

Decision Notice

Decision 251/2016: Mr Paul Fair and Glasgow City Licensing Board

Personal licence application: failure to respond within statutory timescales

Reference No: 201601806

Decision Date: 22 November 2016



Summary

Glasgow City Licensing Board (the Board) was asked for information about an application for a Personal Licence. This decision finds that the Board failed to respond to the request and request for review within the timescales allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

| Date | Action |
|------------------|---|
| 21 July 2016 | Mr Fair made an information request to the Board. |
| | The Board did not respond to the information request. |
| 24 August 2016 | Mr Fair wrote to the Board requiring a review in respect of its failure to respond. |
| | Mr Fair did not receive a response to his requirement for review. |
| 4 October 2016 | Mr Fair wrote to the Commissioner's Office, stating that he was dissatisfied with the Board's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA. |
| 31 October 2016 | The Board was notified in writing that an application had been received from Mr Fair and was invited to comment on the application. |
| 15 November 2016 | The Commissioner received submissions from the Board. 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 Board did not provide a response to Mr Fair'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 Board did not provide a response to Mr Fair'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 Board failed to discharge these requirements: she now requires a review to be carried out in accordance with section 21 of FOISA.

6. The Board explained that it had been in correspondence with Mr Fair regarding his request, but due to an administrative oversight, it had failed to provide a formal response to both the original request and subsequent requirement for review.
7. The Board responded to Mr Fair's requirement for review on 14 November 2016, so the Commissioner does not require it to take any further action in relation to Mr Fair's application.

Decision

The Commissioner finds that Glasgow City Licensing Board (the Board) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by Mr Fair. In particular, the Board failed to respond to Mr Fair'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 Board to take any action in respect of these failures, in response to Mr Fair's application, given that a response was issued on 14 November 2016.

Appeal

Should either Mr Fair or the Board 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

22 November 2016

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