

Decision Notice 001/2020

Youth Engagement Review: failure to respond

The Applicant

Public authority: Falkirk Council

Case Ref: 201902163



Scottish Information
Commissioner

Summary

On 20 September 2019, the Applicant asked Falkirk Council (the Council) for information about its Youth Engagement Review. 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 the Applicant's requirement for review within the timescale set down by FOISA.

Background

Date	Action
20 September 2019	The Applicant made an information request to the Council.
	The Council did not respond to the information request.
22 October 2019	The Applicant wrote to the Council, seeking a review in respect of its failure to respond.
	The Applicant did not receive a response to his requirement for review.
26 November 2019	The Applicant wrote to the Commissioner's Office, stating that he 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.
26 November 2019	The Council was notified in writing that an application had been received from the Applicant and was invited to comment on the application.
	The Council did not provide the Commissioner with any submissions.

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 the Applicant'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 the Applicant's requirement for review within 20 working days, so the Commissioner finds that it did not comply with section 21(1) of FOISA.

5. The remainder of section 21 sets out the requirements to be followed by a Scottish public authority in carrying out a review.
6. The Council responded to the applicant's requirement for review on 16 December 2019, with an apology for the delays in handling his request, so the Commissioner does not require it to take any further action in relation to the applicant's appeal.

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 responding to the information request made by the Applicant. In particular, the Council failed to respond to the Applicant'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 the application, given that a review outcome was issued on 16 December 2019.

Appeal

Should either the Applicant 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.

Euan McCulloch
Deputy Head of Enforcement

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