



Decision Notice 058/2023

Rent increases for rent registered tenants – failure to respond

Applicant: The Applicant

Authority: Glasgow West Housing Association Ltd

Case Ref: 202300518

Summary

The Applicant asked the Authority for information about rent increases applied to rent registered tenants. This decision finds that the Authority failed to comply with the Applicant's requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

1. The Applicant made an information request to the Authority on 12 July 2022.
2. The Authority responded to the information request on 9 August 2022.
3. On 30 September 2022, the Applicant wrote to the Authority requiring a review of its decision.
4. The Applicant did not receive a response to her requirement for review.
5. On 26 April 2023, the Applicant wrote to the Commissioner, stating that she was dissatisfied with the Authority's failure to respond to her requirement for review and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
6. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.

Investigation

7. Section 49(3)(a) of FOISA requires the Commissioner to notify public authorities of an application and to give them an opportunity to comment. The Commissioner did this on 26 April 2023.
8. The Commissioner received submissions from the Authority. These submissions are considered below.
9. The Authority explained that it treated the Applicant's request for a review as a complaint and provided a Stage 2 complaint response.
10. The Commissioner advised the Authority that the Applicant had asked for a review and was entitled to a response under FOISA; complaint issues should be identified and dealt with separately.
11. The Authority issued a review response to the Applicant on 24 May 2023, apologising for any confusion caused by its earlier failure to respond to the Applicant's request for review under FOISA.
12. 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.
13. It is a matter of fact that the Authority did not provide a response to the Applicant's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
14. The remainder of section 21 sets out the requirements to be followed by a Scottish public authority in carrying out a review. The Authority responded to the Applicant's requirement for review on 24 May 2023, so the Commissioner does not require it to take any further action in relation to the Applicant's application.
15. The Commissioner notes that the Authority apologised to the Applicant for its failure to comply.

Decision

The Commissioner finds that the Authority failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in dealing with the information request made by the Applicant. In particular, the Authority failed to respond to the Applicant's requirement for review within the timescales laid down by section 21(1) of FOISA. Given that the Authority has now responded to the Applicant's requirement for review, he does not require the Authority to take any action.

Appeal

Should either the Applicant or the Authority 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.

**Colin MacFadyen
(Acting) Deputy Head of Enforcement**

6 June 2023