

Decision Notice

Decision 059/2015: Mrs Isobel Stadelle and East Dunbartonshire Leisure and Culture Trust

Internal job vacancies at East Dunbartonshire Council: failure to respond within statutory timescales

Reference No: 201500477

Decision Date: 28 April 2015



Scottish Information
Commissioner

Summary

On 1 September 2014, Mrs Stadele asked East Dunbartonshire Leisure and Culture Trust (EDLCT) for information about EDLCT staff applying for internal vacancies within East Dunbartonshire Council. This decision finds that EDLCT failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that EDLCT failed to comply with Mrs Stadele's requirement for review within the timescale set down by FOISA.

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

Background

Date	Action
1 September 2014	Mrs Stadele made an information request to EDLCT.
	EDLCT did not respond to the information request.
6 October 2014	Mrs Stadele wrote to EDLCT to ask for details of where to send her requirement for review.
9 October 2014	As Mrs Stadele had not received a reply by this date she wrote to EDLCT's generic email address, requiring a review in respect of its failure to respond.
15 October 2014	Mrs Stadele received an acknowledgement, apologising for the delay in responding and providing the requested contact details.
	Mrs Stadele did not receive a response to her requirement for review.
6 March 2015	Mrs Stadele wrote to the Commissioner's Office, stating that she was dissatisfied with EDLCT's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
30 March 2015	EDLCT was notified in writing that an application had been received from Mrs Stadele and was invited to comment on the application.
10 April 2015	The Commissioner received submissions from EDLCT. These submissions are considered below.

Commissioner's analysis and findings

1. EDLCT informed the Commissioner that a response was given to Mrs Stadele on 9 October 2014 and a copy was provided for the investigation. This response was sent by East Dunbartonshire Council's (EDC's) Freedom of Information Officer, in response to a separate request made to EDC and not EDLCT.
2. EDLCT, which is a separate public authority from EDC, has not responded to Mrs Stadele's requirement for review.

3. 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.
4. It is a matter of fact that EDLCT did not provide a response to Mrs Stadele's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
5. 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.
6. It is a matter of fact that EDLCT did not provide a response to Mrs Stadele's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
7. 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 EDLCT failed to discharge these requirements: she now requires a review to be carried out in accordance with section 21.
8. Although the requests to each authority were similar, it should be noted that the request to EDLCT had a fourth element to it.

Decision

The Commissioner finds that East Dunbartonshire Leisure and Culture Trust (EDLCT) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mrs Stadele. In particular, EDLCT failed to respond to Mrs Stadele'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 EDLCT to provide a response to Mrs Stadele's requirement for review, by **Friday 12 June 2015**.

Appeal

Should either Mrs Stadele or East Dunbartonshire Leisure and Culture Trust 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 East Dunbartonshire Leisure and Culture Trust (EDLCT) fails to comply with this decision, the Commissioner has the right to certify to the Court of Session that EDLCT has failed to comply. The Court has the right to inquire into the matter and may deal with EDLCT as if it had committed a contempt of court.

Euan McCulloch
Deputy Head of Enforcement

28 April 2015

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