

Decision Notice

Decision 026/2015: Mr Andrew Douglas and South Ayrshire Council

Maintenance/inspection reports: failure to respond within statutory timescales

Reference No: 201500105

Decision Date: 26 February 2015



Scottish Information
Commissioner

Summary

On 2 September 2015, Digby Brown Solicitors, on behalf of Mr Andrew Douglas, asked South Ayrshire Council (the Council) for information about the maintenance and inspection of a gate at a named primary school. 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 Mr Douglas' requirement for review within the timescale set down by FOISA.

As a review response has now been issued, the Commissioner does not require any further action on the part of the Council

Background

Date	Action
2 September 2014	Mr Douglas made an information request to the Council.
	The Council did not respond to the information request.
11 November 2014	Mr Douglas wrote to the Council, requiring a review in respect of its failure to respond.
	Mr Douglas did not receive a response to his requirement for review.
9 January 2015	Mr Douglas 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.
5 February 2015	The Council was notified in writing that an application had been received from Mr Douglas and was invited to comment on the application.
20 February 2015	The Commissioner received submissions from the Council. These submissions are considered below.

Commissioner's analysis and findings

1. 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.
2. It is a matter of fact that the Council did not provide a response to Mr Douglas' request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.

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. Again, 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 Douglas' requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
5. The Council responded to Mr Douglas' requirement for review on 19 February 2015, so the Commissioner does not require it to take any further action in relation to Mr Douglas' application.

Decision

The Commissioner finds that South Ayrshire 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 Douglas. In particular, the Council failed to respond to Mr Douglas' request for information and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA.

The Commissioner does not require the Council to take any action in respect of these failures, in response to Mr Douglas' application, given that a review response has now been issued.

Appeal

Should either Mr Douglas or South Ayrshire 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

26 February 2015

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