

Decision Notice



Decision 014/2014 Mr L and Stirling Council

Glenochil Prison Visiting Committee: failure to respond within statutory timescales

Reference No: 201302932

Decision Date: 28 January 2014

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Rosemary Agnew

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews KY16 9DS
Tel: 01334 464610



Summary

On 6 October 2014, Mr L asked Stirling Council (the Council) for information about the Glenochil Prison Visiting Committee. This decision finds that the Council failed to respond to the request for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
6 October	Mr L made an information request to the Council.
29 October 2013	The Council responded to the information request.
3 November 2013	Mr L wrote to the Council requesting a review of its decision.
	Although Mr L was sent an acknowledgement on 11 November 2013, Mr L did not receive a response to his requirement for review.
7 December 2013	Mr L wrote to the Commissioner's Office, stating that he was dissatisfied with that failure and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
10 January 2014	The Council was notified in writing that an application had been received from Mr L and was invited to comment on the application.
15 January 2014	The Commissioner received submissions from the Council. Its submissions are considered below.



Commissioner's analysis and findings

1. The Council confirmed that its response to Mr L's requirement for review (which it received on 6 November 2013) was posted to him on 9 December 2013. That response does not appear to have been received by Mr L: the Council was unable to offer any explanation of why it was not received, or any proof of posting. The response was resent to Mr L on 15 January 2014 and Mr L confirmed receipt.
2. 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.
3. Even assuming it did respond on 9 December 2013, it is a matter of fact that the Council did not provide a response to Mr L's requirement for review within 20 working days. Therefore, the Commissioner finds that it failed to comply with section 21(1) of FOISA.
4. As the Council has responded to Mr L's requirement for review, the Commissioner does not require it to take any further action in relation to Mr L's application.

DECISION

The Commissioner finds that Stirling 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 L. In particular, the Commissioner find that the Council failed to respond to Mr L's requirement for review within the timescale laid down by section 21(1) of FOISA.

Given that Mr L has now received the Council's response to his requirement for review, the Commissioner does not require the Council to take any action in respect of this failure, in response to Mr L's application.



Appeal

Should either Mr L or Stirling 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
28 January 2014