

Decision Notice

Decision 074/2015: Ms W and West Lothian Council

Housing Allocations Policy: failure to respond within statutory timescale

Reference No: 201500510

Decision Date: 03 June 2015



Scottish Information
Commissioner

Summary

On 20 January 2015, Ms W asked West Lothian Council (the Council) for information about the Council's current/future housing allocations policy. This decision finds that the Council failed to comply with Ms W's requirement for review within the timescale set down by Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
20 January 2015	Ms W made an information request to the Council.
10 February 2015	The Council responded to the information request.
11 February 2015	Ms W wrote to the Council requiring a review of its decision.
	Ms W did not receive a response to her requirement for review.
16 March 2015	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.
1 May 2015	The Council was notified in writing that an application had been received from Ms W and was invited to comment on the application.
15 May 2015	The Commissioner received submissions from the Council. These submissions are considered below.

Commissioner's analysis and findings

1. The Council explained that, due to unforeseen circumstances, there was a delay in Ms W's response being sent out.
2. The Council apologised for the delay in responding and confirmed to the Commissioner (with evidence) that a response was sent to Ms W on 30 March 2015.
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. 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 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.
5. Given that the Council responded to Ms W's requirement for review on 30 March 2015, the Commissioner does not require it to take any further action in relation to Ms W's application.

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 Ms W. In particular, the Council failed to respond to Ms W'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 Ms W's application, given that a response has now been issued.

Appeal

Should either Ms W 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

03 June 2015

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