

Decision Notice

Decision 044/2017: Melvich Primary School Parent Council and Highland Council

Travel and expense claims: failure to respond within statutory timescales

Reference No: 201700342

Decision Date: 23 March 2017



Scottish Information
Commissioner

Summary

Highland Council (the Council) was asked for information regarding the travel and subsistence expense claims made by officials in its Education Department. 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 the subsequent requirement for review within the timescale set down by FOISA.

Background

Date	Action
24 November 2016	Melvich Primary School Parent Council (the Parent Council) made an information request to the Council.
	The Council did not respond to the information request.
18 January 2017	The Parent Council wrote to the Council requiring a review of its decision in respect of its failure to respond.
	The Parent Council did not receive a response to its requirement for review.
17 February 2017	The Parent Council wrote to the Commissioner's Office, stating that it 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 March 2017	The Council was notified in writing that an application had been received from the Parent Council and was invited to comment on the application.
22 March 2017	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 the Parent Council's 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 the Parent Council's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.

5. In its submissions, the Council explained that it has a decentralised process for responding to requests and the Care & Learning Service had been expected to respond to the initial request. The Council submitted that it had previously responded to a similar request, stating that it could not provide information about the use of corporate resources in relation to a specific school group because of the way its staff are organised. The Council noted that the current request was for details of staff members' expense claims and that there would appear to have been confusion about the relationship between these two requests.
6. On receipt of the request for review, the Council established that the Care & Learning Service did not hold any information that could be provided to the Parent Council. The Council asked its payroll team to establish whether it had any information, which required them to access all of the retained records of expenses claims and to locate the claims submitted by the staff members listed by the Parent Council.
7. The Council explained that the review request and timescales clashed with the ongoing transfer of its IT systems to a new out-sourced supplier. As the payroll was being transferred, this was given priority by the staff who had been asked to locate the expenses records. This meant that the records were not identified until the deadline for responding to the request for review had been reached. The records still had to be reviewed before the Council could establish whether any of them could be disclosed. The Council stated that it was unfortunate that the review request timetable coincided with a significant ongoing project which meant it was unable to respond to the review request on time. It has apologised to the Parent Council for the late response.
8. The Commissioner acknowledges that transferring IT systems is a large project and obtaining access to the records during this process may have been problematic. However, the Parent Council submitted its initial request on 24 November 2016. If the Council had responded to this request timeously, it is likely that it would have been able to provide a response before the IT project began. The Council's legal requirement to comply with the timescales set out in FOISA applies regardless of any internal or external IT projects it may be involved in.
9. As the Council responded to the Parent Council's requirement for review on 24 February 2017, the Commissioner does not require it to take any further action in relation to the Parent Council's application.

Decision

The Commissioner finds that Highland 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 Melvich Primary School Parent Council (the Parent Council). In particular, the Council failed to respond to the Parent Council's 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 further action in respect of these failures, in response to the Parent Council's application, given that a review response has been provided.

Appeal

Should either Melvich Primary School Parent Council or the 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

23 March 2017

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