

# Decision Notice

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**Decision 001/2018: Ms Claire Miller and Angus Council**

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**Social Care Package delays: failure to respond within statutory timescales**

Reference No: 201702087

Decision Date: 8 January 2018



Scottish Information  
Commissioner

## Summary

Angus Council (the Council) was asked for information about the number of people who have died while waiting for a social care package to commence, or who waited more than a year. This decision finds that the Council failed to respond to the requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

## Background

Date	Action
19 September 2017	Ms Miller made an information request to the Council.
22 September 2017	The Council responded to the information request.
22 September 2017	Ms Miller wrote to the Council requiring a review of its decision.
27 October 2017	Ms Miller sent a reminder as she had not received a response to her requirement for review.
17 November 2017	Ms Miller wrote to the Commissioner's Office, stating that she 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.
6 December 2017	The Council was notified in writing that an application had been received from Ms Miller and was invited to comment on the application.
20 December 2017	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 carried out a review within the timescale allowed and apologised to the Commissioner for its failure to do so.
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 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.
4. The Council responded to Ms Miller's requirement for review on 18 December 2017, so 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.
5. The Commissioner recommends that the Council considers whether it would be appropriate to apologise to Ms Miller for its failure to respond timeously to her requirement for review.

## **Decision**

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The Commissioner finds that Angus 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 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 Ms Miller's application, given that a response has now been issued.

## **Appeal**

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Should either Ms Miller or Angus 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**

**8 January 2018**

**Scottish Information Commissioner**

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