

Decision Notice



Decision 047/2014 Mr William Lonsdale and Aberdeen City Council

Planning information: failure to respond within statutory timescales

Reference No: 201302889

Decision Date: 25 February 2014

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Rosemary Agnew

Scottish Information Commissioner

Kinburn Castle
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St Andrews KY16 9DS
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Summary

On 6 November 2013, Mr Lonsdale asked Aberdeen City Council (the Council) for information concerning a specified planning application. This decision finds that the Council failed to comply with Mr Lonsdale's requirement for review within the timescales set down by the Environmental Information (Scotland) Regulations 2004 (the EIRs).

Background

Date	Action
6 November 2013	Mr Lonsdale made an information request to the Council.
7 November 2013	The Council responded to the information request.
7 November 2013	Mr Lonsdale emailed the Council requiring a review of its decision.
	Mr Lonsdale did not receive a response to his requirement for review.
6 December 2013	Mr Lonsdale wrote to the Commissioner, stating that he was dissatisfied with that failure and applying to the Commissioner for a decision in terms of section 47(1) of FOISA. The enforcement provisions of FOISA apply to the enforcement of the EIRs, subject to specified modifications – see regulation 17.
10 February 2014	The Council was notified in writing that an application had been received from Mr Lonsdale and was invited to comment on the application.
21 February 2014	The Commissioner received submissions from the Council. Its submissions are considered below.



Commissioner's analysis and findings

1. From the terms of the request, it is apparent that the information caught by it is environmental information as defined by regulation 2(1) of the EIRs.
2. The Council informed the Commissioner that it had now carried out a review of its response to Mr Lonsdale's request and its review response had been sent to him on 21 February 2014. A copy of the response was provided to the Commissioner. Mr Lonsdale confirmed that he had received it.
3. Regulation 16(4) of the EIRs 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.
4. It is a matter of fact that the Council did not provide a response to Mr Lonsdale's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with regulation 16(4) of the EIRs.
5. Given that the Council responded to Mr Lonsdale's requirement for review on 21 February 2014, the Commissioner does not require it to take any further action in relation to Mr Lonsdale's application.

DECISION

The Commissioner finds that Aberdeen City Council (the Council) failed to comply with the Environmental Information (Scotland) Regulations 2004 (the EIRs) in responding to the information request made by Mr Lonsdale. The Council failed to respond to Mr Lonsdale's requirement for review within the timescales laid down regulation 16(4) of the EIRs.

Given that the Council has now responded to Mr Lonsdale's requirement for review, the Commissioner does not require the Council to take any action in response to this failure.

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William Lonsdale
and Aberdeen City Council



Appeal

Should either Mr Lonsdale or Aberdeen City 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.

Alison Davies
Deputy Head of Enforcement
25 February 2014