

Decision Notice

Decision 021/2018: Mr Doug Paulley and Midlothian Council

Wheelchair accessible taxis/private hire vehicles: failure to respond within statutory timescales

Reference No: 201800177

Decision Date: 22 February 2018



Scottish Information
Commissioner

Summary

Midlothian Council (the Council) was asked whether it published a list of vehicles accessible to passengers in wheelchairs who could transfer themselves into a seat within the vehicle. This decision finds that the Council failed to respond to the requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

| Date | Action |
|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4 November 2017 | Mr Paulley made an information request to the Council. |
| 4 December 2017 | The Council responded to the information request. |
| 7 December 2017 | Mr Paulley wrote to the Council, requiring a review of its failure to respond to part of the request. |
| | Mr Paulley did not receive a response to his requirement for review. |
| 25 January 2018 | Mr Paulley wrote to the Commissioner's Office, stating that he was dissatisfied with the Council's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA. |
| 1 February 2018 | The Council was notified in writing that an application had been received from Mr Paulley and was invited to comment on the application. |
| 15 February 2018 | The Commissioner received submissions from the Council. These submissions are considered below. |

Commissioner's analysis and findings

1. The Council confirmed that it had received Mr Paulley's requirement for review. It acknowledged that it had not responded, because its automated portal system had transferred the requirement to a generic email address. Due to staff shortages and an administration error, the email had not been picked up and therefore was not dealt with.
2. The Council confirmed that it had taken steps to prevent this from happening again. The Commissioner welcomes this.
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. 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 Paulley's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.

5. As the Council responded to Mr Paulley's requirement for review on 15 February 2018, the Commissioner does not require it to take any further action in relation to Mr Paulley's application.
6. The Commissioner notes that the Council has apologised for to Mr Paulley for its failure to respond.

Decision

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

The Commissioner does not require the Council to take any action in respect of this failure, in response to Mr Paulley's application, given that a response has now been issued.

Appeal

Should either Mr Paulley 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.

Euan McCulloch
Deputy Head of Enforcement

22 February 2018

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