

Decision Notice

Decision 168/2017: Ms Dawn Bingham and West Lothian Council

Information relating to a protected disclosure: failure to respond within statutory timescales

Reference No: 201701317

Decision Date: 10 October 2017



Scottish Information
Commissioner

Summary

On 2 June 2017, Ms Bingham asked West Lothian Council (the Council) for information relating to a protected disclosure. 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 Bingham's requirement for review within the timescale set down by FOISA.

As the Council has now provided a review outcome to Ms Bingham, the Commissioner does require it to take any further action in relation to these breaches.

Background

Date	Action
2 June 2017	Ms Bingham made an information request to the Council.
	The Council did not respond to the information request.
6 July 2017	Ms Bingham wrote to the Council, requiring a review in respect of its failure to respond.
	Ms Bingham did not receive a response to her requirement for review.
5 September 2017	Ms Bingham 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.
14 September 2017	The Council was notified in writing that an application had been received from Ms Bingham and was invited to comment on the application.
4 October 2017	The Commissioner received submissions from the Council. These submissions are considered below.

Commissioner's analysis and findings

1. 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.
2. It is a matter of fact that the Council did not provide a response to Ms Bingham's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
3. 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.

4. It is a matter of fact that the Council did not provide a response to Ms Bingham's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
5. The Council responded to Ms Bingham's requirement for review on 4 October 2017, so the Commissioner does not require it to take any further action in relation to Ms Bingham's application.
6. The Commissioner notes that the Council has apologised to Ms Bingham for its failures and admitted that the initial request was overlooked. As a result the Commissioner does not require the Council to take any further action in relation in this case. She would however remind the Council of the importance of taking its obligations under FOISA seriously.

Decision

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

The Commissioner does not require the Council to take any action in respect of these failures, in response to Ms Bingham's application, given that it has now provided her with a review outcome.

Appeal

Should either Ms Bingham 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. Any such appeal must be made within 42 days after the date of intimation of this decision.

Euan McCulloch
Deputy Head of Enforcement

10 October 2017

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