

Decision Notice

Decision 098/2016: Mr S and West Lothian Council

Lair Records: failure to respond within statutory timescales

Reference No: 201600559

Decision Date: 28 April 2016



Scottish Information
Commissioner

Summary

On 14 October 2015, Mr S asked West Lothian Council (the Council) for information about specified lair records. This decision finds that the Council failed to comply with Mr S's requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
14 October 2015	Mr S made an information request to the Council.
30 October 2015	The Council responded to the information request.
11 November 2015	Mr S wrote to the Council requiring a review of its decision.
	Although an acknowledgement was sent to Mr S on 13 November 2015, he did not receive a response to his requirement for review.
22 March 2016	Mr S 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.
12 April 2016	The Council was notified in writing that an application had been received from Mr S and was invited to comment on the application.
22 April 2016	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 Mr S'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 the requirement for review. It explained this was due to a number of similar requests being submitted by Mr S around the same time, this one being overlooked.
4. As the Council responded to Mr S's requirement for review on 26 April 2016, the Commissioner does not require it to take any further action in relation to Mr S's application.
5. The Commissioner notes that the Council has apologised to Mr S for failing to respond to his requirement for review.

Decision

The Commissioner finds that West Lothian 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 S. In particular, the Council failed to respond to Mr S'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 S's application, given that a response has now been provided.

Appeal

Should either Mr S or West Lothian 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

28 April 2016

Scottish Information Commissioner

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