

Decision Notice

Decision 189/2017: Ms Jacqueline Carter Brown and West Lothian Council

Counselling Service: failure to respond within statutory timescales

Reference No: 201701649

Decision Date: 14 November 2017



Scottish Information
Commissioner

Summary

West Lothian Council (the Council) was asked for information about numbers of young people referred to the Council's Counselling Service. This decision finds that the Council failed to respond to the requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
27 July 2017	Ms Carter Brown made an information request to the Council.
9 August 2017	The Council responded to the information request.
15 August 2017	Ms Carter Brown wrote to the Council requiring a review of its decision.
	Ms Carter Brown did not receive a response to her requirement for review.
16 and 19 September 2017	As Ms Carter Brown had still not received a response after 20 working days had passed, she sent reminder emails, asking the Council to respond to her requirement for review.
19 September 2017	Ms Carter Brown wrote to the Commissioner's Office, stating that she was dissatisfied with the Council's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
25 October 2017	The Council was notified in writing that an application had been received from Ms Carter Brown and was invited to comment on the application.
3 and 10 November 2017	The Commissioner received submissions from the Council. These submissions are considered below.

Commissioner's analysis and findings

1. After receiving notification from the Commissioner's office, the Council acknowledged that Ms Carter Brown had not received a response to her requirement for review, explaining this had been overlooked. The Council apologised for this omission.
2. The Council confirmed that a review was being carried out. The Commissioner received a copy of the Council's review response to Ms Carter Brown on 10 November 2017.
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. 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 Ms Carter Brown's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.

5. As the Council responded to Ms Carter Brown's requirement for review on 10 November 2017, the Commissioner does not require it to take any further action in relation to her application.
6. The Commissioner notes that the Council has apologised to Ms Carter Brown for its failure to respond in time to her requirement for review.

Decision

The Commissioner finds that West Lothian 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 Ms Carter Brown. In particular, the Council failed to respond to Ms Carter Brown's requirement for review within the timescales laid down by section 21(1) of FOISA.

The Commissioner does not require the Council to take any action in respect of this failure, in response to Ms Carter Brown's application, given that a response has now been issued.

Appeal

Should either Ms Carter Brown or West Lothian Council (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.

Alison Davies
Deputy Head of Enforcement

14 November 2017

Scottish Information Commissioner

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