

Decision Notice 071/2022

War Memorial – failure to respond

Applicant: The Applicant

Public authority: Falkirk Council

Case Ref: 202200390



Scottish Information
Commissioner

Summary

The Applicant asked Falkirk Council (the Council) to confirm if money was allocated to build a war memorial at a specified place. This decision finds that the Council failed to comply with the Applicant's requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

1. On 10 January 2022, the Applicant made an information request to the Council.
2. The Council responded to the information request on 8 February 2022, stating that the information was not held.
3. On 9 February 2022, the Applicant wrote to the Council requiring a review of its decision.
4. Although the Applicant received an acknowledgement on 11 February 2022, he did not receive a response to his requirement for review.
5. The Applicant wrote to the Commissioner on 3 April 2022, stating that he was dissatisfied with the Council's failure to respond to his requirement for review and applied to the Commissioner for a decision in terms of section 47(1) of FOISA.
6. On 14 April 2022, the Council was notified in writing that an application had been received from the Applicant and was invited to comment on the application.
7. The Commissioner received submissions from the Council. These submissions are considered below.

Commissioner's analysis and findings

8. The Council acknowledged that it had not responded to the Applicant's requirement for review in time.
9. Section 21(1) of FOISA gives Scottish public authorities a maximum of 20 working days following the date of receipt of a requirement to comply with a requirement for review. This is subject to qualifications which are not relevant in this case.
10. It is a matter of fact that the Council 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.
11. The Council responded to the Applicant's requirement for review on 21 April 2022, so the Commissioner does not require it to take any further action in relation to the Applicant's application.
12. The Commissioner notes that the Council has apologised to the Applicant for its failure to respond to the requirement for review in time.

Decision

The Commissioner finds that Falkirk Council (the Council) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in dealing with the information request made by the Applicant. In particular, the Council failed to respond to the Applicant's requirement for review within the timescale laid down by section 21(1) of FOISA.

Appeal

Should either the Applicant or Falkirk 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.

Colin MacFadyen
Acting Deputy Head of Enforcement

20 June 2022

Scottish Information Commissioner

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