

Decision Notice

Decision 188/2017: UNISON Scotland and Glasgow City Council

The Council's building standards team: failure to respond within statutory timescales

Reference No: 201701551

Decision Date: 14 November 2017



Scottish Information
Commissioner

Summary

On 3 May 2017, UNISON Scotland (UNISON) asked Glasgow City Council (the Council) for information about its building standards team. 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).

Background

Date	Action
3 May 2017	UNISON made an information request to the Council.
	The Council did not respond to the information request.
15 June 2017	UNISON wrote to the Council requiring a review in respect of its failure to respond.
26 June 2017	UNISON received a response to its requirement for review.
30 August 2017	UNISON wrote to the Commissioner's Office, stating that it was dissatisfied with the Council's failure to respond to its information request and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
23 October 2017	The Council was notified in writing that an application had been received from UNISON and was invited to comment on the application.
7 November 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 UNISON's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
3. In its application to the Commissioner, UNISON submitted that it was dissatisfied with the content of the Council's review outcome, and was not assured that the Council had reviewed its failure to respond. UNISON argued that while the Council had apologised for this failure, it had not commented on what had gone wrong, why it had not sent a response, or whether this might occur again.
4. UNISON stated that it had needed the information in order to inform a report. The Council's failure to respond timeously to its information request meant that UNISON had to compile its report without having access to the Council's response. Even though the Council had later provided the information it had requested, it was too late for the purpose of compiling a report comparing situations across a number of public bodies.

5. In its submissions, the Council explained that the initial request was logged and allocated to its Development and Regeneration Service (DRS), but, due to a lack of staff resource, DRS failed to respond to the request within the statutory timescale. The Council stated that it takes its obligation under FOI very seriously, and, despite being under significant financial and resource pressures, it is committed to ensuring that FOI matters are properly resourced.
6. The Council stated that it has recently undergone a major review of its FOI handling procedures, and is in the process of establishing a centralised team who will process, log, co-ordinate and respond to FOI requests. This will allow best practice to be shared amongst officers and will improve the quality and response time for FOI requests. The Council has approved funding of new staff positions within its FOI team.
7. The Council stated that it is committed to improving FOI response times and explained that FOI statistics are reported on a departmental basis and shared at the Council's quarterly FOI Forum. This enables the Council to monitor compliance, identify enhancements to existing arrangements and ensure necessary action is taken across the Council.
8. The Council explained that there is currently an internal audit underway on FOI processes within the Council, which will examine FOI and EIR policies, procedures and guidance as well as roles and responsibilities within the organisation. This includes a sample of requests where responses were not issued within the statutory timescale.
9. The Council noted UNISON's comments regarding its failure to explain why it did not respond within the statutory timescales. It noted that, on receipt of UNISON's request for review, it carried out a full investigation and disclosed the requested information to UNISON in its review outcome. The Council reiterated that its failure to comply with the timescale specified in section 10(1) of FOISA was due to a lack of staff resources.
10. The Council stated that the matter has also been brought to the attention of senior management within the DRS. In order to improve its responses, the DRS has reviewed its procedures and taken the necessary steps to ensure it is monitoring responses when the centralised team engage with it over new requests. New guidance has recently been issued to DRS staff. The Council reiterated its apology to UNISON for the delay in responding to its request.
11. The Commissioner acknowledges that the Council complied with section 21(4) of FOISA in responding to UNISON's request for review, and that it disclosed the information requested by UNISON with an apology for the delay. However, the initial failure to respond within 20 working days meant that the information could not be used by UNISON. This illustrates the importance of authorities responding timeously to requests for information. The Commissioner welcomes the steps taken by the Council and hopes these will help prevent a reoccurrence of the timescale failure.

Decision

The Commissioner finds that Glasgow City 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 UNISON Scotland (UNISON). In particular, the Council failed to respond to UNISON's request for information within the timescales laid down by section 10(1) of FOISA.

The Commissioner does not require the Council to take any action in respect of this failure, in

response to UNISON's application, given that a review has been carried out and the outcome has been communicated to UNISON.

Appeal

Should either UNISON Scotland or Glasgow City 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

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