

# Decision Notice 072/2021

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## Annual course monitoring forms – failure to respond

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**Applicant: The Applicant**

**Public authority: Board of Management of Perth College**

**Case Ref: 202100401**



Scottish Information  
Commissioner

## Summary

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The Applicant asked the Board of Management of Perth College (PC) for information about an annual monitoring form for COSCA validated courses. This decision finds that PC failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that PC failed to comply with the Applicant's requirement for review within the timescale set down by FOISA.

## Background

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1. The Applicant made an information request to PC on 15 January 2021.
2. PC responded to the information request on 15 February 2021.
3. On 17 February 2021, the Applicant wrote to PC requiring a review of its decision.
4. The Applicant did not receive a response to her requirement for review.
5. The Applicant wrote to the Commissioner on 28 March 2021, stating that she was dissatisfied with PC's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
6. On 29 March 2021, PC was notified in writing that an application had been received from the Applicant and was invited to comment on the application.
7. PC responded to the Commissioner on 14 April 2021 and confirmed that a review outcome would be issued to the Applicant by 19 April 2021. The response was issued on that date, including PC's apologies for not responding to the requirement for review timeously.

## Commissioner's analysis and findings

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8. 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.
9. It is a matter of fact that PC 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.
10. 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.
11. It is a matter of fact that PC 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.
12. The remainder of section 21 sets out the requirements to be followed by a Scottish public authority in carrying out a review.
13. PC responded to the Applicant's requirement for review, with an apology for the late response, on 19 April 2021, so the Commissioner does not require it to take any further action in relation to the Applicant's application.

## **Decision**

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The Commissioner finds that the Board of Management of Perth College (PC) 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, PC 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 does not require PC to take any action in respect of these failures, in response to the Applicant's application, given that a response to the requirement for review was issued on 19 April 2021.

## **Appeal**

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Should either the Applicant or PC 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**

**11 May 2021**

**Scottish Information Commissioner**

Kinburn Castle  
Doubledykes Road  
St Andrews, Fife  
KY16 9DS

t 01334 464610

f 01334 464611

[enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info)

**[www.itspublicknowledge.info](http://www.itspublicknowledge.info)**