

Decision Notice

Decision 116/2017: Mr Brian Gourlay and West Dunbartonshire Council

Queries regarding correspondence from the Council: failure to respond within statutory timescales

Reference No: 201701041
Decision Date: 25 July 2017



Scottish Information
Commissioner

Summary

On 11 January 2017, West Dunbartonshire Council (the Council) was asked for information which would clarify aspects of its correspondence. This decision finds that the Council failed to respond to the requirement for review within the timescale set down by Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
11 January 2017	Mr Gourlay made an information request to the Council.
7 February 2017	The Council responded to the information request.
14 February 2017	Mr Gourlay wrote to the Council requiring a review of its decision.
	Mr Gourlay did not receive a response to his requirement for review.
21 June 2017	Mr Gourlay emailed 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.
10 July 2017	The Council was notified in writing that an application had been received from Mr Gourlay and was invited to comment on the application.
24 July 2017	The Commissioner received submissions from the Council. These submissions are considered below.

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 Gourlay'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 Council acknowledged that it had failed to respond to Mr Gourlay's requirement for review, and provided a response on 24 July 2017. The Council has apologised to Mr Gourlay for the delay in responding, and the Commissioner does not require the Council to take any further action in relation to his application.

Decision

The Commissioner finds that West Dunbartonshire 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 Gourlay. In particular, the Council failed to respond to Mr Gourlay's requirement for review within the timescales 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 Gourlay's application, given that a response has now been issued.

Appeal

Should either Mr Gourlay or West Dunbartonshire 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

25 July 2017

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