

# Decision Notice



Decision 018/2014 Mrs R and Stirling Council

Significant Case Review: failure to respond within statutory timescales

Reference No: 201400028

Decision Date: 6 February 2014

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**Rosemary Agnew**

Scottish Information Commissioner

Kinburn Castle  
Doubledykes Road  
St Andrews KY16 9DS  
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## Summary

On 25 October 2013, Mrs R asked Stirling Council (the Council) for information about a Significant Case Review. This decision finds that the Council failed to respond to Mrs R's request for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

The Commissioner has ordered the Council to comply with the request for review.

## Background

Date	Action
25 October 2013	Mrs R made an information request to the Council.
20 November 2013	The Council responded to the information request.
21 November 2013	Mrs R wrote to the Council requesting a review of its decision.
	Although Mrs R was sent an acknowledgement on 20 December 2013, she did not receive a response to her requirement for review.
22 December 2013	Mrs R wrote to the Commissioner's Office, stating that she was dissatisfied with that failure and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
10 January 2014	The Council was notified in writing that an application had been received from Mrs R and was invited to comment on the application.
31 January 2014	The Commissioner received submissions from the Council. Its submissions are considered below.



## Commissioner's analysis and findings

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1. The Council acknowledged that it had not responded to Mrs R's requirement for review within the statutory timescale.
2. The Council confirmed that a response would be issued to Mrs R: this had not been done by the time of this decision.
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 Mrs R's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
5. The remainder of section 21 sets out the requirements to be followed by a Scottish public authority in carrying out a review. As no review has been carried out in this case, the Commissioner finds that the Council failed to discharge these requirements: she now requires a review to be carried out in accordance with section 21.

## DECISION

The Commissioner finds that Stirling 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 Mrs R. In particular, the Council failed to respond to Mr R's requirement for review within the timescale laid down by section 21(1) of FOISA.

The Commissioner requires the Council to provide Mrs R with a response to her requirement for review, by **Monday 24 March 2014**.



## Appeal

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Should either Mrs R or Stirling Council wish to appeal against this decision, they have the right to appeal to the Court of Session on a point of law only. The appeal must be made within 42 days after the date of intimation of this decision.

**Euan McCulloch**  
**Deputy Head of Enforcement**  
**6 February 2014**