

Decision Notice 007/2021

Firhall Bridge, Nairn – failure to respond

Applicant

Public authority: Highland Council

Case Ref: 202001238



Scottish Information
Commissioner

Summary

The Applicant asked Highland Council (the Council) for information about Firhall Bridge, Nairn. 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

1. The Applicant made an information request to the Council on 9 August 2020.
2. The Council did not respond to the information request.
3. On 24 September 2020, the Applicant wrote to the Council requiring a review of its failure to respond.
4. The Applicant did not receive a response to his requirement for review.
5. On 17 October 2020, the Applicant wrote to the Commissioner, 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.
6. On 11 November 2020, the Council was notified in writing that an application had been received from the Applicant and was invited to comment on the application.
7. The Commissioner received submissions from the Council. These submissions are considered below.

Commissioner's analysis and findings

8. 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.
9. 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.
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, subject to qualifications.
11. 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 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 Council responded to the Applicant's requirement for review on 8 December 2020 by issuing a refusal notice, informing the Applicant that request was considered a repeat request. The refusal notice provided the Applicant of his right to appeal to the Commissioner in respect of the Council's decision to issue a refusal notice.

14. The Commissioner does not require the Council to take any further action in relation to the Applicant's application given that a refusal notice was issued on 8 December 2020.

Decision

The Commissioner finds that Highland Council (the Council) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2020 (FOISA) dealing with 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) of 21(1) of FOISA.

The Commissioner does not require the Council to take any action in respect of these failures in response to the Applicant's application, given that a refusal notice was issued on 8 December 2020.

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.

Claire Stephen
Deputy Head of Enforcement

15 January 2021

Scottish Information Commissioner

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