

Decision Notice



Decision 003/2014 Mr John Munro and East Dunbartonshire Council

Care services and accident: failure to respond within statutory timescales

Reference No: 201302880

Decision Date: 10 January 2014

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Rosemary Agnew

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews KY16 9DS
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Summary

On 8 July 2013, Digby Brown Solicitors, on behalf of Mr Munro, asked East Dunbartonshire Council (the Council) for information about care services relating to Mr Munro's accident. This decision finds that the Council failed to respond to the request within the timescales allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that the Council failed to comply with Mr Munro's request for review within the timescales set down by FOISA.

The Commissioner has ordered the Council to comply with the request for review.

Background

Date	Action
8 July 2013	Mr Munro's solicitors made an information request to the Council on his behalf.
	The Council did not respond to the information request.
24 September 2013	Mr Munro wrote to the Council requesting a review in respect of its failure to respond.
	Mr Munro did not receive a response to his requirement for review.
3 December 2013	Mr Munro's solicitors wrote to the Commissioner's Office on his behalf, stating that he was dissatisfied with those failures and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
11 December 2013	The Council was notified in writing that an application had been received from Mr Munro and was invited to comment on the application.
6 January 2014	The Commissioner received submissions from the Council. Its submissions are considered below.



Commissioner's analysis and findings

1. The Council acknowledged that it had not responded to Mr Munro's request or requirement for review within the statutory timescales.
2. The Council confirmed that a response would be sent to Munro: this had not been done by the time of this decision.
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 the Council did not provide a response to Mr Munro'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 the Council did not provide a response to Mr Munro'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 the Council failed to discharge these requirements: she now requires a review to be carried out in accordance with section 21.

DECISION

The Commissioner finds that East Dunbartonshire Council (the Council) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in dealing with the information request made by Mr Munro. In particular, the Commissioner finds that the Council failed to respond to Mr Munro'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 the Council to provide Mr Munro with a response to his requirement for review, in accordance with the requirements of section 21 of FOISA, by **Monday 24 February 2014**.

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and East Dunbartonshire Council



Appeal

Should either Mr Munro or East Dunbartonshire Council wish to appeal against this decision, they have the right to appeal to the Court of Session on a point of law only. The appeal must be made within 42 days after the date of intimation of this decision.

Euan McCulloch
Deputy Head of Enforcement
10 January 2014