



Scottish Information
Commissioner
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Decision Notice 070/2025

Direct payments for counselling since 1 September 2023 – failure to respond

Applicant: The Applicant

Authority: City of Edinburgh Council

Case Ref: 202500230

Summary

The Applicant asked the Authority for information about the number of times the Authority allowed direct payments to be used towards counselling since 1 September 2023. This decision finds that the Authority failed to respond to the Applicant's requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

1. The Applicant made an information request to the Authority on 29 November 2024.
2. The Authority responded to the information request on 3 January 2025.
3. On 6 January 2025, the Applicant wrote to the Authority requiring a review of its decision.
4. The Applicant did not receive a response to their requirement for review.
5. The Applicant wrote to the Commissioner on 7 February 2025, stating that they were dissatisfied with the Authority's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
6. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.

Investigation

7. Section 49(3)(a) of FOISA requires the Commissioner to notify public authorities of an application and to give them an opportunity to comment. The Commissioner did this on 11 February 2025.
8. The Commissioner received submissions from the Authority. These submissions are considered below.
9. The Authority advised that the Applicant's requirement for review was overlooked due to an administrative oversight.
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. This is subject to qualifications which are not relevant in this case.
11. It is a matter of fact that the Authority 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. The Authority responded to the Applicant's requirement for review on 11 February 2025, so the Commissioner does not require it to take any further action in relation to the Applicant's application.
14. The Commissioner notes that the Authority apologised to the Applicant on 11 February 2025 for the late response to their requirement for review.

Decision

The Commissioner finds that the Authority 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 Authority failed to respond to the Applicant's requirement for review within the timescale laid down by section 21(1) of FOISA. Given that the Authority has now responded to the Applicant's requirement for review, he does not require the Authority to take any action.

Appeal

Should either the Applicant or the Authority 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.

Cal Richardson
Deputy Head of Enforcement

21 March 2025