

# Decision Notice



Decision 049/2014 Graham and Avril Fisher and Falkirk Council

Secondary school pupil's examination grades: failure to respond within statutory timescales

Reference No: 201302968

Decision Date: 26 February 2014

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**Rosemary Agnew**

Scottish Information Commissioner

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



## Summary

On 13 November 2013, Mr and Mrs Fisher asked Falkirk Council (the Council) for information about pupil examination grades. 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 Mr and Mrs Fisher's request for review within the timescale set down by FOISA.

## Background

Date	Action
13 November 2013	Mr and Mrs Fisher made an information request to the Council.
	The Council did not respond to the information request.
14 December 2013	Mr and Mrs Fisher wrote to the Council requesting a review of its failure to respond.
17 December 2013	Although Mr and Mrs Fisher received a reply, it was not a response to their requirement for review.
17 December 2013	Mr and Mrs Fisher wrote to the Commissioner's Office, stating that they were dissatisfied with those failures and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
23 January 2014	The Council was notified in writing that an application had been received from Mr and Mrs Fisher and was invited to comment on the application.
10 February 2014	The Commissioner received submissions from the Council. These submissions are considered below.



## Commissioner's analysis and findings

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1. The Council informed the Commissioner that Mr and Mrs Fisher's review had now been carried out, and a response sent to them on 11 February 2014. A copy of the response was provided to the Commissioner.
2. The Council acknowledged that the request and requirement for review had not been handled correctly. It apologised to Mr and Mrs Fisher for the way in which the request was handled.
3. 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.
4. It is a matter of fact that the Council did not provide a response to Mr and Mrs Fisher's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
5. 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.
6. It is a matter of fact that the Council did not provide a response to Mr and Mrs Fisher's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
7. Given that the Council has now responded to Mr and Mrs Fisher's requirement for review, the Commissioner does not require it to take any further action in this case, in response to Mr and Mrs Fisher's application.

## DECISION

The Commissioner finds that Falkirk 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 and Mrs Fisher. In particular, the Council failed to respond to Mr and Mrs Fisher's request for information and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA.

Given that a response has now been provided to Mr and Mrs Fisher's requirement for review, the Commissioner does not require the Council to take any action in respect of this failure, in response to Mr and Mrs Fisher's application.

Decision 049/2014  
Graham and Avril Fisher  
and Falkirk Council



## Appeal

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Should either Mr and Mrs Fisher or Falkirk Council wish to appeal against this decision, they have the right to appeal to the Court of Session on a point of law only. The appeal must be made within 42 days after the date of intimation of this decision.

**Euan McCulloch**  
**Deputy Head of Enforcement**  
**26 February 2014**