

Decision Notice

Decision 178/2018: Ms C and Glasgow City Council

Primary school deferral applications: failure to respond within statutory timescales

Reference No: 201801652

Decision Date: 8 November 2018



Scottish Information
Commissioner

Summary

On 14 July 2018, Ms C asked Glasgow City Council (the Council) for information about primary school deferral applications for 2013 - 2018. This decision finds that the Council 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 Council failed to comply with Ms C's requirement for review within the timescale set down by FOISA.

Background

Date	Action
14 July 2018	Ms C made an information request to the Council.
	The Council did not respond to the information request.
2 September 2018	Ms C wrote to the Council in respect of its failure to respond.
	Ms C did not receive a response to her requirement for review.
2 October 2018	Ms C wrote to the Commissioner's Office, stating that she was dissatisfied with the Council's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
11 October 2018	The Council was notified in writing that an application had been received from Ms C and was invited to comment on the application.
19 October 2018	The Commissioner received submissions from the Council. These submissions are considered below.

Commissioner's analysis and findings

1. 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
2. It is a matter of fact that the Council did not provide a response to Ms C's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
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. Again, 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 C's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.

5. The Council responded to Ms C's requirement for review on 19 October 2018, with an apology for its failure to respond in time, and the Commissioner does not require it to take any further action in relation to Ms C's application.
6. The Council has explained to the Commissioner the reasons why it failed to respond to Ms C's request and request for review. In summary, there were a series of administrative errors and technology issues. The Council has explained what action it has taken to remedy the problems so that similar issues do not arise in future.

Decision

The Commissioner finds that 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 C. In particular, the Council failed to respond to Ms C'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 the Council to take any action in respect of these failures, in response to Ms C's application, given that a review response was issued on 19 October 2018.

Appeal

Should either Ms C or 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.

Enforcement

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

Alison Davies
Deputy Head of Enforcement

8 November 2018

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