

Decision Notice

Decision 096/2018: Mr Mark Irvine and Glasgow City Council

Equal pay claims (costs): failure to respond within statutory timescales

Reference No: 201800713

Decision Date: 28 June 2018



Scottish Information
Commissioner

Summary

On 3 January 2018, Mr Irvine asked Glasgow City Council (the Council) for information pertaining to the costs of dealing with equal pay claims. 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 Mr Irvine's requirement for review within the timescale set down by FOISA.

As the Council subsequently provided a review response, the Commissioner does not require it to take any further action in response to these breaches.

Background

Date	Action
3 January 2018	Mr Irvine made an information request to the Council.
10 January 2018	The Council sought clarification of Mr Irvine's request.
11 January 2018	Mr Irvine provided the requested clarification, but the Council did not provide a response to his request.
27 February 2018	Mr Irvine wrote to the Council, requiring a review in respect of its failure to respond. Mr Irvine did not receive a response to his requirement for review.
24 April 2018	Mr Irvine wrote to the Commissioner's Office, stating that he 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.
28 May 2018	The Council was notified in writing that an application had been received from Mr Irvine and was invited to comment on the application.
12 June 2018	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 Mr Irvine'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 Mr Irvine'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 Mr Irvine's requirement for review on 12 June 2018. The Commissioner notes that this response included an apology for its failures to comply with the relevant timescales, which it explained were due to human error. In its submissions to the Commissioner, it identified a delay in collating the requested information, which it attributed to a misunderstanding as to what information was held: any question as to what is held would, of course, require to be the subject of a separate application from Mr Irvine.
6. As the Council has now responded to Mr Irvine's request, the Commissioner does not require it to take any further action in relation to the present application. He would remind the Council, however, that the timescales for compliance with FOISA are absolute and are not subject to exceptions.

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 Mr Irvine. In particular, the Council failed to respond to Mr Irvine'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 Mr Irvine's application, given that a review response has now been provided.

Appeal

Should either Mr Irvine or 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.

Euan McCulloch
Deputy Head of Enforcement

28 June 2018

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