

# Decision Notice

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## Decision 092/2014 Mr Brian Dick and West Lothian Council

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**Burial lair information: failure to respond within statutory timescales**

Reference No: 201400630

Decision Date: 30 April 2014



Scottish Information  
Commissioner

## Summary

On 1 December 2013, Mr Dick asked West Lothian Council (the Council) for burial lair information. This decision finds that the Council failed to comply with Mr Dick's requirement for review within the timescale set down by FOISA.

The Commissioner has ordered the Council to comply with the requirement for review.

## Background

Date	Action
1 December 2013	Mr Dick made an information request to the Council.
19 December 2013	The Council responded to the information request.
29 December 2013	Mr Dick wrote to the Council requiring a review of its decision.
	Mr Dick did not receive a response to his requirement for review.
12 March 2014	Mr Dick 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.
14 April 2014	The Council was notified in writing that an application had been received from Mr Dick and was invited to comment on the application by 28 April 2014.
28 April 2014	The Council had not, by this date, provided the Commissioner with any comments.

## Commissioner's analysis and findings

1. 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. 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 Dick's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
3. The remainder of section 21 sets out the requirements to be followed by a Scottish public authority in carrying out a review. As no review has been carried out in this case, the Commissioner finds that the Council failed to discharge these requirements: she now requires a review to be carried out in accordance with section 21.

## **Decision**

The Commissioner finds that West Lothian 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 Dick. In particular, the Council failed to respond to Mr Dick's requirement for review within the timescale laid down by section 21(1) of FOISA.

The Commissioner requires the Council to provide a response to Mr Dick's review requirement, by 16 June 2014.

## **Appeal**

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Should either Mr Dick or West Lothian 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**  
**30 April 2014**

**Scottish Information Commissioner**

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