

Decision Notice



Decision 047/2013 Mr James Boyle and General Teaching Council for Scotland

Failure to comply with required timescales

Reference No: 201300390
Decision Date: 19 March 2013

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Rosemary Agnew
Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews KY16 9DS
Tel: 01334 464610



Summary

This decision considers whether the General Teaching Council for Scotland (the GTCS) complied with the technical requirements of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to information requests made by Mr Boyle.

Background

1. On 1, 19 and 31 October 2012, Mr Boyle wrote to the GTCS requesting certain specified information.
2. The GTCS responded to these requests on 13 November 2012.
3. Mr Boyle wrote again to the GTCS on 19 November 2012, reiterating his requests and expressing dissatisfaction.
4. On 12 December 2012, Mr Boyle wrote to the GTCS requesting a review of its decision.
5. Mr Boyle did not receive a response to his requirement for review and, on 27 January 2013, wrote to the Commissioner's Office, stating that he was dissatisfied with that failure and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
6. The application was validated by establishing that Mr Boyle made requests for information to a Scottish public authority and applied to the Commissioner for a decision only after asking the authority to review its response to those requests. The case was then allocated to an investigating officer.

Investigation

7. On 20 February 2013, the GTCS was notified in writing that an application had been received from Mr Boyle and was invited to comment on the application.
8. The GTCS responded on 5 March 2013 and its submissions are considered in the Commissioner's analysis and findings below.



9. Mr Boyle wrote to the GTCS again on 25 February 2013, and again complained that it had not addressed certain points in his information request of 31 October 2013.

Commissioner's analysis and findings

10. 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, subject to certain exceptions which are not relevant in this case.
11. Since the GTCS did not provide a response to Mr Boyle's requirement for review within 20 working days, the Commissioner finds that it failed to comply with section 21(1) of FOISA.
12. The GTCS wrote to Mr Boyle on 5 March 2013. It responded to Mr Boyle's letter of 25 February 2013. It also apologised that it had not responded to his to his requirement for review of 12 December 2012. The GTCS explained that it had carried out a review, and provided Mr Boyle with its review response.
13. Given that the GTCS has now responded to Mr Boyle's requirement for review, the Commissioner does not require it to take any further action in this case, in response to Mr Boyle's application.

DECISION

The Commissioner finds that the General Teaching Council for Scotland (the GTCS) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in dealing with the information requests made by Mr Boyle, in particular by failing to respond to Mr Boyle's requirement for review within the timescale laid down by section 21(1) of FOISA. Given that the GTCS has now responded to Mr Boyle's requirement for review, the Commissioner does not require it to take any action in respect of this failure, in response to Mr Boyle's application.



Appeal

Should either Mr Boyle or the General Teaching Council for Scotland 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 after the date of intimation of this decision notice.

Alison Davies
Acting Deputy Head of Enforcement
19 March 2013



Appendix

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002

21 Review by Scottish public authority

- (1) Subject to subsection (2), a Scottish public authority receiving a requirement for review must (unless that requirement is withdrawn or is as mentioned in subsection (8)) comply promptly; and in any event by not later than the twentieth working day after receipt by it of the requirement.

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