

Decision Notice

Decision 153/2017: Ms W and Aberdeenshire Council

School and social work records: failure to respond within statutory timescales

Reference No: 201701204

Decision Date: 14 September 2017



Scottish Information
Commissioner

Summary

On 3 April 2017, Ms W asked Aberdeenshire Council (the Council) for her daughter's school and social work records. This decision finds that the Council failed to comply with Ms W's requirement for review within the timescale set down by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
3 April 2017	Ms W made an information request to the Council.
2 May 2017	The Council responded to the information request.
6 June 2017	Ms W wrote to the Council requiring a review of its decision in respect of its failure to respond.
	Ms W did not receive a response to her requirement for review.
10 July 2017	Ms W wrote to the Commissioner's Office, stating that she 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.
21 August 2017	The Council was notified in writing that an application had been received from Ms W and was invited to comment on the application.
25 August 2017	The Commissioner received submissions from the Council. These submissions are considered below.

Commissioner's analysis and findings

1. 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.
2. It is a matter of fact that the Council did not provide a response to Ms W's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
3. The Council acknowledged that it had failed to respond to Ms W's requirement for review, and provided a response on 4 September 2017.
4. The Council explained that while it did receive Ms W's email of 6 June 2017, it was incorrectly registered and not identified as a request for review. As a result, no review was undertaken.
5. The Council has apologised to Ms W for the delay in responding, and the Commissioner does not require the Council to take any further action in relation to her application.

Decision

The Commissioner finds that Aberdeenshire 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 Ms W. In particular, the Council failed to respond to Ms W's requirement for review within the timescales laid down by section 21(1) of FOISA.

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

Appeal

Should either Ms W or Aberdeenshire 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

14 September 2017

Scottish Information Commissioner

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