success event
held at West Lothian College on 18 August 2006*

**Applicant: Mrs Sheila Murphy
Authority: West Lothian Council
Case No: 200700018
Decision Date: 8 February 2007**

**Kevin Dunion
Scottish Information Commissioner**

Kinburn Castle
Doubledykes Road
St Andrews
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KY16 9DS



Decision 023/2007 Mrs Sheila Murphy and West Lothian Council

Failure of the West Lothian Council to respond to a request for review in relation to a request for details of the fee charged by Jackie Bird at an event held on the 18 August 2006 at West Lothian College

Relevant Statutory Provisions and Other sources

Freedom of Information (Scotland) Act 2002 sections 1(1) (General entitlement); 21(1) (Review by Scottish public authority)

The relevant text of each of these provisions is reproduced in the Appendix to this decision. The Appendix forms part of this decision.

Background

1. On 3 September 2006, Mrs Murphy asked West Lothian Council (the Council) a series of 12 questions relating to a 'Celebrating Success' dinner held on 18 August 2006 at West Lothian College.
2. The Council responded to Mrs Murphy's request on 3 October 2006. The Council provided Mrs Murphy with responses to 11 of her questions. The Council withheld information relating to one of Mrs Murphy's questions which related to the attendance fee charged by Jackie Bird.
3. The Council withheld this information on the basis that it was exempt under section 38(1)(b) of FOISA.
4. Mrs Murphy was dissatisfied with this response and submitted a request for review on 8 November 2006.
5. On 29 December 2006, having received no response to her request for review, Mrs Murphy applied to the Scottish Information Commissioner for a decision.



6. The case was allocated to an investigating officer and Mrs Murphy's application was validated by establishing that she had made a valid information request to a Scottish public authority and had appealed to the Commissioner only after asking the public authority to review its response to her request.

The Investigation

7. On 22 January 2007 the investigating officer notified the Council of the application and asked for its comments on the case in terms of section 49(3)(a) of FOISA. In particular, the officer asked why the Council did not respond to Mrs Murphy's request for review within the period permitted by FOISA.
8. On 5 February 2007 the Council responded. The Council accepted that it had received a request for review from Mrs Murphy dated 8 November 2006 and that it had exceeded the 20 working day period allowed in responding to Mrs Murphy.
9. The Council state that Mrs Murphy's internal review is outstanding due to the pressures of other work. However, the Council provided assurances to the officer that an internal review would be carried out without further delay and that the Council were consulting Jackie Bird with regard to the release of her fee.

Commissioner's Analysis and Findings

10. Section 21(1) of FOISA requires authorities to respond to the requests for review they receive within 20 working days of receipt.
11. The Commissioner is satisfied that the Council failed to respond to Mrs Murphy's request for review within the 20 working day period allowed and therefore failed to act in accordance with section 21(1) of FOISA in dealing with Mrs Murphy's request.



Decision

The Commissioner finds, in failing to comply with the timescales set down in section 21(1) of FOISA, West Lothian Council failed to deal with Mrs Murphy's request for review in accordance with Part 1 of FOISA.

The Commissioner therefore requires the West Lothian Council to conduct a review in relation to its decision of 3 October 2006. The review must be carried out within 45 days of receipt of this decision notice.

Appeal

Should either Mrs Murphy or the West Lothian Council wish to appeal against this decision, there is an appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days of receipt of this notice.

Margaret Keyse
Head of Investigations
8 February 2007



APPENDIX

Relevant Statutory Provisions

Freedom of Information (Scotland) Act 2002

1 General entitlement

- (1) A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority.

21 Review by Scottish public authority

- (1) ... a Scottish public authority receiving a requirement for review must ... comply promptly; and in any event by not later than the twentieth working day after receipt by it of the requirement.