

Decision Notice 142/2020

Student Placements – failure to respond

Applicant: The Applicant

Public authority: Argyll College

Case Ref: 202000993



Scottish Information
Commissioner

Summary

The Applicant asked Argyll College (the College) for information about student placements. This decision finds that the College 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 College failed to comply with the Applicant's requirement for review within the timescale set down by FOISA.

The Commissioner has ordered the College to comply with the requirement for review.

Background

1. On 3 June 2020, the Applicant made an information request to the College. The Applicant made their request to the College using the What Do They Know website. On 5 June 2020, the Applicant restricted the request to a period of five academic years.
2. The College did not respond to the information request.
3. On 7 July 2020, the Applicant wrote to the College requiring a review of its failure to respond.
4. On 20 July 2020, the College acknowledged the request, but stated that it had not been received and requested that the Applicant submit their request using "the correct email address".
5. On 24 July 2020, the Applicant wrote to the College stating that it had clearly received her request as the College was communicating through the same platform and asked that it respond to her requirement for review.
6. The Applicant did not receive a response to her requirement for review.
7. On 30 August 2020 the Applicant wrote to the Commissioner, stating that she was dissatisfied with the College's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
8. On 1 October 2020, the College was notified in writing that an application had been received from the Applicant and was invited to comment on the application.
9. The College did not provide the Commissioner with any submissions.

Commissioner's analysis and findings

10. 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.
11. It is a matter of fact that the College did not provide a response to the Applicant's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
12. 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.

13. It is a matter of fact that the College did not provide a response to the Applicant's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
14. The remainder of section 21 sets out the requirements to be followed by a Scottish public authority in carrying out a review. As no review has been carried out in this case, the Commissioner finds that the College failed to discharge these requirements: he now requires a review to be carried out in accordance with section 21.
15. The Commissioner recommends that the College considers whether it would be appropriate to apologise to the Applicant for its failure to comply.

Decision

The Commissioner finds that Argyll College (the College) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2020 (FOISA) in dealing with the information request made by the Applicant. In particular, the College failed to respond to the Applicant's request for information and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA.

The Commissioner requires the College to respond to the Applicant's request for review, by **Tuesday 29 December 2020**.

Appeal

Should either the Applicant or Argyll College 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.

Enforcement

If Argyll College (the College) fails to comply with this decision, the Commissioner has the right to certify to the Court of Session that the College has failed to comply. The Court has the right to inquire into the matter and may deal with the College as if it had committed a contempt of court.

Claire Stephen
Deputy Head of Enforcement

10 November 2020

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