

# Decision Notice

---

**Decision 149/2016: Dr Ray Brettle and City of Edinburgh Council**

---

**Waste Lorry Details: failure to respond within statutory timescales**

Reference No: 201601059

Decision Date: 5 July 2016



Scottish Information  
Commissioner

## Summary

On 13 February 2016, Dr Brettle asked City of Edinburgh Council (the Council) for information about a vehicle which visited his property to deliver a replacement food caddie on a specified date, and which may have damaged a wall. 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 Dr Brettle's requirement for review within the timescale set down by FOISA.

## Background

| Date             | Action   |
|------------------|--|
| 13 February 2016 | Dr Brettle made an information request to the Council.   |
| 16 February 2016 | Although the Council acknowledged the request, it did not send a response.   |
| 28 March 2016    | Dr Brettle sent a reminder that he had not received a response to his request. The Council replied on 29 March 2016 advising that it would chase this up.  |
| 3 May 2016       | Dr Brettle did not receive a reply, so wrote to the Council requiring a review of its failure to respond.  |
|                  | Dr Brettle did not receive a response to his requirement for review.   |
| 2 June 2016      | Dr Brettle wrote to the Commissioner's Office, 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. |
| 8 June 2016      | The Council was notified in writing that an application had been received from Dr Brettle and was invited to comment on the application.   |
| 27 June 2016     | The Commissioner received submissions from the Council. These submissions are considered below.  |

## Commissioner's analysis and findings

1. The Council accepted that it had not responded to Dr Brettle's request and requirement for review, acknowledging administrative failure in handling the request.
2. The Council explained that it had taken steps to improve practice in this area, in particular requesting that the Council Officers involved with this request familiarise themselves with the Council's guidance on dealing with information requests. The Commissioner welcomes the steps being taken.
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 Dr Brettle'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 Dr Brettle'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 Council responded to Dr Brettle's requirement for review on 27 June 2016, and the Commissioner does not require it to take any further action in relation to Dr Brettle's application. The Commissioner was provided with a copy of the review response.
8. The Commissioner notes that the Council has apologised to Dr Brettle for its failure to comply with the statutory timescales for responding to his request and requirement for review.

## Decision

---

The Commissioner finds that City of Edinburgh 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 Dr Brettle. In particular, the Council failed to respond to Dr Brettle's request for information and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA.

Given that a response has now been issued, the Commissioner does not require the Council to take any action in respect of these failures, in response to Dr Brettle's application.

## Appeal

---

Should either Dr Brettle or City of Edinburgh 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.

**Alison Davies**  
**Deputy Head of Enforcement**

**5 July 2016**

**Scottish Information Commissioner**

Kinburn Castle  
Doubledykes Road  
St Andrews, Fife  
KY16 9DS

t 01334 464610

f 01334 464611

[enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info)

**[www.itspublicknowledge.info](http://www.itspublicknowledge.info)**