

Decision Notice

Decision 180/2015: Mr Alastair Tibbitt and Shetland Islands Council

Emerging and Residual Threat Local Profile (ERTLP):

Failure to respond within statutory timescales

Reference No: 201501859

Decision Date: 17 November 2015



Scottish Information
Commissioner

Summary

On 30 August 2015, Mr Alastair Tibbitt asked Shetland Islands Council (the Council) for information about the Emerging and Residual Threat Local Profile (ERTLP) for its area. This decision finds that the Council failed to comply with Mr Tibbitt's requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
30 August 2015	Mr Tibbitt made an information request to the Council.
4 September 2015	The Council responded to the information request.
4 September 2015	Mr Tibbitt wrote to the Council requiring a review of its decision.
	Mr Tibbitt did not receive a response to his requirement for review.
11 October 2015	Mr Tibbitt wrote to the Commissioner's Office, stating that he was dissatisfied with the Council's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
30 October 2015	The Council was notified in writing that an application had been received from Mr Tibbitt and was invited to comment on the application.
13 November 2015	The Commissioner received submissions from the Council. These submissions are considered below.

Commissioner's analysis and findings

1. The Council acknowledged that it had not responded to Mr Tibbitt's requirement for review within the statutory timescales, explaining this was due to an administrative oversight.
2. 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.
3. It is a matter of fact that the Council did not provide a response to Mr Tibbitt's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
4. The Council responded to Mr Tibbitt's requirement for review on 13 November 2015, so the Commissioner does not require it take any further action in relation to Mr Tibbitt's application.
5. The Commissioner notes that the Council apologised to Mr Tibbitt for its failure to respond to his requirement for review in time.

Decision

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

The Commissioner does not require the Council to take any action in respect of this failure, in response to Mr Tibbitt's application, given that a review outcome has now been issued.

Appeal

Should either Mr Tibbitt or the 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.

Alison Davies
Deputy Head of Enforcement

17 November 2015

Scottish Information Commissioner

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