

# Decision Notice

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**Decision 146/2016: Ms Claire Miller and Falkirk Council**

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**Social Care Services: failure to respond within statutory timescales**

Reference No: 201601054

Decision Date: 30 June 2016



Scottish Information  
Commissioner

## Summary

On 12 February 2016, Ms Miller asked Falkirk Council (the Council) for information about the number of people waiting for social care packages. 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 Ms Miller's requirement for review within the timescale set down by FOISA.

## Background

Date	Action
12 February 2016	Ms Miller made an information request to the Council.
15 February 2016	Although the Council acknowledged the request, it did not respond to the information request.
8 March 2016	The Council sought clarification of the request, which Ms Miller provided on 14 March 2016.
26 April 2016	Ms Miller wrote to the Council requiring a review of its failure to respond.
	Ms Miller did not receive a response to her requirement for review.
31 May 2016	Ms Miller wrote to the Commissioner's Office, stating that she was dissatisfied with the Council's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
6 June 2016	The Council was notified in writing that an application had been received from Ms Miller and was invited to comment on the application.
20 June 2016	The Commissioner received submissions from the Council. These submissions are considered below.

## Commissioner's analysis and findings

1. The Council has accepted that it had not responded to Ms Miller's request and requirement for review, acknowledging administrative failure in handling the request, compounded by a number of wider organisational factors.
2. 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.
3. It is a matter of fact that the Council did not provide a response to Ms Miller's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
4. 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.

5. It is a matter of fact that the Council did not provide a response to Ms Miller's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
6. The Council responded to Ms Miller's requirement for review on 24 June 2016, and the Commissioner does not require it to take any further action in relation to Ms Miller's application. The Commissioner was provided with a copy of the review response.
7. The Commissioner notes that the Council has apologised to Ms Miller for its failure to comply with the statutory timescales for responding to her request and requirement for review.

## **Decision**

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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 Ms Miller. In particular, the Council failed to respond to Ms Miller'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 issued, the Commissioner does not require the Council to take any action in respect of these failures, in response to Ms Miller's application.

## **Appeal**

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Should either Ms Miller or Falkirk Council (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**

**30 June 2016**

**Scottish Information Commissioner**

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